

**Diamond State Port Corporation
Board of Directors**



Resolution 26-09

Authorization to Intervene in USACE Litigation

WHEREAS, in October 2024, following a challenge by PhilaPort, *The Port of Philadelphia*, and affiliates of Holt Logistics, Inc. (“Holt”), the U.S. District Court for the Eastern District of Pennsylvania (the “Court”) vacated the Section 10/404 permit and Section 408 permission that had been issued by the U.S. Army Corps of Engineers (“USACE”) to alter the Delaware River, Philadelphia to the Sea Federal Navigation Project (“Philadelphia to the Sea Project”) by deepening an area directly adjacent to the federal navigation channel to provide vessel access to a proposed landside port facility known as the Delaware Container Terminal (“DCT”) located in Edgemoor, Delaware;

WHEREAS, DSPC engaged with PhilaPort and requested the Statement of No Objection (“SONO”) for USACE’s consideration of the Section 408 permission and discussed the scope the technical studies related to the issues raised in the Court’s decision and DSPC commissioned the technical analysis and studies addressing these topics as summarized in the Jacobs Report;

WHEREAS, after providing supplemental information and analysis to USACE relevant to the Court’s decision as encompassed in the Jacobs Report, DSPC requested that the USACE reevaluate its Section 10/404 permit and Section 408 permission;

WHEREAS, after considering this supplemental information and analysis, the USACE issued a Memorandum of Decision detailing its findings and found that DSPC’s proposed alterations would not impair the purpose and function of the Philadelphia to the Sea Project and would not create a navigation safety risk. The USACE also granted DSPC an exception consistent with and pursuant to its guidance requirements regarding the Statement of No Objection;

WHEREAS, in April 2026, the USACE reissued the Section 10/404 permit and Section 408 permission (the “2026 Section 10/404 Permit and Section 408 Permission”);

WHEREAS, pursuant to Resolution 26-02, the Board of Directors (the “Board”) of Diamond State Port Corporation (“DSPC”) authorized and ratified actions taken with respect to the re-issuance of the 2026 Section 10/404 Permit and Section 408 Permission and authorized DSPC to take action in furtherance of defending the Section 10/404 Permit and Section 408 Permission;

WHEREAS, DSPC remains fully committed to supporting growth at the Port of Wilmington, including by advancing the DCT project at Edgemoor, for, among other reasons, the family-sustaining jobs this industry provides;

WHEREAS, Federal, state and private funding has been secured, and construction has begun for the DCT, which is critical to enable Delaware to compete in the maritime industry;

WHEREAS, the success of DSPC and its partner, Enstructure LLC, is a competitive business threat to Holt Logistics, which is an out-of-state for-profit competitor that currently enjoys exclusivity in terms of being able to serve large container vessels on the federally-funded Delaware River navigation channel;

WHEREAS, in its continued effort to thwart competition, on July 10, 2026, affiliates of Holt again (without participation by PhilaPort this time) filed suit against the USACE in the Court seeking to vacate the 2026 Section 10/404 Permit and Section 408 Permission (the "USACE Litigation"); and

WHEREAS, on September 9, 2026, International Longshoremen's Association ("ILA") Locals 1694, 1883, and 1884 have also filed a motion to intervene in the USACE Litigation, reflecting the broad interest in protecting the jobs and economic development associated with the DCT;

WHEREAS, DSPC requests that the Board authorize DSPC to intervene in the USACE Litigation and to authorize the Chair and/or Vice Chair of the Board and any officer of DSPC to execute, deliver and perform all documents and agreements related thereto.

NOW, THEREFORE, BE IT RESOLVED: The Board hereby authorizes DSPC to engage in litigation to intervene in the USACE Litigation; and

FURTHER RESOLVED, that the Board authorizes each of the Chair and/or Vice Chair of the Board and any officer of DSPC (each, an "Authorized Signatory"), acting individually, to execute, deliver and perform all agreements and documents related thereto; and

FURTHER RESOLVED, that each Authorized Signatory be, and each acting individually hereby is, authorized and directed to take such further actions and to execute and deliver, and to cause DSPC to perform its obligations under, the agreements referenced in the foregoing resolution and such further agreements, instruments, certificates and any other documents as may be contemplated by or related to the agreements referenced in the foregoing resolution or as such Authorized Signatory determines to be necessary, appropriate or advisable to carry out the intent and effectuate the purpose of the foregoing resolutions and the transactions contemplated thereby, the taking of such further action or the execution of such further agreement, instrument, certificate or other document by such Authorized Signatory to be conclusive evidence of such determination and the authority therefor; and

FURTHER RESOLVED, that any and all actions heretofore taken by any member of the Board or officer, employee or agent of DSPC in connection with or related to any of the matters set forth herein or contemplated hereby, including, without limitation, any and all actions taken in connection with the negotiation, preparation and execution of the agreements referred to in the foregoing resolutions, be, and hereby are, ratified, confirmed and approved in all respects as fully as if such actions had been presented to the Board for its approval and approved prior to the taking of such action.

Resolution NUMBER: 26-09: Authorization to Engage in Litigation

☒	Approved by DSPC Board of Directors
☐	Denied by DSPC Board of Directors
☐	Decision Deferred by DSPC Board of Directors
Date:	September 22, 2026 DSPC Special Meeting