



Tier 1 Environmental Assessment

New Jersey Department of Community Affairs

**Tropical Storm Ida Community Development Block
Grant – Disaster Recovery:**

Long-Term Recovery and Mitigation Support Grants

Blue Acres Program

Passaic County, New Jersey

June 2024 Draft



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List of Acronyms and Abbreviations

Term	Definition
\$M	million dollars
ACHP	Advisory Council on Historic Preservation
Action Plan	<i>Action Plan for the State of New Jersey Tropical Storm Ida</i>
Appropriations Act	Approval of \$228,346,000 in Community Development Block Grant Disaster Recovery Funds
ASTM	American Society for Testing and Materials
AUGF	Authority to Use Grant Funds
BMPs	best management practices
CAA	Clean Air Act
CAFRA	Coastal Area Facility Review Act
CDBG-DR	Community Development Block Grant Disaster Recovery
CFR	Code of Federal Regulations
CZMA	Coastal Zone Management Act
DCA	New Jersey Department of Community Affairs
DEP	New Jersey Department of Environmental Protection
EA	Environmental Assessment
EO	Executive Order
ERR	Environmental Review Record
ESA	Endangered Species Act
FEMA	Federal Emergency Management Agency
FONSI	Finding of No Significant Impact
FOSI	Finding of Significant Impact
HARP	Homeowner Assistance Recovery Program
HPO	New Jersey DEP Historic Preservation Office
HUD	U.S. Department of Housing and Urban Development
IPaC	Information for Planning and Consultation
LMI	Low-to-Moderate Income
MHWL	Mean High Water Line
MID	most impacted and distressed
NJSA	New Jersey Statutes Annotated
NAAQS	National Ambient Air Quality Standards
NEPA	National Environmental Policy Act
NHPA	National Historic Preservation Act
NHRP	National Register of Historic Places
NJAC	New Jersey Administrative Code
NLCD	National Land Cover Database
NPDES	National Pollutant Discharge Elimination System
NPL	National Priorities List
NPS	National Park Service
OSHA	U.S. Department of Labor, Occupational Safety and Health Administration
PA	Programmatic Agreement

Passaic County
Tropical Storm Ida Recovery

Term	Definition
ppm	parts per million
RCRA	Resource Conservation and Recovery Act
RROF	Request for Release of Funds
SFH	single-family housing
TRI	Federal Toxic Release Inventory
TSCA	Toxic Substances Control Act
U.S.C.	United States Code
USEPA	U.S. Environmental Protection Agency
USFWS	U.S. Fish and Wildlife Service
VOC	volatile organic compounds

Tier 1 Environmental Assessment for Damaged Home Buyouts – Unspecified Sites

Introduction

Hurricane Ida made landfall on the Louisiana coast on August 29, 2021. After producing devastating damage in parts of Louisiana, the storm weakened as it moved inland over the following 2 days. By the night of August 31, the then-Tropical Depression Ida moved into the southwestern portion of the Appalachians. As it continued northeast, through the Appalachians, Ida began to interact with a frontal system and became a post-tropical cyclone early on September 1. The baroclinic influence caused by its interaction with the front caused the post-tropical cyclone to restrengthen and it became a strongly forced frontal low as it continued further northeast. From early morning through late evening of September 1, the center of the storm tracked over West Virginia, to approximately along the Interstate 95 corridor from northeastern Maryland to northeastern New Jersey (State). Tropical Storm Ida passed through New Jersey from September 1 through September 3, 2021, bringing lashing winds and torrential rains.

Along its path, Ida downgraded to a tropical storm and produced severe impacts over a large swath of the eastern mid-Atlantic, becoming one of the area's worst natural disasters ever observed. Hours of torrential rainfall near and just west of the center's track, fed by the remnants of tropical moisture, led to catastrophic flash flooding over portions of central and northern New Jersey. Numerous rivers experienced major flooding, with some having their highest crests on record. In addition, as the system's warm front lifted through the region, an unusually favorable environment for severe weather developed across much of New Jersey. Several tornadoes occurred during the afternoon and evening of September 1, including particularly strong and damaging tornadoes over Gloucester County. The remnants of Ida departed the region by the night of September 1; however, flood waters took several days to recede in some cases and, for some areas, recovery from the catastrophic flooding and tornadoes will take years.

Tropical Storm Ida damaged the aqueduct that provides water to Hoboken and Jersey City. A boil-water advisory that went into effect 24 hours afterward remained in place for 4 days. The storm caused powerful flash flooding, some of the worst in the State's history. The massive floods brought with them the destruction of homes and small businesses and damage to the already deteriorating sewage and stormwater networks.

President Joe Biden declared a disaster on September 5, 2021, which included all of New Jersey's 21 counties under Federal Emergency Management Agency (FEMA) DR-4614. The counties were eligible for different FEMA programs based on the impacts of the disaster, as shown on Figure 1.

This document presents the Environmental Broad Review for the Tropical Storm Ida Recovery funds dispensed by the New Jersey Department of Community Affairs (DCA) for the Blue Acres program in Passaic County, New Jersey. In response to Tropical Storm Ida, the U.S. Department of Housing and Urban Development (HUD) allocated \$228,346,000¹ in Community Development Block Grant Disaster Recovery (CDBG-DR) funds, approved on September 30, 2021 (Appropriations Act), to the State of

¹ Allocation Notice FR-6326-N-01.

New Jersey. This occurred through the Disaster Relief Supplemental Appropriations Act of 2022 for major disasters occurring in 2020 and 2021 (Public Law 117-43). Funds are to be distributed in the 12 affected counties (see Figure 2) and are necessary expenses for activities authorized under Title I of the Housing and Community Development Act of 1974 (42 United States Code [U.S.C.] 5301 et seq.). Funding is related to disaster relief, long-term recovery, restoration of infrastructure and housing, economic revitalization, and mitigation in the *most impacted and distressed* (MID) area resulting from a qualifying major disaster in 2020 or 2021. CDBG-DR funding is designed to address the needs that remain after all other assistance has been exhausted.

Among the CDBG-DR beneficiary programs, Blue Acres is a long-standing voluntary buyout and incentive program administered by the New Jersey Department of Environmental Protection (DEP). DCA is the grantee and Responsible Entity that will oversee the Blue Acres CDBG-DR program; DEP is the sub-grantee. Blue Acres has a total budget of \$16,000,000, of which \$14,400,000 is the HUD-Identified MID areas/counties component, and \$1,600,000 is the Grantee-Identified MID areas/counties component. Passaic County was one of the seven HUD-identified MID areas.

Figure 1: FEMA DR-4614, New Jersey’s Presidentially Declared Disasters by County

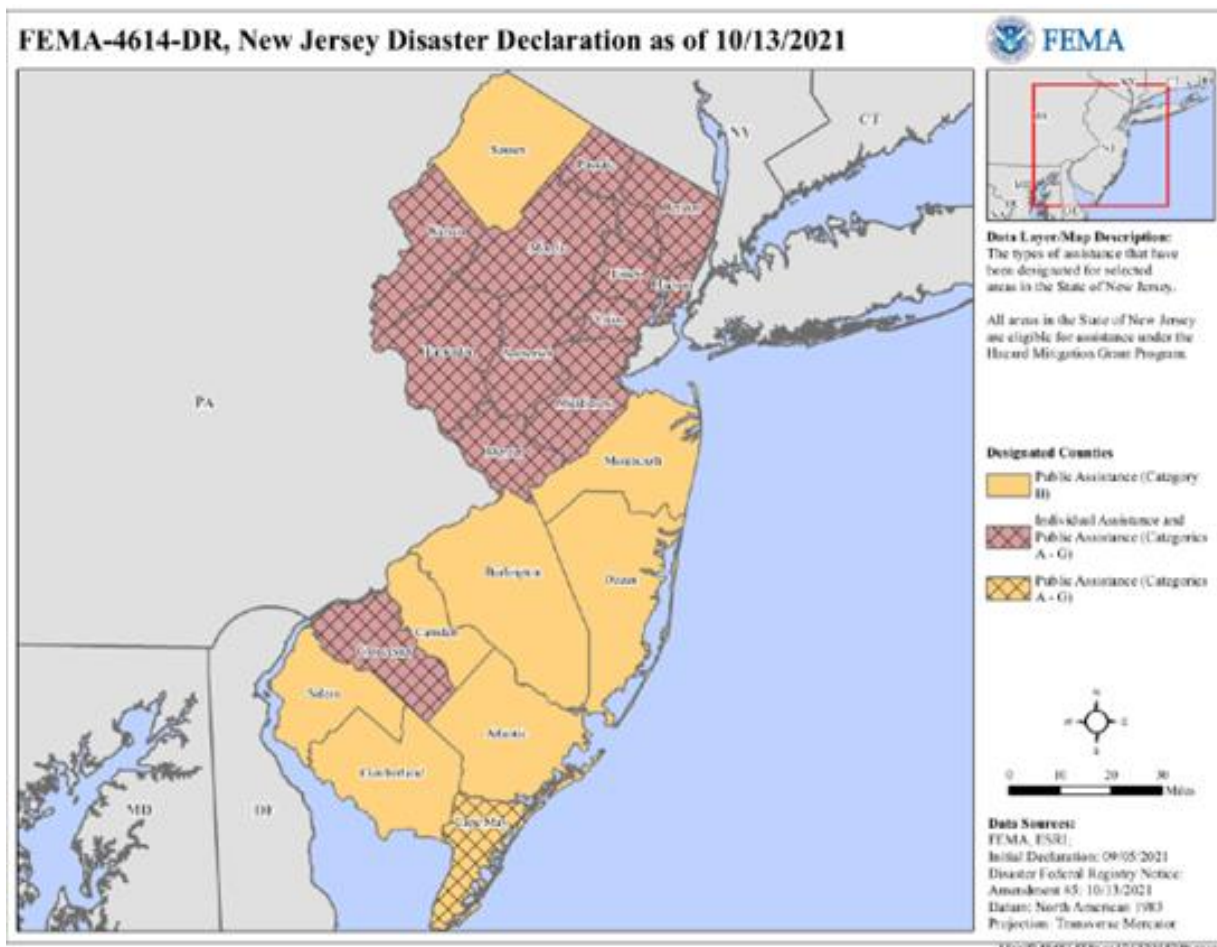
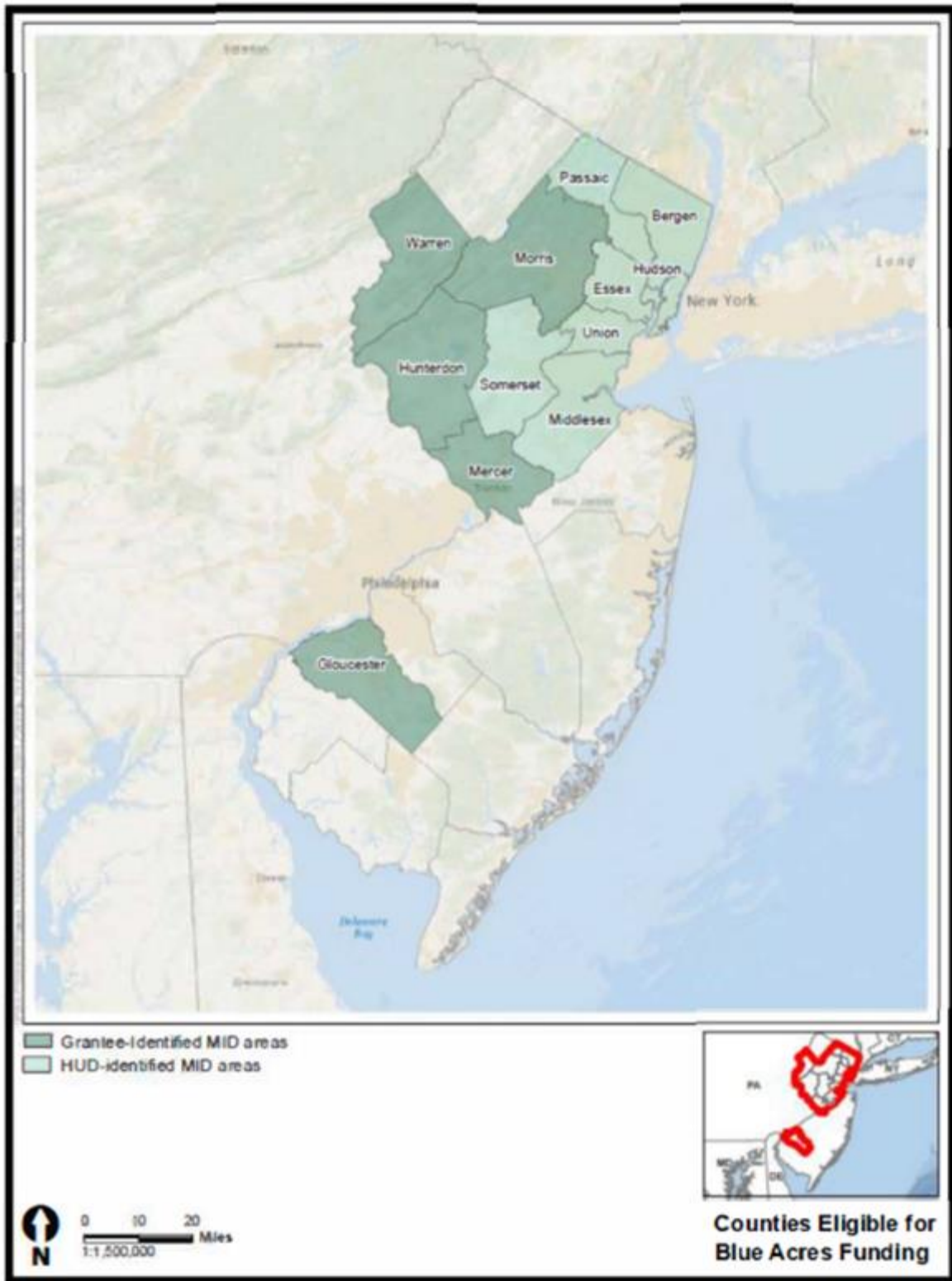


Figure 2: 12 Counties Eligible for CDBG-DR Funding



DCA, as the Responsible Entity for administering CDBG-DR funds for Tropical Storm Ida recovery, is required to complete environmental reviews for actions covered within 24 Code of Federal Regulations (CFR) 58, *Environmental Review Procedures for Entities Assuming HUD Environmental Responsibilities*. The environmental reviews for the proposed project activities will be completed in compliance with the National Environmental Policy Act (NEPA) 42 U.S.C. Section 4321, which requires that each federal agency determines the environmental impacts of its actions.² HUD provides guidance on the impact categories that require environmental review compliance with Federal-related laws and authorities listed at 24 CFR 50.4, 58.5, and 58.6.

Project Location

The geographic scope described herein is the area of Passaic County in northwest New Jersey (see Figure 3). According to 2023 U.S. Census Bureau data, Passaic County's population was estimated to be 513,395.³ Based on 2021 data from the National Land Cover Database (NLCD) dataset, the county's total area is approximately 126,300 acres.⁴ Land cover types classified by the NLCD are shown in Table 1 and on Figure 4. The county has a total area of approximately 198 square miles.

² US Department of Housing and Urban Development. 2022. *HUD Exchange: Environmental Assessment*. Available: <https://www.hudexchange.info/programs/environmental-review/environmental-assessment/>. Accessed: April 1, 2024.

³ U. S. Census Bureau. 2023. QuickFacts Passaic County, New Jersey. Last revised: 2023. Available: <https://www.census.gov/quickfacts/passaiccountynewjersey>. Accessed: April 1, 2024.

⁴ United States Geological Survey. 2023. *National Land Cover Database (NLCD) 2021 Products*. Last revised July 24, 2023. Available: <https://www.usgs.gov/data/national-land-cover-database-nlcd-2021-products>. Accessed: April 1, 2024.

Figure 3: Geographic Scope

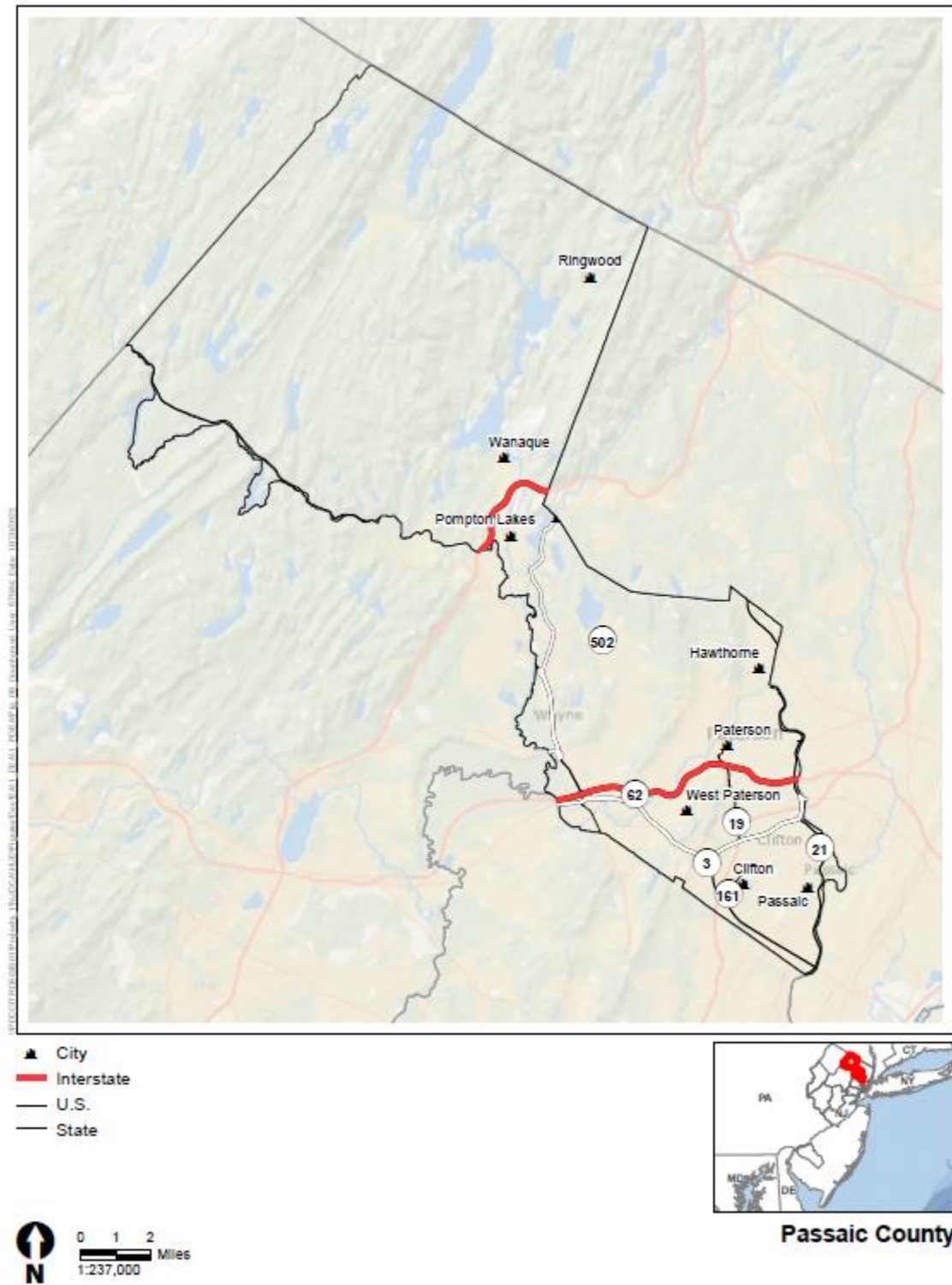
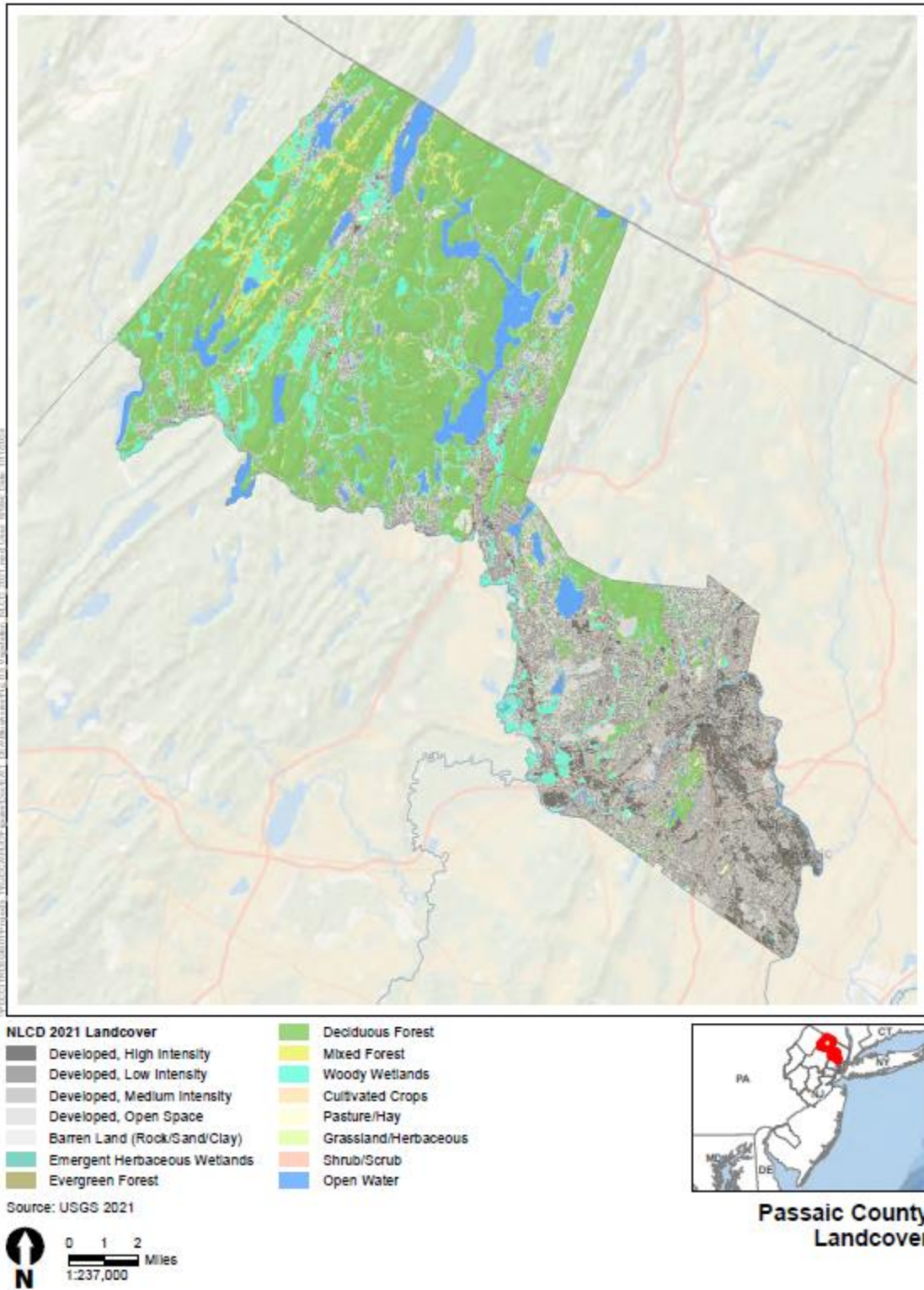


Table 1: 2021 Passaic County Land Cover Designations⁵

Land Cover Type	Acres
Barren Land (Rock/Sand/Clay)	437
Cultivated Crops	16
Deciduous Forest	53,818
Developed, High Intensity	6,915
Developed, Low Intensity	13,205
Developed, Medium Intensity	13,630
Developed, Open Space	14,894
Emergent Herbaceous Wetlands	474
Evergreen Forest	391
Grassland/Herbaceous	325
Mixed Forest	3,381
Open Water	7,531
Pasture/Hay	646
Shrub/Scrub	219
Woody Wetlands	10,418
Passaic County Total	126,300

⁵ Ibid.

Figure 4: Passaic County Landcover



Program Description

Blue Acres is the program through which Passaic County residents are receiving HUD funding covered under this Tier 1 EA. This voluntary buyout program actions covered in the DCA Tropical Storm Ida Action Plan. These include the following.

1. Residential properties will be acquired (i.e., those that serve either as a full-time rental or owner-occupied home are prioritized). Eligible properties must be located in a floodway, floodplain, or other Disaster Risk Reduction Area that reduces the risk from future flooding. Commercial properties and second homes will not be acquired because they are not eligible for CDBG Blue Acres program funding.
2. Buyout properties will be voluntarily sold to DEP or their designee for current fair-market value (i.e., post-storm value) and must be restored to and maintained per open space, recreational or wetlands management, or other disaster risk reduction practices.
3. Incentives may be provided to help eligible homeowners with the expense of relocating to a lower-risk area. Incentives will not be offered to compensate for property loss.
4. Housing counseling services will be available to help those with disabilities find accessible units.
5. Consistently with the State of New Jersey's environmental justice goals, and to maximize the use of CDBG-DR funds for buyouts, Blue Acres buyouts will initially be directed toward socially vulnerable populations and homeowners who are identified as Low-to-Moderate Income (LMI) persons. Some non-LMI households may be eligible for buyout assistance if funding is available.
6. After properties are acquired, CDBG-DR funds also may be used to conduct demolition and debris-removal activities, restore land as wetlands and floodplains, and serve a defined open space and climate-resilience purpose.

Homeowners with the following property conditions will be eligible for coverage under the Blue Acres program Tier 1s.

1. Homeowners who are vulnerable to climate change as determined by resilience planning.
2. Homeowners who are located in the floodway or floodplain, have another quantifiable flood risk, or are located in another DEP-designated high-risk area.
3. Homeowners who are in an area that has sustained repetitive flood or storm-related losses.
4. Homeowners who have a documented flood or loss from Tropical Storm Ida.

The Blue Acres program will be exempt from the eight-step floodplain-analysis process because, as confirmed by DEP, it is expected to meet all requirements outlined in 24 CFR 55.12(c)(3). Each property will be brought into compliance with the following requirements.

1. The property will be cleared of all existing structures and related improvements.
2. The property will be permanently dedicated for flood control, wetland protection, park land, or open space.
3. A permanent covenant or comparable restriction will be placed on the property's continued use to preserve the floodplain or wetland from future development.

The following proposed project activities may have environmental impacts that will be addressed in this Tier 1 Environmental Assessment (EA).

1. **Demolition:** Deconstruction of dwellings, structures, and impervious surfaces, on the selected properties
2. **Debris Removal:** Collecting and hauling dwelling materials and remnants to approved recycling, treatment, and/or disposal facilities
3. **Property Restoration to Open Space:** Restoring properties to open space and maintaining per open space, recreational, or wetlands management, or other disaster risk-reduction practices.

Environmental Review Record Classification and Tiering Plan

The broad review of the proposed project activities for the Blue Acres program is neither exempt, nor categorically excluded, under 24 CFR 58.34, *Exempt activities*, or 24 CFR 58.35, *Categorical exclusions*. DCA has determined that an EA is required to analyze the proposed project activities and their potential environmental impacts per 24 CFR 58.36, *Environmental assessments*, and subject to the laws and authorities at 24 CFR 58.5, 24 CFR 58.6, and NEPA.

HUD regulations at 24 CFR 58.15, *Tiering*, allow responsible entities to tier their environmental review and analysis by evaluating impacts at a broader level, such as aggregating projects within a single county, followed by a narrow or focused analysis at a later date at the site-specific review level. The first tier, or *broad review*, describes the proposed project activities and identifies the potential environmental effects that may result. The second tier, or *site-specific review*, then references or summarizes the issues addressed at the broad-review level, where compliance with NEPA and HUD's regulations at 24 CFR 58 have been demonstrated, and provides additional analyses for areas where compliance was not achieved at the broad-review level. By tiering the environmental review, the environmental review process is made more efficient and allows the decision-maker and the public to "eliminate repetitive discussions of the same issues and to focus on the actual issues ripe for decision at each level of environmental review" (40 § CFR 1502.20).

Because project locations are not known at broad-level review stage, potential environmental effects at the site-specific level cannot be known at this time. The broad review that follows in Appendix A, *Tier 1 Environmental Review of a Two-Step Environmental Assessment*, describes NEPA and HUD regulations where compliance can be achieved at the county level. If compliance cannot be achieved, then a plan to achieve compliance, mitigate impacts (when possible), and recommend an alternative to the proposed project activities for site-specific, noncompliant projects is described.

Once applicants have been selected for funding, the site-specific review must be completed prior to committing HUD funding to the project. The Tier 2 site-specific review checklist is included in Appendix B, *Environmental Site-Specific Review Strategy and Checklist*, and documents the individual project site's compliance with NEPA and HUD regulations that could not be achieved at the broad-review level. The Tier 2 analyses will specifically assess potential property impacts related to historic preservation, wetlands protection, threatened and endangered species, and other environmental topics. The proposed project activities (i.e., dwelling demolition, debris removal, and property restoration to open space) will be the focal point. If, after completing the site-specific review checklist, the project site is determined to have no impacts or impacts that would be fully mitigated through required mitigation measures, then the Environmental Review Record (ERR) is complete and the project can proceed.

**APPENDIX A:
TIER 1 ENVIRONMENTAL REVIEW OF A TWO-STEP
ENVIRONMENTAL ASSESSMENT**

Project Information

Project Name: Tropical Storm Ida Community Development Block Grant – Disaster Recovery (CDBG-DR) Long-Term Recovery and Mitigation Support Grants Blue Acres program

Responsible Entity: New Jersey DCA

State/Local Identifier: New Jersey

RE Preparer: ICF

Certifying Officer: Samuel Viavattine, Deputy Commissioner

Grant Recipient (if different than Responsible Entity):

Point of Contact:

Consultant (if applicable): ICF

Point of Contact: Sharon Wright and Robert Greene

Project Location: Passaic County, New Jersey

Direct Comments to: Samuel Viavattine, Deputy Commissioner
Department of Community Affairs
PO Box 823
Trenton, NJ 08625-0800

Description of the Proposed Project (24 CFR 50.12, 24 CFR 58.32, 40 CFR 1508.25)

The proposed project activities would include buyout actions (e.g., homeowners voluntarily selling properties to DEP or their designee, relocation incentives, housing counseling services) for eligible homeowners, under the Blue Acres program. Eligible homeowners would have the opportunity to voluntarily sell their properties if such properties function as residences (i.e., either as a full-time rental or owner-occupied home) that are located in a floodway, floodplain, or other Disaster Risk Reduction Area that reduce the risk from future flooding.

Statement of Purpose and Need for the Proposal (40 CFR 1508.9(b))

The purpose of the proposed program is to assist the 12 affected counties identified under the *Action Plan for the State of New Jersey Tropical Storm Ida* (Action Plan) by providing residents with funds if they are willing to voluntarily sell their eligible properties located in a floodway, floodplain, or other Disaster Risk Reduction Area that reduce the risk from future flooding.

Tropical Storm Ida caused extensive damage to homes, personal property, and land across New Jersey through a combination of destructive weather events. Many New Jersey residents were left with significant property damage, were displaced from their homes (in some cases, from their hometowns), or have experienced homelessness since the disaster.

Ten months after the storm, many residents were still searching for livable and affordable housing. In some cases, residents spent multiple months living in hotel rooms or short-term apartment stays while they searched for alternative housing options.

Residents encountered many roadblocks to securing long-term housing, including a shortage of affordable options, challenges in understanding the rental and/or home buying processes, and a lack of public information about fair housing rights. It is imperative that New Jersey residents receive resilient, safe, and long-term housing options that low- and moderate-income residents can afford. As previously noted, the Blue Acres program would help to address this need.

Approximate size of the project area: 126,300 acres

Length of time covered by this review: 5 years from the date of EA signature

Level of Environmental Review Determination: Environmental Assessment per 24 CFR 58.36.

Funding Information

Grant Number	HUD Program	Program Name	Funding Amount
B-21-DF-34-0001	CDBG-DR	Blue Acres	\$16,000,000
B-22-DF-34-0001	CDBG-DR	Blue Acres	\$6,330,429
B-13-DS-34-0001	CDBG-DR	Blue Acres	\$18,000,000

Estimated Total HUD Funded Amount: \$40,330,429

Estimated Total Project Cost: (HUD and non-HUD funds) (24 CFR 58.32(d)): \$40,330,429 HUD funded plus any additional funds expended by homeowners above and beyond their grant amount.

Compliance with 24 CFR 50.4, 58.5, and 58.6 Laws and Authorities and Written Strategies

Compliance Factors: Statutes, Executive Orders, and Regulations listed at 24 CFR 50.4, 58.5, and 58.6	Was compliance achieved at the broad level of review?	<p>If Yes: Describe compliance determinations made at the broad level.</p> <p>If No: Describe the policy, standard, or process to be followed in the site-specific review.</p>
STATUTES, EXECUTIVE ORDERS, AND REGULATIONS LISTED AT 24 CFR 50.4, 58.5 AND/OR 24 CFR 58.6		
<p>Airport Hazards 24 CFR Part 51 Subpart D</p>	<p>Yes No</p> <p><input checked="" type="checkbox"/> <input type="checkbox"/></p>	<p>Compliance achieved in the Broad Review as detailed below.</p> <p>Primary proposed project activities (i.e., demolition, debris removal, and property restoration to open space) associated with the Blue Acres program would reduce occupancy and are therefore exempt from further review.</p>
<p>Coastal Barrier Resources Coastal Barrier Resources Act, as amended by the Coastal Barrier Improvement Act of 1990 [16 USC 3501]</p>	<p>Yes No</p> <p><input checked="" type="checkbox"/> <input type="checkbox"/></p>	<p>Compliance achieved in the Broad Review as detailed below.</p> <p>The designated Coastal Barrier Resources System units in New Jersey are uninhabited and are not located along any of the 12 county HUD or Grantee MID areas (including Passaic County). See Figure A2-1. Therefore, no proposed project activities would occur on designated coastal barriers or in “otherwise protected areas,” and the proposed project would have no impact on coastal barrier resources. See Tables A2-1 and A2-2 for additional coastal barrier</p>

<p>Compliance Factors: Statutes, Executive Orders, and Regulations listed at 24 CFR 50.4, 58.5, and 58.6</p>	<p>Was compliance achieved at the broad level of review?</p>	<p>If Yes: Describe compliance determinations made at the broad level. If No: Describe the policy, standard, or process to be followed in the site-specific review.</p>
		<p>resources information.</p>
<p>Clean Air Clean Air Act (CAA), as amended, particularly section 176(c) & (d); 40 CFR Parts 6, 51, 93</p>	<p>Yes No <input checked="" type="checkbox"/> <input type="checkbox"/></p>	<p>Compliance achieved in the Broad Review as detailed below.</p> <p>Emissions associated with proposed project activities are estimated to be well below <i>de minimis</i> thresholds under the General Conformity Rule. Section 176(c) of the CAA requires that any federally funded activity in a nonattainment or maintenance area conforms to the State Implementation Plan (SIP). Conformance with the SIP requires the project activity not:</p> <ol style="list-style-type: none"> 1. Cause or contribute to a new violation of any standard in any area; 2. Increase the frequency or severity of any existing violation of any standard in any area; or 3. Delay timely attainment of any standard or any required interim emission reduction or other milestones in any area. <p>Ozone</p> <p>The State of New Jersey is in nonattainment for the 2015 8-Hour Ozone federal standard of 0.070 parts per million (ppm) and 2008 8-Hour Ozone. New Jersey’s nonattainment areas are associated with two larger multi-state nonattainment areas: New York-Northern New Jersey-Long Island and Philadelphia-Wilmington-Atlantic City. Both of New Jersey’s nonattainment areas have been classified as either “marginal” or “moderate” ozone nonattainment areas.</p> <p>Passaic County is classified as an area of non-attainment for 8-Hour Ozone (2008 and 2015). Passaic County is classified as “severe 15” for the 8-Hour 2008 standard and “moderate – nonattainment” for the 8-Hour 2015 standard. The 8-Hour Ozone (1997) standard was revoked on April 6, 2015, and the 1-Hour Ozone (1979) standard was revoked on June 15, 2005. See Figure A3-1.</p> <p>Proposed Project Activities Emissions</p> <p>Direct emissions from proposed project activities would be associated with mobile sources which may include plate compactors, loaders, backhoes, cranes, tractors, and excavators. No or minimal indirect emissions associated with proposed project activities</p>

<p>Compliance Factors: Statutes, Executive Orders, and Regulations listed at 24 CFR 50.4, 58.5, and 58.6</p>	<p>Was compliance achieved at the broad level of review?</p>	<p>If Yes: Describe compliance determinations made at the broad level. If No: Describe the policy, standard, or process to be followed in the site-specific review.</p>
		<p>are anticipated.</p> <p>Proposed project activities would not delay attainment of National Ambient Air Quality Standards (NAAQS) or contribute to a new or existing violation. Proposed project activities may contribute to temporary, short-term emissions of dust proximate to the project site but are not expected to affect air quality. Implementation of best management practices (BMPs) would contribute to dust suppression. See Figures A3-2 and A3-3 for the consultation methodology approach with DEP for NAAQS and SIP compliance. This consultation methodology used for the Homeowner Assistance Recovery Program (HARP) has been deemed to be applicable to the Blue Acres program due to the similar nature of proposed project activities and minimal impacts associated with proposed project activities. See Tables A3-1 through A3-3 for additional air quality information.</p> <p>Conclusion</p> <p>DCA does not anticipate that proposed project activities would have any significant impact on ozone, and the proposed project activities are not expected to exceed <i>de minimis</i> thresholds established under 40 CFR 93.153. Therefore, the proposed project activities are exempt from General Conformity requirements and are in compliance with the CAA.</p>
<p>Coastal Zone Management Coastal Zone Management Act (CZMA), sections 307(c) & (d)</p>	<p>Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p>	<p>Compliance achieved in the Broad Review as detailed below.</p> <p>While Blue Acres sites may be located within the coastal zone, the proposed project activities include buyout and removal of residential structures and would not be subject to state review.</p> <p>New Jersey has implemented coastal zone management rules, New Jersey Administrative Code (NJAC) 7:7, to create standards for the use and development of resources in New Jersey’s coastal zone. The coastal zone management rules govern the review of permit applications submitted under the Coastal Area Facility Review Act (CAFRA), the Waterfront Development Law, and the Wetlands Act of 1970.</p> <p>No coastal zones lie within Passaic County that are protected by compliance determinations. See Figure</p>

<p>Compliance Factors: Statutes, Executive Orders, and Regulations listed at 24 CFR 50.4, 58.5, and 58.6</p>	<p>Was compliance achieved at the broad level of review?</p>	<p>If Yes: Describe compliance determinations made at the broad level. If No: Describe the policy, standard, or process to be followed in the site-specific review.</p>
		<p>A4-1. DCA consulted with DEP Division of Land Resource Protection on an appropriate analysis methodology and on February 22, 2023, DEP responded with additional measures to be incorporated into site-specific reviews to achieve compliance with the CZMA. See Figure A3-3 for the consultation methodology used for HARP, which has been deemed to be applicable to the Blue Acres program due to the similar nature of proposed project activities. DEP requested that the site-specific review process should include an analysis of potential Tidelands ownership, which refers to all lands that are now or were formerly flowed by the mean high tide of a natural waterbody. Tidal ownership claims exist in Passaic County. See Figure A4-1. Figure A4-2 provides DEP’s Tidelands Claim Response, related to a question about a mapped data layer for the Mean High Water Line (MHWL). This consultation methodology used for HARP has been deemed to be applicable to the Blue Acres program due to the similar nature of proposed project activities. See Tables A4-1 and A4-2 for additional coastal zone management information. While Blue Acres sites may be located within the Tidelands, the proposed project activities would include the buyout and removal of residential structures and would not be subject to state review based on the consultation feedback received. Therefore, compliance with the CZMA is achieved at the Tier 1 level.</p>
<p>Contamination and Toxic Substances 24 CFR Part 50.3(i) & 58.5(i)(2)]</p>	<p>Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p>	<p>Compliance will be achieved during site-specific review as detailed below. Under 24 CFR Part 58.5(i)(2), HUD requires that all properties proposed for use in HUD programs be free of hazardous materials, contamination, toxic chemicals and gases, and radioactive substances, where a hazard could affect the health and safety of people or conflict with the intended utilization of the property.</p> <ol style="list-style-type: none"> 1. Particular attention should be given to any proposed site on or in the general proximity of such areas as dumps, landfills, industrial sites, or other locations that contain, or may have contained, hazardous wastes; and 2. DCA shall use current techniques by qualified professionals to undertake

<p>Compliance Factors: Statutes, Executive Orders, and Regulations listed at 24 CFR 50.4, 58.5, and 58.6</p>	<p>Was compliance achieved at the broad level of review?</p>	<p>If Yes: Describe compliance determinations made at the broad level. If No: Describe the policy, standard, or process to be followed in the site-specific review.</p>
		<p>investigations determined necessary.</p> <p>Hazardous Materials</p> <p>DCA will review NEPAAssist and/or DEP’s GeoWeb platform for each project site. NEPAAssist provides findings from U.S. Environmental Protection Agency’s (USEPA’s) Superfund List, National Priorities List (NPL), Toxic Release Inventory, Brownfields, Air Facility Systems, and Hazardous Waste (i.e., Resource Conservation and Recovery Act [RCRA]) databases. DEP’s GeoWeb provides Solid & Hazardous Waste Facility and Known Contaminated Site data pulled from state and federal sources, including NEPAAssist. See Figures A5-1 and A5-2 for maps showing USEPA-listed and state-listed contaminated and toxic substances sites at a county-wide level. If any of these facilities are within the pre-determined review radius, then DCA would perform a document review of the sites and facilities to determine if there is the potential to affect the health and safety of project occupants or conflict with the intended use of the property. If DCA is not able to reach this determination with the documents available, then DCA would consult with DEP to determine whether the site or facility is in substantial compliance with DEP regulations and is therefore considered under control.</p> <p>Each site-specific review will provide a toxics and contamination site map showing the nearby toxic and contaminated sites in relation to the proposed project. See Table A5-3 regarding proposed review procedures and radii for DEP and the USEPA sites. This consultation methodology used for HARP has been deemed to be applicable to the Blue Acres program due to the similar nature of proposed project activities. Each site-specific review will also include a listing of potentially toxic and contaminated sites/facilities within the review radius as well as compliance information. See Site-Specific Review Strategy and Checklist, Appendix B.</p> <p>A site inspection would be conducted for each potential site by or on behalf of DCA. The site inspection would report any on-site or nearby toxic, hazardous, or radioactive substances found that could affect the intended use of the property. See Figure A5-3 and A3-3 for correspondence with the DEP regarding proposed review procedures,</p>

<p>Compliance Factors: Statutes, Executive Orders, and Regulations listed at 24 CFR 50.4, 58.5, and 58.6</p>	<p>Was compliance achieved at the broad level of review?</p>	<p>If Yes: Describe compliance determinations made at the broad level. If No: Describe the policy, standard, or process to be followed in the site-specific review.</p>
		<p>methodology, and radii for DEP and USEPA sites. See Tables A5-1 through A5-4 for additional contamination and toxic substances information.</p> <p>Asbestos, Lead Based Paint and Mold</p> <p>All activities must comply with applicable federal, state, and local laws and regulations regarding asbestos, lead-based paint, and mold.</p> <ol style="list-style-type: none"> 1. National Emission Standard for Asbestos, standard for demolition and renovation, 40 CFR 61.145 2. National Emission Standard for Asbestos, standard for waste disposal for manufacturing, fabricating, demolition, and spraying operations, 40 CFR 61.150 3. New Jersey Superstorm Sandy Demolition Guidance Document for Local Government Assuming Demolition of Private Residences May 1, 2013⁶ 4. HUD’s lead-based paint regulations in 24 CFR Part 35 Subparts A, B, H, J, K and R 5. FEMA Best Practices for Lower Impact Debris Removal and Demolitions (Version 3.7 – 6/11/13)⁷ 6. NJAC 7:26-2.12—Generator requirements for disposal of asbestos containing waste materials 7. New Jersey Asbestos Control and Licensing Act, New Jersey Statutes Annotated (NJS) 34:5A-32 et seq. <p>Mold is a common problem in homes that have been flooded. Provided that proper personal protection equipment precautions are taken, impacts from mold exposure are not anticipated during demolition and debris removal activities.</p> <p>U.S. Department of Labor, Occupational Safety and Health Administration (OSHA) regulation 29 CFR Section 1926.95 outlines criteria for personal</p>

⁶New Jersey Department of Environmental Protection. 2013. *New Jersey Superstorm Sandy Demolition Guidance Document for Local Government Assuming Demolition of Private Residences*. May 1, 2013. Available: <https://dep.nj.gov/wp-content/uploads/hurricane-sandy/demolition-guidance.pdf>. Accessed: March 2024.

⁷ Federal Emergency Management Agency. 2013. *FEMA – Best Practices for Lower Impact Debris Removal and Demolitions*. Last revised: June 11, 2013. Available: <https://dep.nj.gov/wp-content/uploads/hurricane-sandy/hmgrp-res7.pdf>. Accessed: March 2024.

<p>Compliance Factors: Statutes, Executive Orders, and Regulations listed at 24 CFR 50.4, 58.5, and 58.6</p>	<p>Was compliance achieved at the broad level of review?</p>	<p>If Yes: Describe compliance determinations made at the broad level. If No: Describe the policy, standard, or process to be followed in the site-specific review.</p>
		<p>protective equipment, which are further discussed in the Mitigation Measures and Conditions section.</p> <p>Radon Given the buyout and demolition nature of the Blue Acres program, radon testing or mitigation for eligible homes would not be required. See Site-Specific Review Checklist, Appendix B.</p>
<p>Threatened and Endangered Species Endangered Species Act (ESA) of 1973, particularly section 7; 50 CFR Part 402</p>	<p>Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p>	<p>Compliance will be achieved during the site-specific review as detailed below.</p> <p>The U.S. Fish and Wildlife Service’s (USFWS) Information for Planning and Consultation (IPaC) system was consulted to obtain a preliminary USFWS species list for Passaic County. Six protected species were identified in the IPaC results: Indiana Bat; Northern Long-eared Bat; Tricolored Bat; Bog Turtle; Monarch Butterfly; and Small Whorled Pogonia. See Figure A6-1.</p> <p>The proposed project activities (i.e., demolition, debris removal, and property restoration to open space) would involve previously disturbed parcels. Thus, the proposed project activities are not anticipated to affect threatened or endangered species.</p> <p>Tree clearing may be required for certain projects. Each Tier 2 site-specific environmental review will state 1) if tree clearing is required for the proposed action and 2) if tree clearing is required for projects where the Indiana bat or Northern Long-eared bat are present (per the IPaC report). For these types of projects, DCA will follow the guidance below.</p> <p>The most current guidance on tree removal for the protection of federally listed bats would be implemented and that current guidance indicates:⁸ For projects where IPaC has returned a result of Indiana Bat or Northern Long-eared Bat, indicate whether or not the project occurs in a municipality with known hibernacula or maternity roost trees (Bat Municipality List [https://www.fws.gov/media/new-jersey-municipalities-hibernation-or-maternity-occurrence-indiana-bat-or-northern-long]). For</p>

⁸ United States Fish and Wildlife Service. 2024. *New Jersey Ecological Services Field Office*. Available: <https://www.fws.gov/office/new-jersey-ecological-services/new-jersey-field-office-project-review-guide>. Accessed: January 2024.

<p>Compliance Factors: Statutes, Executive Orders, and Regulations listed at 24 CFR 50.4, 58.5, and 58.6</p>	<p>Was compliance achieved at the broad level of review?</p>	<p>If Yes: Describe compliance determinations made at the broad level. If No: Describe the policy, standard, or process to be followed in the site-specific review.</p>
		<p>projects involving any Federal funding or Federal authorization that may affect the Northern long-eared bat, the Federal action agency must notify the New Jersey Field Office at least 30-days before starting the action.”</p> <p>On December 9, 2022, the DCA sent a consultation letter to the USFWS and requested approval of the proposed site-specific evaluation process. The USFWS provided a response on January 13, 2023, with tools and resources to assist with the site-specific environmental reviews of the proposed project activities. See Figure A6-2.</p> <p>On January 20, 2023, the DCA sent DEP a consultation letter requesting confirmation of the site-specific review approach. On March 9, 2023, DEP responded with an approved site-specific review methodology for documenting compliance and making an effects determination for state-listed threatened and endangered species. See Figure A6-3. The consultation methodology used for the HARP program has been deemed to be applicable to the Blue Acres program due to the similar nature of proposed project activities. See Tables A6-1 through A6-3 for additional threatened, endangered, and migratory species information. Also see Site-Specific Review Strategy and Checklist, Appendix B.</p>
<p>Explosive and Flammable Hazards 24 CFR Part 51 Subpart C</p>	<p>Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p>	<p>Compliance achieved in the Broad Review as detailed below.</p> <p>Proposed project activities that do not result in an increase in residential density (i.e., increasing the bedrooms in a home, adding rental units, new residential construction) do not require an evaluation of explosive and flammable hazards. The proposed project activities are therefore in compliance with 24 CFR Part 51 Subpart C. See Figure A7-1.</p>
<p>Farmland Protection Farmland Protection Policy Act of 1981 (FPPA), particularly sections 1504(b) and 1541; 7 CFR Part 658</p>	<p>Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p>	<p>Compliance achieved in the Broad Review as detailed below.</p> <p>The proposed project activities would occur on previously disturbed ground and would therefore be compliant with the FPPA.</p> <p>While a majority of the acreage in Passaic County is considered “not prime farmland,” according to the U.S. Department of Agriculture (USDA), there are 6,336 acres of land considered “prime farmland,”</p>

<p>Compliance Factors: Statutes, Executive Orders, and Regulations listed at 24 CFR 50.4, 58.5, and 58.6</p>	<p>Was compliance achieved at the broad level of review?</p>	<p>If Yes: Describe compliance determinations made at the broad level. If No: Describe the policy, standard, or process to be followed in the site-specific review.</p>
		<p>“farmland of local Importance,” “farmland of statewide Importance,” and “farmland of unique importance.” See Tables A8-1 and A8-2.</p>
<p>Floodplain Management Executive Order (EO) 11988, particularly section 2(a); 24 CFR 55</p>	<p>Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p>	<p>Compliance achieved in the Broad Review as detailed below. The proposed project activities are exempt from floodplains review because it would meet all requirements outlined in 24 CFR 55.12(c)(3).</p> <ol style="list-style-type: none"> 1. The property is cleared of all existing structures and related improvements. 2. The property is permanently dedicated for flood control, wetland protection, parkland, or open space. 3. A permanent covenant or comparable restriction is placed on the property's continued use to preserve the floodplain or wetland from future development. <p>The proposed project activities are in compliance with EO 11988. See Tables A9-1 and A9-2 and Figure A9-1 for additional flood-related information.</p>
<p>Flood Insurance Flood Disaster Protection Act of 1973 (FDPA) and National Flood Insurance Reform Act of 1994 [42 U.S.C. 4001-4128 and 42 U.S.C. 5154a]</p>	<p>Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p>	<p>Compliance achieved in the Broad Review as detailed below. Passaic County contains approximately 15,701 acres of FEMA-designated Special Flood Hazard Areas. This includes A, AE, AH, and AO. (See Figure A9-1). Potential sites associated with the Blue Acres program could be within the FEMA-designated floodplain (100- or 500-year floodplain), or a high-risk flood area defined by DEP. The proposed project activities would acquire flood prone properties, demolish the structures on site, and restore the land to open space. Flood insurance would therefore not be required as no structure would remain on site. The proposed project activities are in compliance with the FDPA and the National Flood Insurance Reform Act of 1994. See Tables A9-1 and A9-2 and Figure A9-1 for additional flood-related information.</p>
<p>Historic Preservation National Historic Preservation Act (NHPA) of 1966, particularly sections 106 (54 U.S.C. 306108) and 110 (54 U.S.C. 306101); 36 CFR Part 800</p>	<p>Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p>	<p>Compliance will be achieved during the site-specific review as detailed below. See Figure A10-1 for known or identified historic resources. The proposed project activities must be evaluated at the site-specific level. A Programmatic Agreement (PA) developed in accordance with NHPA Regulations</p>

<p>Compliance Factors: Statutes, Executive Orders, and Regulations listed at 24 CFR 50.4, 58.5, and 58.6</p>	<p>Was compliance achieved at the broad level of review?</p>	<p>If Yes: Describe compliance determinations made at the broad level. If No: Describe the policy, standard, or process to be followed in the site-specific review.</p>
		<p>at 36 CFR Section 800.14(b) provides the mechanism for evaluating site-specific effects on historic properties related to CDBG-DR funding activities for Tropical Storm Ida recovery (see Appendix D). The PA, fully executed on July 17, 2023, was developed between the DCA and NJ Historic Preservation Office (HPO), the Advisory Council on Historic Preservation (ACHP), the Absentee Shawnee Tribe of Indians of Oklahoma, the Delaware Nation, the Delaware Tribe of Indians, and Shawnee Tribe, and the Stockbridge–Munsee Community, and sets forth procedures for:</p> <ol style="list-style-type: none"> 1. Evaluating whether the funded activity has the potential to affect a historic property, regardless if any are known to exist at the project site; 2. If activities may have an effect, provides the process for determining whether the property is listed on or eligible for the NRHP; and 3. If there is a historic property or district, assessing effects on the characteristics that qualify it for the NRHP. <p>The ACHP was invited to comment on the PA on January 9, 2023. On February 9, 2023, DCA sent the consulting parties a request for review and comment on the Draft PA. See Figure A10-2 for consultation letters correspondence leading up to the full execution of the PA. See Figure A10-3 for the ACHP transmittal letter to DCA regarding the fully executed PA. Appendix D contains the fully executed PA. See Tables A10-1 and A10-2 for additional historic preservation information. Also see Site-Specific Review Strategy and Checklist, Appendix B.</p>
<p>Noise Abatement and Control Noise Control Act of 1972 (NCA), as amended by the Quiet Communities Act of 1978; 24 CFR Part 51 Subpart B</p>	<p>Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p>	<p>Compliance achieved in the Broad Review as detailed below. The proposed project activities would not include new construction for residential use or rehabilitation of an existing residential property and is therefore in compliance with 24 CFR Part 51 Subpart B.</p>
<p>Sole Source Aquifers Safe Drinking Water Act of 1974 (SDWA), as amended, particularly section 1424(e); 40 CFR Part 149</p>	<p>Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p>	<p>Compliance will be achieved during the site-specific review. Passaic County is located within portions of the New Jersey Fifteen Basin Aquifers, Highlands Aquifer System, Ramapo River Basin Aquifer Systems, and the Buried Valley Aquifers. See Figure A11-1.</p>

<p>Compliance Factors: Statutes, Executive Orders, and Regulations listed at 24 CFR 50.4, 58.5, and 58.6</p>	<p>Was compliance achieved at the broad level of review?</p>	<p>If Yes: Describe compliance determinations made at the broad level. If No: Describe the policy, standard, or process to be followed in the site-specific review.</p>
		<p>A memorandum of understanding between HUD and USEPA Region II (See Figure A11-2) states that two types of project activities would not create a significant hazard to public health and do not require review for potential impact to sole source aquifers:</p> <ol style="list-style-type: none"> 1. Construction of individual new residential structures from one to four units; and 2. Rehabilitation of residential units. <p>The proposed project activities (i.e., demolition, debris removal, property restoration) are similar in nature to Number 2., above, but with less potential to impact sole source aquifers because they would remove impervious surfaces and restore the land to natural floodplain values. There would be no proposed project activities that would include construction, including constructing new residential structures greater than four units, that would require consultation with USEPA. The proposed project activities would therefore be compliant 40 CFR Part 149. See Tables A11-1 and A11-2 for additional sole source aquifers information.</p>
<p>Wetlands Protection EO 11990, particularly sections 2 and 5</p>	<p>Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p>	<p>Compliance achieved in the Broad Review as detailed below.</p> <p>The proposed project activities are exempt from wetlands review because it would meet all requirements outlined in 24 CFR 55.12(c)(3).</p> <ol style="list-style-type: none"> 1. The property is cleared of all existing structures and related improvements. 2. The property is permanently dedicated for flood control, wetland protection, park land, or open space. <p>BMPs for erosion and sedimentation control would be implemented as part of the proposed project activities. BMPs would include the following.</p> <ol style="list-style-type: none"> 1. Wetlands on or in the vicinity of the project site are to be protected from any unnecessary disturbance. 2. Vegetation and exposed soil are to be reestablished as soon as possible after work has been completed. 3. Existing drain inlets are to be protected from debris, soil, and sedimentation. 4. No heavy equipment is to be operated within wetlands, whenever possible. <p>The proposed project activities are in compliance</p>

<p>Compliance Factors: Statutes, Executive Orders, and Regulations listed at 24 CFR 50.4, 58.5, and 58.6</p>	<p>Was compliance achieved at the broad level of review?</p>	<p>If Yes: Describe compliance determinations made at the broad level. If No: Describe the policy, standard, or process to be followed in the site-specific review.</p>
		<p>with EO 11990. See the <i>Mitigation Measures and Conditions</i> section for additional wetlands protection information.</p>
<p>Wild and Scenic Rivers Wild and Scenic Rivers Act of 1968, particularly section 7(b) and (c)</p>	<p>Yes No <input checked="" type="checkbox"/> <input type="checkbox"/></p>	<p>Compliance is achieved in the Broad Review as detailed below. HUD-assisted activities are subject to the requirements of the Wild and Scenic Rivers Act (16 U.S.C. 1271 et seq.). The environmental review must evaluate the potential to impact any listed Wild and Scenic River when the assisted project is within proximity to a listed natural resource (24 CFR 58.5(f) or 24 CFR 50.4(f)). New Jersey has 262.7 river miles designated as segments of the National Wild and Scenic Rivers System, including portions of the Delaware River, Great Egg Harbor River, Maurice River, and Musconetcong River. Designated rivers also include specific segments of tributaries to these rivers as referenced in the Act. As seen in Figure A12-1, the closest wild and scenic river is Musconetcong between Warren County and Morris County. There are no Wild and Scenic Rivers in Passaic County or nearby surrounding counties. The proposed project activities are in compliance with the Wild and Scenic Rivers Act. See Tables A12-1 and A12-2 for additional Wild and Scenic Rivers information.</p>
<p>Environmental Justice EO 12898</p>	<p>Yes No <input checked="" type="checkbox"/> <input type="checkbox"/></p>	<p>Compliance is achieved in the Broad Review as detailed below. Per EO 12898, <i>Federal Actions to Address Environmental Justice in Minority Populations and Low-income Populations</i>, HUD is required "...to consider how federally assisted projects may have disproportionately high and adverse human health or environmental effects on minority and/or low-income populations."⁹ Consistent with EO 12898 and the State of New Jersey’s environmental justice goals and to maximize the use of CDBG-DR funds for buyouts, Blue Acres buyouts initially would be directed toward socially</p>

⁹ US Department of Housing and Urban Development. 2022. *HUD Exchange: Environmental Assessment*. Available: <https://www.hudexchange.info/programs/environmental-review/environmental-assessment/>. Accessed: April 2024.

<p>Compliance Factors: Statutes, Executive Orders, and Regulations listed at 24 CFR 50.4, 58.5, and 58.6</p>	<p>Was compliance achieved at the broad level of review?</p>	<p>If Yes: Describe compliance determinations made at the broad level. If No: Describe the policy, standard, or process to be followed in the site-specific review.</p>
		<p>vulnerable populations and homeowners who are identified as Low-to-Moderate (LMI) persons. Buyouts will be targeted in areas that are in close proximity to environmental hazards and helping residents relocate to healthier, safer locations. Using HUD’s Affirmatively Furthering Fair Housing mapping tool, the State will generate maps and reports to identify segregation trends, areas of concentrated poverty, disparity in housing needs and access to opportunity, and location and tenant characteristics of publicly supported housing within the HUD and State MID areas. This information and mapping will help the State and its outreach partners further target program engagement and encourage participation in these areas.</p> <p>The Blue Acres program would offer access to housing counseling and legal services to all program applicants, including vulnerable populations, as they move through the program. These services will provide application, documentation, and long-term housing planning wraparound and referral services that may be needed. Mapping tools will be developed and made available that clearly designate areas outside the 100- and 500-year floodplains and HUD’s RECAP mapping will be used to clearly define the different housing options in the participants’ buyout community.</p> <p>The proposed project would provide benefits to low-income populations and would not result in disproportionately high and adverse impacts on minority and/or low-income communities and would therefore comply with EO 12898. See Tables A13-1 and A13-2 for additional environmental justice information.</p>
<p>Essential Fish Habitat Magnuson-Stevens Fishery Conservation and Management Act</p>	<p>Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p>	<p>Compliance is achieved at the Broad review as detailed below.</p> <p>The Magnuson-Stevens Fishery Conservation and Management Act applies to ocean fish, including ocean fish that spawn in fresh water or in estuaries (anadromous fish). The act requires protection of essential fish habitat, which is defined as habitat fish need for spawning, breeding, feeding, or growth to maturity.</p> <p>Because of New Jersey’s location on the Atlantic Ocean, and the presence of streams and estuaries used for spawning, a summary of the potential for</p>

<p>Compliance Factors: Statutes, Executive Orders, and Regulations listed at 24 CFR 50.4, 58.5, and 58.6</p>	<p>Was compliance achieved at the broad level of review?</p>	<p>If Yes: Describe compliance determinations made at the broad level. If No: Describe the policy, standard, or process to be followed in the site-specific review.</p>
		<p>proposed project activities to effect essential fish habitat is provided below.</p> <p>While essential fish habitat is present in Passaic County (see Figure A14-1), implementation of BMPs for erosion and sediment control and management of site contaminants would prevent the introduction of sediment and contamination into essential fish habitat. Proposed project activities would take place on land (and not in or over essential fish habitat) and would not be expected to have a significant adverse impact on essential fish habitat. proposed project activities are in compliance with the Magnuson-Stevens Fishery Conservation and Management Act. See Figure A14-1 and Table A14-1 for additional essential fish habitat information.</p>

Attachment A-1: Environmental Assessment Factors

[24 CFR 58.40; Ref. 40 CFR 1508.8 and 40 CFR 1508.27]

Recorded below is the qualitative and quantitative significance of the effects associated with the proposed project activities (i.e., purchased structure demolition, debris removal, and property restoration to open space) on the character, features, and resources of the project area. Each factor has been evaluated and documented, as appropriate and in proportion to its relevance to the proposed project activities. As appropriate, verifiable source documentation has been provided and described in support of each determination, as appropriate. Credible, traceable, and supportive source documentation for each authority has been provided. Where applicable, the necessary reviews or consultations have been completed and applicable permits of approvals have been obtained or noted. As appropriate, citations, contact(s) dates/names/titles, and page references are clear. Additional documentation is attached, as appropriate. **All conditions, attenuation, or mitigation measures have been clearly identified.**

Impact Codes: Use an impact code from the following list to make the determination of impact for each factor.

1. Minor beneficial impact
2. No impact anticipated
3. Minor Adverse Impact – may require mitigation
4. Significant or potentially significant impact requiring avoidance or modification which may require an Environmental Impact Statement

Environmental Assessment Factor	Impact Code	Impact Evaluation
LAND DEVELOPMENT		
Conformance with Plans / Compatible Land Use and Zoning / Scale and Urban Design	2	Proposed project activities (i.e., demolition of homes, debris removal, and property restoration to open space) would decrease urban density. Proposed project activities would conform to all local and state regulations and plans, would be compatible with land use and zoning regulations, and would not be out of scale or character with surrounding area urban design. No impacts are anticipated.
Soil Suitability/ Slope/ Erosion/ Drainage/ Storm Water Runoff	2	Proposed project activities would occur on existing residential lots where slope concerns have been previously addressed. Because project parcels have been previously assessed for suitability, they are therefore expected to have suitable slope, erosion, drainage, and stormwater runoff. The demolition contractor would enact best management practices (BMPs) to prevent any storm water runoff during demolition activities. No impacts are anticipated.
Hazards and Nuisances including Site Safety and Noise	3	Any hazards and nuisances would temporarily increase during proposed project activities and be addressed by way of BMPs. Noise levels would temporarily increase during proposed project activities, which could affect nearby sensitive receptor (e.g., residences, schools). All proposed project activities would

Environmental Assessment Factor	Impact Code	Impact Evaluation
		<p>comply with local and county ordinances for noise. These impacts would be minor and temporary, and with BMPs and local ordinances in place would not be expected to result in significant adverse impacts.</p> <p>Site safety would be addressed by way of BMPs and would comply with local and county ordinances governing demolition sites, site safety, and site access. Minor adverse impact(s) may occur.</p>
SOCIOECONOMIC		
Employment and Income Patterns	3	<p>Proposed project activities would be expected to add new jobs to the local economy in the short-term. After proposed project activities are complete, employment and income patterns are expected to decrease relative to pre-storm levels. It is uncertain if any residents who were displaced from the storm will return to their communities, their previous employment, and may utilize local commercial services. Minor adverse impact(s) may occur.</p>
Demographic Character Changes, Displacement	2	<p>Proposed project activities may not return applicants to their pre-storm communities and neighborhoods. Applicants whose homes are eligible for Blue Acres buyouts can choose to accept program funds if they agree to move to a new property, which could be located in a new community. The number of buyouts in any one community are expected to be low, resulting in minor changes in demographics. However, because relocation would be voluntary, displacement would only occur based on the applicant’s decision. No adverse impact(s) anticipated.</p>
Environmental Justice	2	<p>DCA, through their Action Plan, has identified and implemented steps to ensure that their Community Development Block Grant – Disaster Recovery (CDBG-DR) programs, including those covered under this broad level review, would not have an unjustified discriminatory effect on or failure to benefit vulnerable populations and underserved communities.</p> <p>Consistent with Executive Order (EO) 12898 and the State of New Jersey’s environmental justice goals and to maximize the use of CDBG-DR funds for buyouts, Blue Acres buyouts initially would be directed toward socially vulnerable populations and homeowners who are identified as Low-to-Moderate income (LMI) persons.</p> <p>The Blue Acres program would offer access to housing counseling and legal services to all program applicants, including vulnerable populations. The program may offer an incentive to purchase new housing that would help to ensure that low-income households have an affordable, safe, local option for rehousing their families without losing connection to their community. No adverse impact(s) anticipated.</p>
COMMUNITY FACILITIES AND SERVICES		
	2	Proposed project activities would include the removal of

Environmental Assessment Factor	Impact Code	Impact Evaluation
Educational and Cultural Facilities		residential structures and the potential for program applicants to relocate outside their pre-storm communities. Proposed project activities would not result in an increase in the demand on educational and cultural facilities and services. There would be no impact.
Commercial Facilities	2	Proposed project activities would include the removal of residential structures and the potential for program applicants to relocate outside pre-storm communities. Proposed project activities would result in a minor decrease in the demand on commercial facilities. There would be no impact.
Health Care and Social Services	2	Proposed project activities would include the removal of residential structures and the potential inability of program applicants to return to their pre-storm communities. Proposed project activities would not result in an increase in the demand on healthcare and social services. There would be no impact.
Solid Waste Disposal / Recycling	3	Significant quantities of solid waste may temporarily result from proposed project activities. Federal, state, county, and local ordinances would require the proper management of all hazardous materials (e.g., lead-based paint and asbestos containing materials) and demolition-generated waste. After proposed project activities are complete, there would be less demand on solid waste and recycling services beyond pre-storm levels. Overall, impacts would be minor adverse and temporary.
Waste Water / Sanitary Sewers	2	Proposed project activities are expected to result in a population decrease in the county due to the removal of residential structures and the potential inability of program applicants to return to their pre-storm communities. Program contractors would follow all applicable regulations, permits and BMPs to minimize any potential impacts (See Mitigation and Conditions section). No adverse impact(s) anticipated.
Water Supply	2	Proposed project activities would include the removal of residential structures and the potential for program applicants to relocate outside pre-storm communities. Proposed project activities would not result in an increase in the demand on water supply. There would be no impact.
Public Safety – Police, Fire and Emergency Medical	2	Proposed project activities would include the removal of residential structures and the potential for program applicants to relocate outside pre-storm communities. Proposed project activities would not result in an increase in the demand on police, fire and/or emergency medical services. There would be no impact.
Parks, Open Space and Recreation	1	Proposed project activities would increase the amount of open space. Minor beneficial impact(s) anticipated.
Transportation and Accessibility	3	Proposed project activities may result in short-term temporary impacts on vehicular access around the project site through implementation of traffic control measures to allow for safe construction vehicle ingress and egress. Impacts would be

Environmental Assessment Factor	Impact Code	Impact Evaluation
temporary and minor adverse.		
NATURAL FEATURES		
Unique Natural Features, Water Resources	2	Unique natural features are primarily geological features that are rare or of special social/cultural, economic, educational, aesthetic, or scientific value. HUD considers development on or near natural features to have the ability to render those features inaccessible to investigators or visitors, degrade their value, or otherwise limit potential future use and appreciation of those resources. Proposed project activities would remove existing residential structures and restore the land to open space. Each project site will be evaluated for its potential to impact the surrounding environment (including wetlands) and, where necessary, mitigation measures and BMPs will be employed to reduce, avoid, or minimize potential adverse impacts. No adverse impact(s) anticipated.
Vegetation, Wildlife	2	Proposed project activities would involve residential structures within the existing footprint on previously disturbed residential land. Each project site will be evaluated for its potential to impact the surrounding environment (including vegetation and wildlife) and, where necessary, mitigation measures and BMPs will be employed to reduce, avoid, or minimize potential adverse impacts. No adverse impact(s) anticipated.
CLIMATE AND ENERGY		
Climate Change Impacts	1	The U.S. Climate Resilience Toolkit, <i>The Climate Explorer</i> , provides climate projections at the county level. Passaic County is projected to see an increase in precipitation by the 2050s. These increases could result in increased flood risk. Proposed project activities would increase resilience to climate-induced disasters and reduce or eliminate the long-term risk of loss of life, injury, damage to and loss of property, and suffering and hardship by removing residents from areas at high risk of flooding. Minor beneficial impact(s) anticipated.
Energy Efficiency	3	Proposed project activities would include the removal of residential structures and the potential for program applicants to relocate outside their pre-storm communities. Demolition and debris removal would involve a short-term and temporary increase in energy use and greenhouse gas emissions (e.g., construction vehicle operation). Overall, proposed project activities would result in short-term temporary impacts on energy efficiency.

Additional Studies Performed

No additional studies were required for the Tier 1 Broad Review. Additional studies may be required in subsequent Tier 2 site-specific reviews.

Field Inspection (Date and completed by)

A field inspection was not needed for Tier 1 Broad Review. Field inspections will be completed for each Tier 2 site-specific review.

List of Sources, Agencies, and Persons Consulted [40 CFR 1508.9(b)]

<https://www.usgs.gov/data/national-land-cover-database-nlcd-2021-products>

Additional sources, agencies, and persons consulted are located within Attachments 1–16.

List of Permits Obtained

All required and necessary permits will be specified within the Tier 2 site-specific environmental reviews.

Public Outreach [24 CFR 50.23 & 58.43]

The Blue Acres program will be exempt from the eight-step floodplain analysis process (including the early Floodplain/Wetlands public note) since, as confirmed by DEP, it is expected to meet all requirements outlined in 24 CFR 55.12(c)(3). Each property will be brought into compliance with the following requirements:

1. The property is cleared of all existing structures and related improvements;
2. The property is permanently dedicated for flood control, wetland protection, park land, or open space; and
3. A permanent covenant or comparable restriction is placed on the property's continued use to preserve the floodplain or wetland from future development.

Cumulative Impact Analysis [24 CFR 58.32]

The proposed project activities (buyout of storm-damaged residences, structure demolition, debris removal, and property restoration to open space) for the Blue Acres program would not contribute to the adverse cumulative impacts on environmental resources. Thus, the proposed programs would improve the resiliency of Passaic County residents which will have a cumulative benefit to the region.

The proposed project activities may have minor and temporary environmental impacts. Potential impacts will be mitigated through BMPs and the mitigation measures and conditions described below, as well as any identified during the site-specific analysis. If mitigation is not possible, then the site would not be eligible for funding consideration.

Alternatives [24 CFR 58.40(e), 40 CFR 1508.9]

As noted in the Action Plan for the State of New Jersey Tropical Storm Ida, Blue Acres applicants have the choice to receive an incentive to relocate to another low-risk area within the buyout community, thereby expanding safe, affordable housing options for high-risk, low-income households and prioritizing resident retention in those communities. Displaced tenants will also receive relocation benefits through the Uniform Relocation Act (URA) and will have the ability to stay within the community. No other alternatives were considered.

No-Action Alternative [24 CFR 58.40(e)]:

Under the No-Action Alternative, affordable housing opportunities for LMI and other residents would not be supported under the Blue Acres program. In such cases, the State's capability of meeting the housing needs of LMI households and other participants of federal buyout programs would be limited. Thus, the No-Action Alternative would not address the purpose and need of the project. Additionally, the environmental impacts associated with the proposed project would not occur under the No-Action Alternative, nor would the beneficial effects of the project.

Summary of Findings and Conclusions

Based upon completion of this Broad Review environmental assessment, environmental review of the Blue Acres program indicates that there will be no significant impact changes to existing environmental conditions across the impact categories, with the possible exception of the subject areas listed below.

1. Contamination and Toxic Substances
2. Threatened and Endangered Species
3. Historic Preservation

The above subject areas require site-specific analysis before it can be concluded that the proposed project activities would have no significant environmental impacts on an individual site. The Tier 2 Site-Specific Review Checklist can be found in Appendix B. The Tier 2 Site-Specific Review Checklist must be completed prior to the proposed project activities occurring on a particular site.

Mitigation Measures and Conditions [40 CFR 1505.2(c)]

This section presents mitigation measures adopted by the DCA to reduce, avoid, or eliminate adverse environmental impacts and to avoid noncompliance or nonconformance with the above-listed authorities and factors. These general measures/conditions, along with site-specific conditions identified during implementation of the site-specific strategy (see Site-Specific Review Strategy and Checklist, Appendix B.), will be incorporated by DCA into project contracts, development agreements, and other relevant documents.

General Environmental Grant Conditions

1. Acquire all required federal, state, and local permits prior to demolition and comply with all permit conditions.
2. When using heavy equipment, work from hard or firm surfaces to the fullest extent possible, to avoid sinking into soft soils. The Applicant will ensure, to the fullest extent possible, that its contractors minimize soil disturbance when operating heavy equipment on wet soils (6 inches or less).
3. If the scope of work of a proposed activity changes, the application for funding must be revised and resubmitted for reevaluation under the National Environmental Policy Act (NEPA).

Clean Air

1. Use water or chemical dust suppressant to control excessive dust in exposed areas.

2. Cover the load compartments of trucks hauling dust-generating materials.
3. Dust emissions either windblown or generated from demolition, debris removal, and restoration to open space activities should be controlled to prevent offsite impacts or material tracked onto the roadways. NJAC 7:27-5.2.
4. Air pollution including odors that are detectable offsite that are injurious to human health or would result in citizen complaints are prohibited. NJAC. 7:27-5.2.
5. Wash heavy trucks and other proposed project activities (i.e., demolition, debris removal, property restoration to open space) vehicles before site departure.
6. Reduce vehicle speed on non-paved areas and keep paved areas clean.
7. Retrofit older equipment with pollution controls.
8. Establish and follow specified procedures for managing contaminated materials discovered or generated during proposed project activities.
9. Obtain an air pollution control permit to demolish and a certificate to operate for all equipment subject to NJAC 7:27-8.2(c). Such equipment includes, but is not limited to, the following:
 - a. Commercial fuel combustion equipment rated with a maximum heat input of 1,000,000 British Thermal Units per hour or greater to the burning chamber (NJAC 7:27-8.2(c)1).
10. Any vehicles involved on the project must adhere to the idling standards (less than 3 minutes) in NJAC 7:27-14 and 15. Minimize idling and ensure that all on-road vehicles and non-road equipment at the project site use ultra-low sulfur fuel (<15 ppm sulfur) in accordance with the federal Non-road Diesel Rule (40 CFR Parts 9, 69, 80, 89, 94, 1039, 1051, 1065, and 1068).
11. If possible, operate newer on-road diesel vehicles and non-road equipment with tier 4 engines or an exhaust retrofit device.

Contamination and Toxic Substances

1. All proposed project activities must comply with applicable federal, state, and county laws and regulations regarding asbestos, including but not limited to the following:
 - a. National Emission Standard for Asbestos, standard for demolition and renovation, 40 CFR 61.145.
 - b. National Emission Standard for Asbestos, standard for waste disposal for manufacturing, fabricating, demolition, and spraying operations, 40 CFR 61.150.
 - c. New Jersey Superstorm Sandy Demolition Guidance Document for Local Government Assuming Demolition of Private Residences May 1, 2013.¹⁰

¹⁰New Jersey Department of Environmental Protection. 2013. *New Jersey Superstorm Sandy Demolition Guidance Document for Local Government Assuming Demolition of Private Residences*. May 1, 2013. Available: <https://dep.nj.gov/wp-content/uploads/hurricane-sandy/demolition-guidance.pdf>. Accessed: March 2024.

- d. FEMA Best Practices for Lower Impact Debris Removal and Demolitions (Version 3.7 – 6/11/13).¹¹
 - e. NJAC 7:26-2.12, *Generator requirements for disposal of asbestos containing waste materials*.
 - f. New Jersey Asbestos Control and Licensing Act, NJSA 34-5A-32 et seq.
2. Applicant must comply with all laws and regulations concerning the proper handling, removal, and other management (including disposal) of hazardous materials (e.g., asbestos, lead-based paint, mold) or household waste (e.g., demolition debris, pesticides/herbicides, white goods).
 3. All activities must comply with applicable federal, state, and local laws and regulations regarding lead-based paint, including but not limited to HUD’s lead-based paint regulations in 24 CFR 35(b)(h)(j).
 4. Proper precautions must be taken to protect workers and others from exposure to mold and other hazardous materials on/in all residential structures during all proposed project activities (i.e., demolition, debris removal, and property restoration to open space). Activities must comply with OSHA’s criteria for personal protective equipment regulation in 29 CFR 1926.95(a).
 5. Comply with all laws, regulations, and industry standards applicable to aboveground and underground storage tanks, including the New Jersey underground storage tank regulations at NJAC 7:14B.
 6. Employ spill mitigation measures immediately upon a spill of hazardous material.
 7. During the temporary proposed project activities, implement applicable site safety measures, such as:
 - a. Ensure workers wear personal protective gear, such as hard hats, proper gloves, and safety glasses or face shields.
 - b. Control site access.

Threatened and Endangered Species

1. While bat surveys are no longer required for Northern Long-eared Bats in buildings, if bats (of any species) happen to be discovered during the process of renovations/demolitions/etc., work should cease and the construction manager should contact Mackenzie Hall, New Jersey Division of Fish and Wildlife, Endangered and Nongame Species Program at (609) 292-1244 on how to proceed. All bat species are protected by law in New Jersey and cannot be knowingly harmed or harassed.
2. If project clearing of potential migratory bird habitat will occur within 50 feet of the demolition site between March 15 and September 15, then a nest survey must be undertaken by a qualified biologist. If nests are identified, then a minimum 50-foot buffer from the work area is required

¹¹ Federal Emergency Management Agency. 2013. *FEMA – Best Practices for Lower Impact Debris Removal and Demolitions*. Last revised: June 11, 2013. Available: <https://dep.nj.gov/wp-content/uploads/hurricane-sandy/hmgrp-res7.pdf>. Accessed: March 2024.

until the nest is no longer active. If an active migratory bird nest is incidentally disturbed during clearing, then the contractor shall collect and immediately transport the eggs to a wildlife rehabilitator. The DCA shall be notified of this action by the contractor, so the activity is noted in the environmental review record (ERR).

Floodplain Management and Flood Insurance

1. Proposed project activities (i.e., demolition, debris removal, and property restoration to open space) must adhere to best management practices and standards that fully protect and, if necessary, restore floodplains. Flood insurance is not applicable to the Blue Acres program.

Historic Preservation

1. All proposed project activities must comply with Section 106 of the NHPA per the implementing regulations 36 CFR 800. Compliance with Section 106 is achieved through the procedures set forth in the Programmatic Agreement among the New Jersey State Historic Preservation Officer, the Advisory Council on Historic Preservation, the Absentee Shawnee Tribe of Indians of Oklahoma, the Delaware Nation, the Delaware Tribe of Indians, the Shawnee Tribe, and the Stockbridge Munsee Community, as signed onto by the New Jersey Department of Community Affairs.
2. If proposed project activities uncover archaeological deposits, including any Native American pottery, stone tools, bones, or human remains, the project shall be halted, and the applicant shall immediately stop work in the vicinity of the discovery and take reasonable measures to avoid or minimize harm to the finds. All archeological findings will be secured and access to the sensitive area restricted. The applicant will inform DCA and DCA will consult with the DEP HPO or Tribal Historic Preservation Offices and tribes. Work in sensitive areas cannot resume until consultation is completed and appropriate measures have been taken to ensure that the project is in compliance with the NHPA.
3. To the fullest extent possible, contractors will limit excavation to within two (2) feet of the foundation perimeter and will not excavate more than six (6) inches below the depth of the foundation to minimize soil disturbance.
4. When using heavy equipment, work from hard or firm surfaces to the fullest extent possible, to avoid sinking into soft soils. The Applicant will ensure, to the fullest extent possible, that its contractors minimize soil disturbance when operating heavy equipment on wet soils (6 inches or less).

Noise Abatement and Control

1. Outfit all heavy equipment with operating mufflers.
2. If applicable, comply with local noise ordinance.
3. If application site is in a high noise area, then use appropriate eco-friendly demolition standard methods to attenuate.

Wetlands Protection

1. Implement and maintain best management practices for erosion and sedimentation control measures to prevent deposition of sediment and eroded soil in on-site and off-site wetlands and waters and to prevent erosion in onsite and off-site wetlands and waters.

2. Reestablish vegetation on exposed soil as soon as possible after work has been completed.
3. Minimize soil compaction by minimizing project ground disturbing activities in vegetated areas, including lawns.
4. As appropriate, install sediment dams or berms, diversion dikes, hay bales as erosion checks, riprap mesh or burlap blankets to hold soil during proposed project activities.
5. Determine if demolition activities would disturb more than 5,000 square feet of land. If land disturbance would exceed more than 5,000 square feet, a certificate from the Freehold Soil Conservation District must be obtained.
6. Apply demolition methods incorporating eco-friendly practices to minimize the environmental impact of demolishing a building. This includes recycling materials, using non-toxic materials, and ensuring that the local environment is not adversely affected.
7. Identify and flag sensitive areas at site prior to start of proposed project activities.
8. Protect fragile and sensitive areas such as wetlands, riparian zones, delicate flora, or land resources against compaction, vegetation loss and unnecessary damage.
9. Protect existing drain inlets from debris, soil, and sedimentation.
10. Do not operate heavy equipment in wetlands.
11. Remove all temporary fills following completion of proposed project activities.

Surface Water

1. No equipment maintenance or fueling of construction equipment shall take place on the job sites.
2. If handling of fuels on site is to occur, take caution to prevent spills of oils and grease that may reach the receiving waters.
3. Follow safe storage and handling procedures in order to prevent the contamination of water from fuel spillage, lubricants, and chemicals.
4. Protect streams, wetlands, woods, and other natural areas from any unnecessary proposed project activities or disturbances.
5. Control stream bank and stream bed disturbances to minimize and/or prevent silt movement, nutrient upsurges, plant dislocation, and any physical, chemical, or biological disruption.

Wild and Scenic Rivers

1. Comply with any conditions specified by DEP and the National Park Service (NPS) for protection of the Great Egg Harbor River, Delaware River, and Musconetcong River, designated Wild and Scenic Rivers. (Applicable only to Gloucester, Hunterdon, Mercer, Morris, and Warren counties.)

Hazards and Nuisances, Including Site Safety and Noise

1. During the temporary proposed project activities, implement applicable site safety measures, such as:

- a. Ensure workers wear personal protective gear, such as hard hats, proper gloves, and safety glasses or face shield.
 - b. Control site access.
2. During the temporary demolition, debris removal, and restoration to open space activities, outfit all heavy equipment with operating mufflers.
 3. Comply with any applicable local noise ordinance(s).

Determination

Finding of No Significant Impact (FONSI) [24 CFR 58.40(g)(1); 40 CFR 1508.27]

The project will not result in a significant impact on the quality of the human environment.

Finding of Significant Impact (FOSI) [24 CFR 58.40(g)(2); 40 CFR 1508.27]

The project may significantly affect the quality of the human environment.

Preparer Signature: Robert Greene Date: 7/1/2024

Name/Title/Organization: Rob Greene, Environmental Planner, ICF

Responsible Entity Agency Official Signature:

Samuel R. Viavattine Date: 7/16/2024

Name/Title: Samuel R. Viavattine, Deputy Commissioner

This original, signed document and related supporting material must be retained on file by the Responsible Entity in an ERR for the activity/project (ref: 24 CFR 58.38) and in accordance with recordkeeping requirements for the HUD program(s).

This document represents the Tier 1 or Broad-Level review *only*. As individual sites are selected, this review must be supplemented by individual Tier 2 or Site-Specific reviews for each site. All laws and authorities requiring site-specific analysis will be addressed in these individual reviews.

Attachment A-2: Coastal Barrier Resources

Coastal Barrier Resources Act, as amended by the Coastal Barrier Improvement Act of 1990 (16 U.S.C. 3501).

Table A2-1: Coastal Barrier Resources – Passaic County

Name	Unit Type	Acres
None	Not Applicable	0
Total Area	Not Applicable	0
Percentage of Passaic County	Not Applicable	0

Table A2-2: Coastal Barrier Resources Sources

Agency	Internet Link	Accessed Date	Dataset Date
U.S. Fish and Wildlife Service	https://www.fws.gov/program/coastal-barrier-resources-act/maps-and-data	1/16/2024	8/16/2023

Agencies/Regulations Consulted During Broad Review

- USFWS
- DEP Division of Land Resource Protection

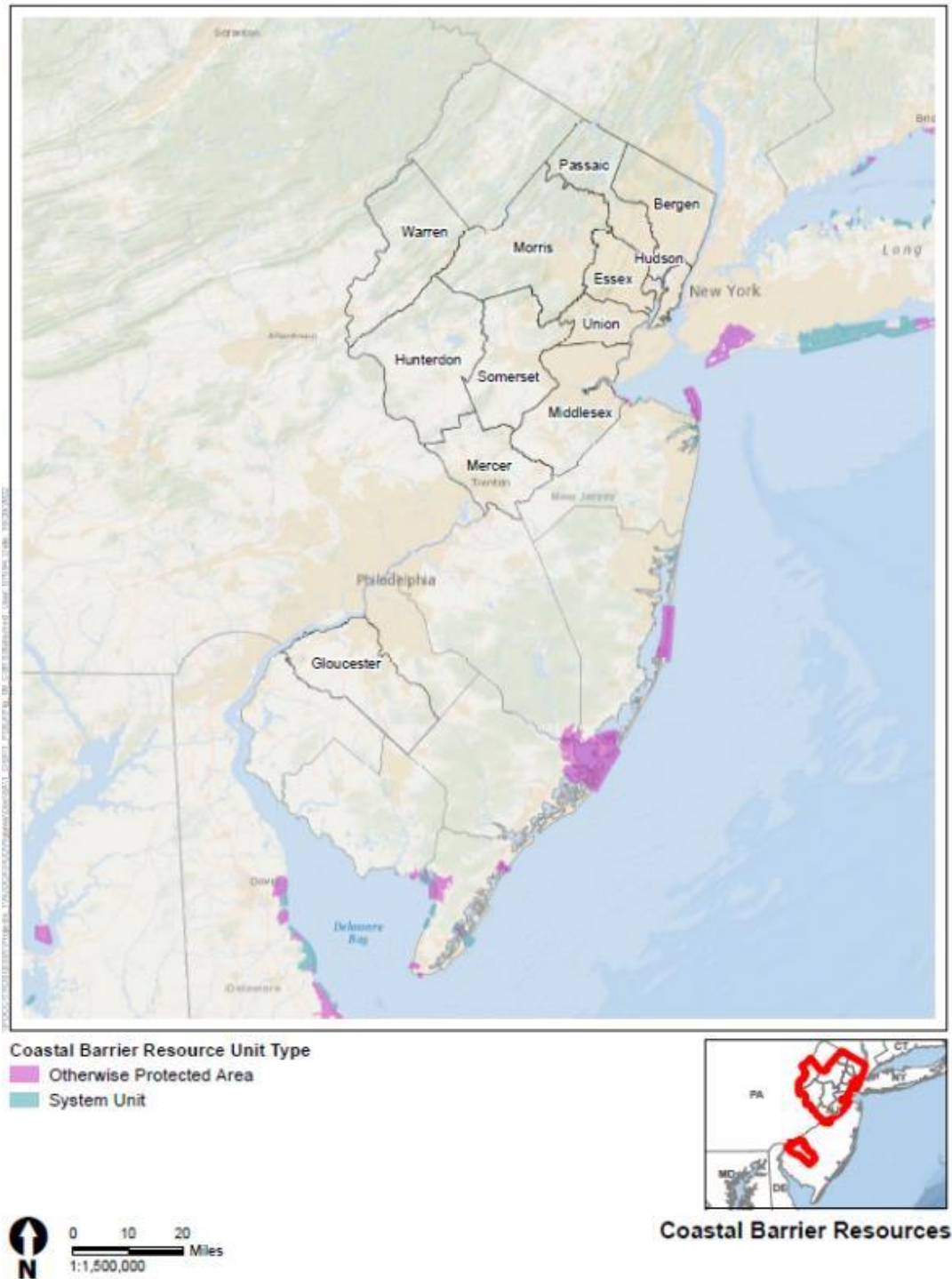
Supporting Documentation

- Figure A2-1: Coastal Barrier Resources Map – NJ

Environmental Finding

Compliance has been achieved in the Tier 1 Broad Review since the Coastal Barrier Resources System are uninhabited and are not located along Passaic County. Evaluation at a site-specific level is not required.

Figure A2-1: Coastal Barrier Resources Map – NJ



Attachment A-3: Clean Air

Clean Air Act, as amended, particularly Sections 176 (c) and (d); 40 CFR 6, 51, and 93.

Table A3-1: NAAQS – Passaic County

National Ambient Air Quality Standards (NAAQS) Pollutant – Passaic County	Attainment Status for 2024	Classification
8-Hour Ozone (2008)	Nonattainment	Severe-15
8-Hour Ozone (2015)	Nonattainment	Moderate
Carbon Monoxide (1971)	Attainment	Moderate 12.7ppm
PM-2.5 (2006)	Attainment	Former Subpart 1

Table A3-2: Clean Air Sources

Agency	Internet Link	Accessed Date	Dataset Date
U.S. Environmental Protection Agency (USEPA)	https://www3.epa.gov/airquality/greenbook/ana_yo_nj.html (New Jersey Nonattainment/Maintenance Status for Each County by Year for All Criteria Pollutants)	1/16/2024	12/31/2023
USEPA	https://www.epa.gov/green-book/green-book-gis-download (Green Book GIS Download)	1/16/2024	12/27/2023

Air Quality Emissions Estimates

Step 1: Obtain national data that relates residential housing spending to diesel fuel usage from Evaluation of Methodologies to Estimate Nonroad Mobile Source Usage, prepared by Sierra Research for the Office of Mobile Sources, U.S. Environmental Protection Agency (report number SR93-03-02, March 19, 1993, Table 7-4 on page 7-6). Based on the 1987 Census of Construction, \$1,200 of off-highway fuel is used for every million dollars (\$M) of single-family housing (SFH) construction. Also, \$880 of off-highway fuel is used for every million dollars of non-SFH residential construction. Assuming the Tropical Storm Ida construction activities will be a mix of SFH and non-SFH residential construction, an average value of \$1,040 of off-highway fuel per million dollars of construction will be used.

Step 2: Convert the diesel fuel usage factor to gallons of fuel per \$M of current residential construction spending. An average 1987 diesel price of \$0.55 per gallon is from page 7-10 of the Sierra report. To convert the construction spending from 1987 dollars to current dollars, producer price indices for finished goods less food and energy were obtained for 1987 (113.3) and 2023 (248.642) from U.S. Department of Labor Bureau of Labor Statistics.¹² The diesel fuel usage factor is converted as follows:

$$\$1,040 \text{ fuel}/\$M1987\text{constn} \times 1 \text{ gal diesel}/\$0.55 \times 113.3/248.642 = 861.64\text{gal diesel}/\$M\text{constn}$$

¹² U.S. Department of Labor. 2023. *PPI Detailed Report: Data for October 2023*. Report. U.S. Bureau of Labor Statistics.

Step 3: Obtain emission factors in terms of annual tons of pollutant per million gallons of nonroad diesel fuel to enable the estimation of pollutant emissions per \$M of construction spending. As part of the New Jersey Superstorm Sandy Recovery Program, the DEP ran the USEPA NONROAD model to produce annual construction pollutant emissions and fuel usage. The NONROAD results were used to generate emission factors by considering the total annual construction pollutant emissions for the twelve counties along with the total diesel fuel used by the construction equipment. This resulted in emission factors of 6.90, 64.89, 5.51 and 0.13 pollutant tons per million gallons of diesel fuel for volatile organic compounds (VOC), NO_x, PM_{2.5} and SO₂ respectively. Using the emission factors from the NONROAD model and 861.64 gal diesel/\$Mconstn from Step 2, the following emission factors are calculated: 0.008, 0.0753, 0.00639 and 0.00015 annual tons of pollutant per \$M of residential construction spending for VOC, NO_x, PM_{2.5} and SO₂ respectively.

Step 4: Apply the emission factors to the projected spending for Tropical Storm Ida recovery projects. The spending for the project is estimated to be \$16 million over a 12-month period beginning mid-2025 and ending mid-2026. General conformity emissions are estimated for each impacted nonattainment area. Of the 12 counties in which HUD-funded Tropical Storm Ida recovery projects will be concentrated, 10 are in the northern ozone nonattainment area and 2 are in the southern nonattainment area. The northern PM_{2.5} nonattainment area includes 11 of the 12 counties. Therefore, for the ozone precursor pollutants (VOC and NO_x), 2024 project construction spending is assumed to be \$2.6 million for the southern ozone nonattainment area and \$13.4 million for the northern ozone nonattainment area, and for PM_{2.5}, 2025 project construction spending is assumed to be \$14.6 million.¹³ Using these spending assumptions and the emission factors from Step 3, the following are the estimated 2025 emissions:

Table A3-3: Estimated VOC, NO_x, and PM_{2.5} Emissions for 2025

Nonattainment Area	VOC tons/year)	NO _x tons/year)	PM _{2.5} tons/year)	SO ₂ tons/year)
Ozone Northern	0.105	0.985	–	–
Ozone Southern	0.02	0.19	–	–
PM _{2.5} Northern	–	–	0.09	0.002
General Conformity Limits	25	25	100	100

The methodology used to determine the emissions estimates in Table A3-3 is consistent with the damage reported by county and the method of distribution of funds included in the New Jersey Department of Community Affairs, Tropical Storm Ida Community Development Block Grant Disaster Recovery Action Plan.

Agencies/Regulations Consulted During Broad Review

- USEPA

Supporting Documentation

- Figure A3-1: Nonattainment/Maintenance Status for NAAQS Criteria Pollutants Table

¹³ This assumes that the \$16 million in project spending is split evenly between the 12 counties, for a total of \$1.33 million for each county.

- Figure A3-2: DEP Air Quality Consultation Request Letter and Email Transmittal
- Figure A3-3: DEP Consultation Response

Environmental Finding

Compliance with the Clean Air Act has been achieved through the Tier 1 Broad review since proposed project activities would not have any significant impact on ozone, and the proposed project activities are not expected to exceed de minimis thresholds. Evaluation at a site-specific level is not required.

Figure A3-1: Nonattainment/Maintenance Status for NAAQS Criteria Pollutants

United States Environmental Protection Agency
Contact Us

Green Book

You are here: [EPA Home](#) > [Green Book](#) > [National Areas and County-Level Air Pollution Information](#) > New Jersey Nonattainment/Maintenance Status for Each County by Year for All Criteria Pollutants

New Jersey Nonattainment/Maintenance Status for Each County by Year for All Criteria Pollutants

Data is current as of March 31, 2024.

Listed by County, NAAQS Area. The 8-hour Ozone (1997) standard was revoked on April 8, 2015 and the 1-hour Ozone (1979) standard was revoked on June 15, 2005.

* The 1997 Primary Annual PM-2.5 NAAQS (level of 15 µg/m³) is revoked in attainment and maintenance areas for that NAAQS. For additional information see the PM-2.5 NAAQS SIP Requirements Final Rule, effective October 24, 2016. ([81 FR 58009](#))

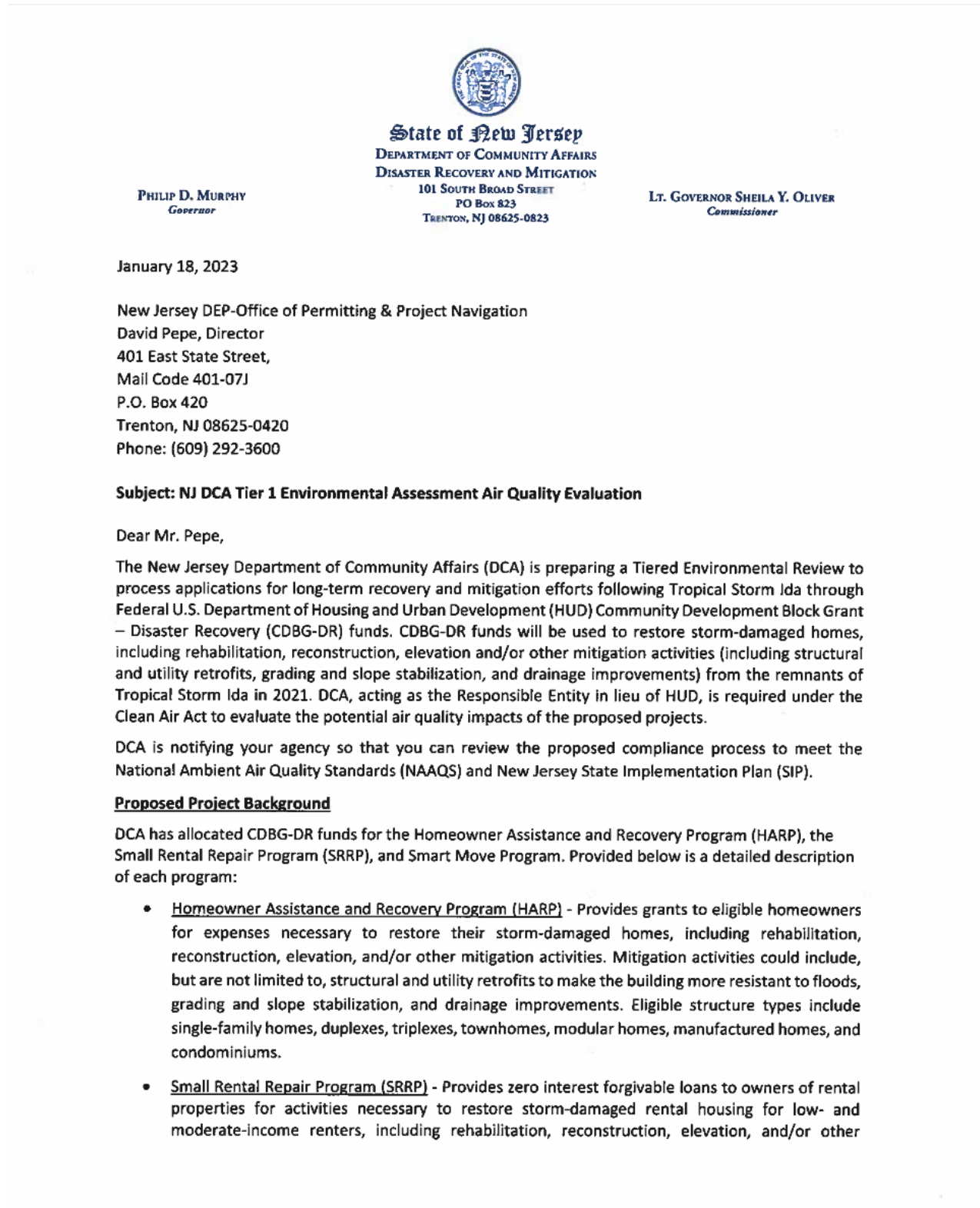
Change the State:

NEW JERSEY

Important Notes [Download National Dataset](#) [PDF](#) | [XML](#) | [Data Dictionary](#) / [PDF](#)

County	NAAQS	Area Name	Nonattainment in Year	Redesignation to Maintenance	Classification	Whole or Part County	Population (2010)	State/County FIPS Codes
NEW JERSEY								
Passaic County	1-Hour Ozone (1979)-NAAQS revoked	New York-N. New Jersey-Long Island, NY-NJ-CT	92 93 94 95 96 97 98 99 00 01 02 03 04		//	Severe-17	Whole	501,226 34/031
Passaic County	8-Hour Ozone (1997)-NAAQS revoked	New York-N. New Jersey-Long Island, NY-NJ-CT	04 05 06 07 08 09 10 11 12 13 14		//	Moderate	Whole	501,226 34/031
Passaic County	8-Hour Ozone (2008)	New York-N. New Jersey-Long Island, NY-NJ-CT	12 13 14 15 16 17 18 19 20 21 22 23 24		//	Severe 15	Whole	501,226 34/031
Passaic County	8-Hour Ozone (2015)	New York-Northern New Jersey-Long Island, NY-NJ-CT	18 19 20 21 22 23 24		//	Moderate	Whole	501,226 34/031
Passaic County	Carbon Monoxide (1971)	New York-N. New Jersey-Long Island, NY-NJ-CT	92 93 94 95 96 97 98 99 00 01	10/22/2002	Moderate > 12.7ppm	Part	300,116	34/031
Passaic County	PM-2.5 (1997)-NAAQS revoked	New York-N. New Jersey-Long Island, NY-NJ-CT	05 06 07 08 09 10 11 12	09/04/2013 *	Former Subpart 1	Whole	501,226	34/031
Passaic County	PM-2.5 (2006)	New York-N. New Jersey-Long Island, NY-NJ-CT	09 10 11 12	09/04/2013	Former Subpart 1	Whole	501,226	34/031

Figure A3-2: DEP Air Quality Consultation Request Letter and Email Transmittal



mitigation activities. Mitigation activities include, but are not limited to, structural and utility retrofits to make the building more resistant to floods, grading and slope stabilization, and drainage improvements.

- **Smart Move Program** - Subsidizes the new development of quality, energy-efficient, resilient, and affordable single-family housing in lower risk areas within or near disaster-impacted communities that are participating in Blue Acres buyout programs as well as disaster impacted first-time homebuyers with incomes at or below 120% AMI. The program aims to provide safe housing for relocating residents and new affordable housing in low-risk areas.

The geographic extent of these programs will be the 12 counties determined eligible for funding under presidential declaration DR-4614 and identified under New Jersey's Ida Recovery Action Plan, located on the DCA website: <https://www.nj.gov/dca/ddrm/home/idaactionplan.shtml>. Counties include Bergen, Essex, Gloucester, Hudson, Hunterdon, Mercer, Middlesex, Morris, Passaic, Somerset, Union, and Warren (**Attachment 1**).

Review Procedures

Through the environmental review procedures and applicable mitigation measures, DCA intends for proposed CDBG-DR funded activities to avoid negative impacts to air quality during construction and operations of the proposed projects. The proposed review procedures describe how DCA will act as the responsible federal entity to oversee and document that the proposed action complies with state and federal regulations.

Since site-specific locations are not known at this time, DCA intends to complete a tiered environmental review, made up of a broad review (Tier 1) and a site-specific review (Tier 2). The first tier will be 12 county-wide environmental reviews, which examine all environmental topics listed in the U.S. HUD regulations for CDGB-DR funding, including 24 CFR 58.5 and 58.6, and National Environmental Policy Act (NEPA). The second tier will require analysis at the site-specific review level. Each site-specific project will be assigned to one of the following activity categories.

- 1) **Rehabilitation:** Repairing (possibly including elevating) homes and small rental properties that sustained damage as a result of Tropical Storm Ida but were not so severely damaged that reconstruction is required. The rehabilitation must result in a housing unit that meets minimum property standards, the State of New Jersey's Uniform Construction Code, and the HUD Office of Community Planning and Development's Green Building Retrofit checklist, when applicable ("Proposed Action 1").
- 2) **Reconstruction within existing footprint:** Construction of a new dwelling on the existing property within 20.0 percent of the original (first-floor) building footprint ("Proposed Action 2").
- 3) **Reconstruction beyond existing footprint:** Construction of a new dwelling on the existing property that exceeds 20.0 percent of the original (first-floor) building footprint ("Proposed Action 3").
- 4) **New Construction:** New construction of single-family homes. The new developments will be built outside the 500-year floodplain and the inland or coastal climate adjusted floodplain, as defined by DEP. The site and housing designs will include additional resilience and energy efficiency construction standards, which will be defined in the program guidelines. ("Proposed Action 4").

DCA understands that New Jersey is currently in nonattainment status in some areas for 8-hour ozone (2008; 2015) and sulfur dioxide (portion of Warren County). DCA's review of the NAAQS, the NJ SIP, and

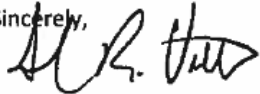
previous emissions estimates for the NJ Sandy recovery project¹ have resulted in a determination that the proposed actions would not be expected to equal or exceed the *de minimis* thresholds established under 40 CFR 93.153 and would therefore be exempt from general conformity requirements.

Best management practices will be required for all construction activities by way of mandatory mitigation measures:

- Use of water in exposed areas to control excessive dust.
- Covering trucks hauling soil and other materials to prevent dust generation.
- Minimize idling of all vehicles.
- Retrofitting older equipment with pollution control measures.

Thank you for your assistance with this matter. Please provide your response to Samuel Viavattine via e-mail at Samuel.Viavattine@dca.nj.gov.

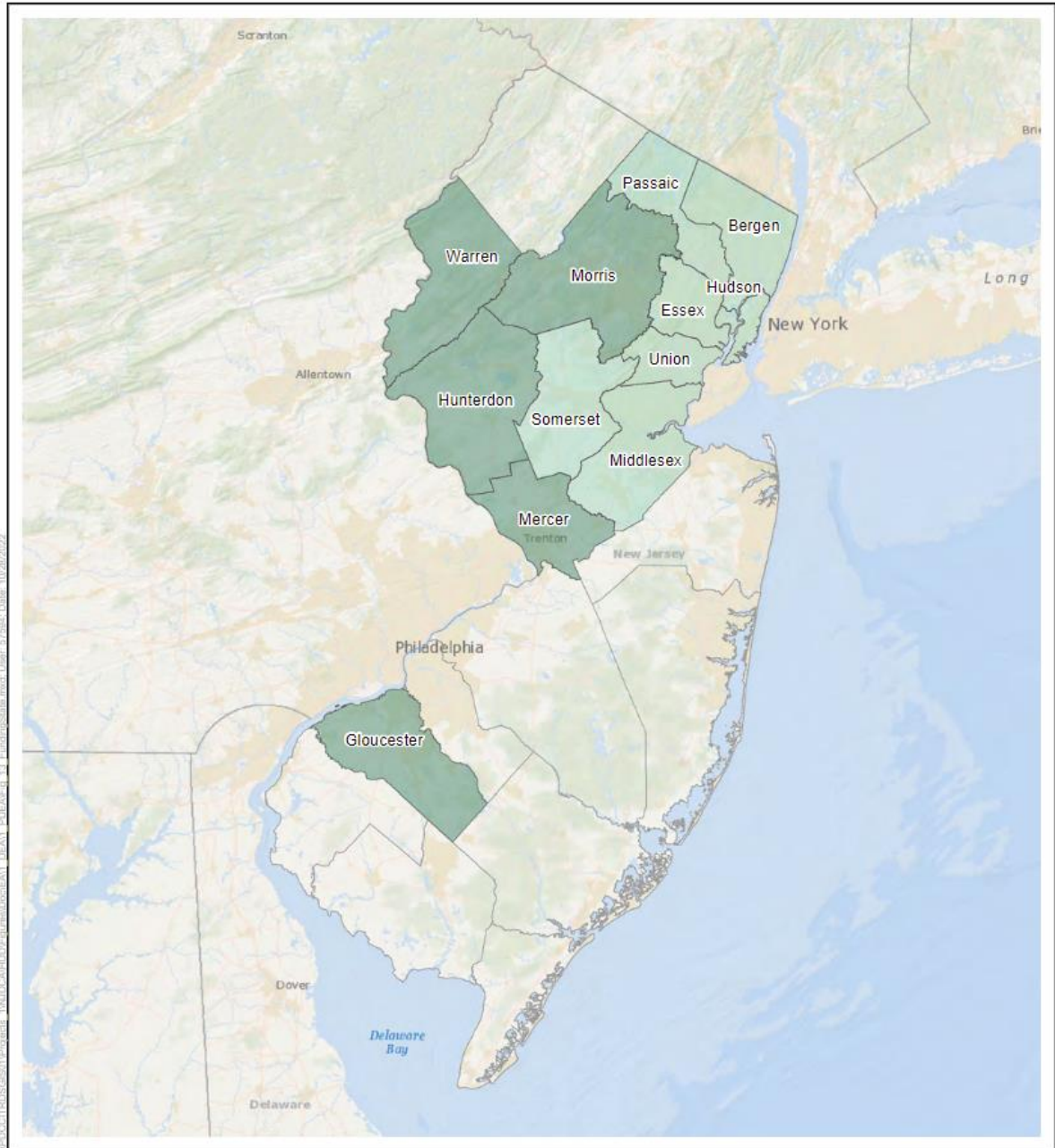
Sincerely,



Samuel Viavattine, Deputy Commissioner
New Jersey Department of Community Affairs
PO Box 823
Trenton, NJ 08625

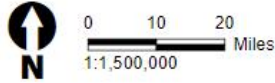
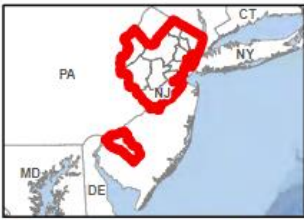
Attachment 1: Counties eligible for Tropical Storm Ida funding.
Attachment 2: AQ Emissions Estimate.

¹ Provided in Attachment 2. The emissions estimates were prepared in 2013 with a projection to 2014 for analysis purposes. The programs being evaluated as part of the Tropical Storm Ida recovery project would expend up to approximately \$119 million in federal funds; the Hurricane Sandy recovery project evaluated the estimated emissions from approximately \$1.8 billion in federal funding.



\\S00CCTB06202118\p\p\11\MD\CA\HUD\Figures\Doc\EM11_DEM11_FIGURE13_12_EligibleStates.mxd User: ETS/ML Date: 10/28/2023

- Grantee-Identified MID areas
- HUD-Identified MID areas



Attachment 1: Counties Eligible for HARP, SRRP and Smart Move Funding

Attachment 2

Methodology to Estimate Emissions from the Housing Rehabilitation, Reconstruction, Elevation, and Mitigation Associated With Hurricane Sandy—Use of Fuel for Residential Construction and Average Pollutant Emission Factors

Step 1: Obtain national data that relates residential housing spending to diesel fuel usage from Evaluation of Methodologies to Estimate Nonroad Mobile Source Usage, prepared by Sierra Research for the Office of Mobile Sources, U.S. Environmental Protection Agency (report number SR93-03-02, March 19, 1993, Table 7-4 on page 7-6). Based on the 1987 Census of Construction, \$1,200 of off-highway fuel is used for every million dollars of single family housing (SFH) construction. Also, \$880 of off-highway fuel is used for every million dollars of non-SFH residential construction. Assuming the Superstorm Sandy construction activities will be a mix of SFH and non-SFH residential construction, an average value of \$1,040 of off-highway fuel per million dollars of construction will be used.

Step 2: Convert the diesel fuel usage factor to gallons of fuel per million dollars (\$M) of current residential construction spending. An average 1987 diesel price of \$0.55 per gallon is from page 7-10 of the Sierra report. To convert the construction spending from 1987 dollars to current dollars, producer price indices (PPI) for finished goods less food and energy were obtained for 1987 (113.3) and 2012 (182.4) from <http://data.bls.gov/pdq/SurveyOutputServlet>. The diesel fuel usage factor is converted as follows:

$$\text{\$1,040 fuel/\$M1987constn} \times 1 \text{ gal diesel/\$0.55} \times 113.3/182.4 = 1,175 \text{ gal diesel/\$Mconstn}$$

Step 3: Obtain emission factors in terms of annual tons of pollutant per million gallons of nonroad diesel fuel to enable the estimation of pollutant emissions per million dollars of construction spending. The NJDEP ran the EPA NONROAD model to produce 2014 annual construction pollutant emissions and fuel usage for the nine New Jersey counties in which Superstorm Sandy recovery efforts will be concentrated. Details regarding the results of the NONROAD model runs are provided in the appendix. The NONROAD results were used to generate emission factors by considering the total annual construction pollutant emissions for the nine counties along with the total diesel fuel used by the construction equipment. This resulted in emission factors of: 6.90, 64.89, 5.51 and 0.13 pollutant tons per million gallons of diesel fuel for VOC, NOx, PM2.5 and SO2 respectively. Using the emission factors from the NONROAD model and 1,175 gal diesel/\$Mconstn from Step 2, the following emission factors are calculated: 0.00811, 0.0762, 0.00647 and 0.00015 annual tons of pollutant per million dollars of residential construction spending for VOC, NOx, PM2.5 and SO2 respectively.

Step 4: Apply the emission factors to the projected spending for the Superstorm Sandy rebuilding project. The spending for the project is estimated to be \$1.8 billion over a 24 month period beginning mid-2013 and ending mid-2015. The focus of this analysis will be the 2014 calendar year because project construction emissions are expected to be highest in that year (half of \$1.8 billion or \$900 million). General conformity emissions are estimated for each impacted nonattainment area. Of the nine counties in which HUD-funded Superstorm Sandy recovery projects will be concentrated, six are in the northern ozone nonattainment area and three are in the southern nonattainment area. However, the shoreline length is roughly equally split between the northern and southern ozone nonattainment areas. Six of the nine counties are in the northern

PM2.5 nonattainment area. Therefore, for the ozone precursor pollutants (VOC and NO_x), 2014 project construction spending is assumed to be \$450 million (half of \$900 million) for each nonattainment area and for PM2.5, 2014 project construction spending is assumed to be \$600 million (2/3 of \$900 million). Using these spending assumptions and the emission factors from Step 3, the following are the estimated 2014 emissions:

Table 1: Estimated VOC, NO_x and PM2.5 Emissions Associated with HUD-Funded Housing Projects

Nonattainment Area	VOC (tons/year)	NO_x (tons/year)	PM2.5 (tons/year)	SO₂ (tons/year)
Ozone Northern	4	34	NA	NA
Ozone Southern	4	34	NA	NA
PM2.5 Northern	NA	NA	4	0.09
General Conformity Limits	25	100	100	100

The methodology used to determine the emissions estimates in Table 1: Estimated VOC, NO_x and PM2.5 Emissions Associated with HUD-Funded Housing Projects is consistent with the damage reported by county and the method of distribution of funds included in the New Jersey Department of Community Affairs, Community Development Block Grant Disaster Recovery Action Plan (March 2013).¹

¹ <http://www.state.nj.us/dca/announcements/pdf/CDBG-DisasterRecoveryActionPlan.pdf> (pages 2-4 and 4-2)

From: [Greene, Robert](#)
To: [Pepe, David \[DEP\]](#)
Cc: [Burton, Judith \[DCA\]](#); [Mackay, Elizabeth \[DCA\]](#); [Leager, Leslie](#); [Sherman, Steven](#); [Nolan, Katherine \[DEP\]](#)
Subject: RE: NJ DCA Hurricane Ida Tier 1 EAs
Date: Thursday, January 19, 2023 4:01:37 PM
Attachments: [image001.png](#)
[image002.png](#)
[NJDEP Contamination and Toxic Substances.pdf](#)
[NJ DCA Tier 1 EA Air Quality.pdf](#)

Hi David,

Signed letters for Contamination and Toxic Substances and Air Quality are attached. We have one more letter that we will be sending for ENSP review in the next week or two after incorporating USFWS feedback.

Thanks again for your help coordinating everything.
Rob

From: Pepe, David [DEP] <David.Pepe@dep.nj.gov>
Sent: Wednesday, January 4, 2023 8:38 AM
To: Sherman, Steven <Steven.Sherman@icf.com>; Nolan, Katherine [DEP] <Katherine.Nolan@dep.nj.gov>
Cc: Burton, Judith [DCA] <Judith.Burton@dca.nj.gov>; Mackay, Elizabeth [DCA] <Elizabeth.Mackay@dca.nj.gov>; Greene, Robert <Robert.Greene@icf.com>; Leager, Leslie <Leslie.Leager@icf.com>
Subject: RE: NJ DCA Hurricane Ida Tier 1 EAs

Hi Steve - you can send them to me and I will make sure the proper programs review.

Thank you,

David Pepe, P.G. , Director
New Jersey Department of Environmental Protection
Office of Permitting & Project Navigation
Office Phone (609) 292-3600
Direct Phone (609) 984-4515
Fax (609) 292-1921
Email: david.pepe@dep.nj.gov
Website: <http://www.nj.gov/dep/pcer/>



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From: Sherman, Steven <Steven.Sherman@icf.com>
Sent: Wednesday, January 4, 2023 8:23 AM
To: Pepe, David [DEP] <David.Pepe@dep.nj.gov>; Nolan, Katherine [DEP] <Katherine.Nolan@dep.nj.gov>
Cc: Burton, Judith [DCA] <Judith.Burton@dca.nj.gov>; Mackay, Elizabeth [DCA] <Elizabeth.Mackay@dca.nj.gov>; Greene, Robert <Robert.Greene@icf.com>; Leager, Leslie <Leslie.Leager@icf.com>
Subject: [EXTERNAL] RE: NJ DCA Hurricane Ida Tier 1 EAs

Good Morning,

Hope you had a nice holiday. I just wanted to follow up on the request below. For HUD-funded CDBG-DR Tier 1 (county-wide) environmental assessments, should we send consultation letters regarding Air Quality, Endangered Species and Contamination and Toxic Substances to the Office of Permitting and Project Navigation or to the relevant NJDEP divisions (i.e.. Division of Air Quality)?

Thank you,
Steven

From: Sherman, Steven
Sent: Wednesday, December 28, 2022 10:03 AM
To: David.Pepe@dep.nj.gov; Katherine.Nolan@dep.nj.gov
Cc: Burton, Judith <Judith.Burton@dca.nj.gov>; Mackay, Elizabeth [DCA] <Elizabeth.Mackay@dca.nj.gov>; Greene, Robert <Robert.Greene@icf.com>; Leager, Leslie <Leslie.Leager@icf.com>
Subject: NJ DCA Hurricane Ida Tier 1 EAs

Good Morning,

ICF is supporting DCA in drafting 12 county-wide Tier 1 HUD Community Development Block Grant-Disaster Recovery Environmental Assessments (EAs). The Tier 1 EAs will analyze the proposed program actions of providing housing assistance for properties that were impacted from Hurricane Ida or areas located within or near disaster-impacted communities. These actions include activities necessary to restore homeowners/landlords' storm-damaged homes, including rehabilitation, reconstruction, elevation and/or other mitigation activities. While the Tier 1 EAs will be a broad county-wide review of environmental impacts, the subsequent Tier 2s will be site-specific reviews of reconstruction, rehabilitation or new construction of housing structures.

In developing the Tier 1 EAs, we wanted to confirm the proposed approach and obtain guidance on a few environmental resource sections. Provided below are those resources along with some additional details of which we are requesting information. Where applicable, we are modeling the approaches based on the NJ Sandy Recovery Program.

- **Air Quality:**

- Confirmation of the proposed Broad County Tier 1 and Site-Specific Tier 2 approach
- **Endangered Species**
 - Confirmation of the proposed Broad County Tier 1 and Site-Specific Tier 2 approach
 - Guidance on incorporating state listed species and critical habitat in environmental reviews
 - Guidance on required state permits and/or mitigation measures
- **Contamination and Toxic Substances**
 - Confirmation of the proposed Broad County Tier 1 and Site-Specific Tier 2 approach
 - Confirmation of search radius/clearance requirements for toxic sites (ex: superfund, brownfield, RCRA...)
 - Guidance on required state listed sites to analyze within range of the proposed action

While we do not anticipate that permits will be required for the Broad County-wide Tier 1 EAs, there may be some permits for the subsequent site-specific Tier 2 environmental reviews of mostly single-family structures. Do you know which points of contact I should reach out to at DEP for the above resources categories? We will be sending along a letter and email to the appropriate points of contact which detail the proposed action (for Tier 1s and Tier 2s) along with the proposed approaches.

Thanks,
Steve



Steven Sherman | Senior Environmental Planner, Environment &
Planning | steven.sherman@icf.com | icf.com +1.215.359.7856 mobile

Figure A3-3: DEP Consultation Response



State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Office of Permitting and Project Navigation
401 East State Street, Mail Code 401-07J, P.O. Box 420
Trenton, New Jersey 08625-0420
Phone: (609) 292-3600 Fax: (609) 292-1921
www.nj.gov/dep/pcer

PHILIP D. MURPHY
Governor

SHEILA Y. OLIVER
Lt. Governor

SHAWN M. LaTOURETTE
Commissioner

February 22, 2023

Steven Sherman
ICF International

RE: Request for Guidance: NJ Department of Community Affairs Hurricane Ida Tier 1 Environmental Assessment
12 counties: Passaic, Bergen, Hudson, Essex, Union, Morris, Warren, Hunterdon, Sommerset, Middlesex, Mercer, Gloucester.

The New Jersey Department of Environmental Protection's (Department) Office of Permitting and Project Navigation (OPPN) distributed for review and comment a request for guidance on the proposed approach to prepare the NJ DCA Tier 1 Environmental Assessment. ICF International is supporting the Department of Community Affairs in drafting 12 county-wide Tier 1 HUD Community Development Block Grant-Disaster Recovery Environmental Assessments (EAs). The Tier 1 EAs will analyze the proposed program actions of providing housing assistance for properties that were impacted from Hurricane Ida or areas located within or near disaster-impacted communities. These actions include activities necessary to restore homeowners/landlords' storm-damaged homes, including rehabilitation, reconstruction, elevation and/or other mitigation activities. While the Tier 1 EAs will be a broad county-wide review of environmental impacts, the subsequent Tier 2s will be site-specific reviews of reconstruction, rehabilitation, or new construction of housing structures.

Based on the information provide for review, the Department offers the following comments for your consideration:

Division of Land Resource Protection
Bureau of Tidelands

The review process should include an analysis of potential Tidelands ownership. Tidelands refers to all lands that are now or were formerly flowed by the mean high tide of a natural waterbody (such as the ocean, bays, and tidal sections of rivers and creeks, and includes marshlands inundated by the tide). The State of New Jersey owns in fee simple all lands that are flowed by the tide up to the high-water line and claims ownership of those formerly flowed tidelands as delineated on the Tidelands Claims Maps. In those areas that are still flowed by the tide, the claim line is not static, and are subject to continuing shoreline processes where the State's Tidelands ownership can extend to the current mean high water line that may be inshore of the mapped claim line. Tidelands concerns property ownership rights and regulatory permit approval does not convey nor relinquish the State's ownership rights. The existing structure or continued use thereof, or the construction, reconstruction, placement of fill and/or shoreline stabilization work are examples of activities that may require Tidelands approval via a lease, license, or grant if the activity or structure is located within currently flowed Tidelands or Tidelands claim area.

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Bureau of Flood Hazard Area and Stormwater Engineering

Flood hazard authorization will be required for the various types of projects which include reconstruction within the existing footprint (Proposed Action 2), reconstruction beyond the existing footprint (Proposed Action 3), and new construction (Proposed Action 4). If the rehabilitation (Proposed Action 1) of a home result in a substantial improvement, then a flood hazard authorization will be required. For reference, a substantial improvement is one in which the cost of doing the work equals or exceeds 50% of the market value of the home. Regardless, if rehabilitation involves elevating a home, a flood hazard authorization will be required.

DCA relies on the Uniform Construction Code (UCC). The UCC governs elevations of the lowest floor of a building. This is consistent with the Flood Hazard Rules, however, may need further analysis. UCC and Flood Hazard differs for additions to buildings that do not result in a substantial improvement. The UCC does not require the floor of the addition to be at any specific elevation, however, the Flood Hazard regulations requires the floor of the addition to be elevated at least one foot above the flood hazard elevation. This inconsistency can lead to compliance issues and frustration on the part of building owners.

Whether categorized into Proposed Actions 2 or 3, any reconstruction of an existing building cannot extend into the floodway. In cases where the original footprint is in the floodway, deviations from this footprint upon reconstruction may not necessarily qualify for authorization under the Flood Hazard Area Control Act Rules.

Please be aware that encroachment into the riparian zone is minimized, and where unavoidable, does not exceed allowable regulatory limits.

If you have any questions, please contact Christina Albizati at Christina.Albizati@dep.nj.gov.

Historic Preservation Office

The Historic Preservation Office (HPO) is consulting with the Department of Community Affairs (DCA) regarding these programs, pursuant to Section 106 of the National Historic Preservation Act. DCA is in the process of drafting a Programmatic Agreement (PA) to address historic preservation consultation for these programs. The PA will govern all consultation processes and exemptions for each of DCA's United States Department of Housing and Urban Development-funded programs related to Hurricane Ida. As a result, we look forward to further consultation with DCA regarding the development and implementation of this agreement.

If additional consultation with the HPO is needed for this undertaking, please reference the HPO project number 23-0494 in any future calls, emails, submissions, or written correspondence to help expedite your review and response.

If you have any questions, please contact Jesse West-Rosenthal at Jesse.West-Rosenthal@dep.nj.gov.

New Jersey Division of Fish Wildlife

The Office of Environmental Review is reviewing the additionally submitted documents and will follow up with written guidance.

If you have any questions, please contact Kelly Davis at Kelly.Davis@dep.nj.gov.

If you have any questions regarding the Endangered and Non-Game Species Program, please contact Kathy Clark at Kathy.Clark@dep.nj.gov.

Division of Resilience Engineering & Construction

Bureau of Climate Resilience Design & Engineering

The following comments are based on the approach for each level of review to comply with Environmental Assessment Contamination and Toxic Substance Approach Comments, under 24 CFR 58.5 (i)(2)(i). As noted, HUD requires the proposed project site and adjacent areas be free of hazardous materials, contamination, toxic chemicals and gases, and radioactive substances, where a hazard could affect the health and safety of occupants of the property or conflict with the intended utilization of the property.

Tier 1 Approach:

Hazards: It is recommended in HUD policies, along with Federal, State and local standards, that following hazards be included in this section of the Tier 1: Radon, Asbestos, Lead-based Paint (LBP) and Mold. As well as best management practices on the overall approach, including demolition guidance for residences that contain asbestos and LBP, and how these hazards will be assessed in the site-specific Tier 2 reviews. All residential structures funded by HUD should be “free and clear” of the above noted items.

EPA Screening: The general approach of utilizing EPA’s NEPAassist at the counties level for a broad review is acceptable, with understanding that a site-specific review will be needed to catch any additional EPA sites that may be listed after the Tier 1 is complete.

Tier 2 Approach:

Screening and Review Criteria: While utilizing NJDEP GeoWeb, there is a known contaminated sites list (KCSL) that is useful for the initial site screening. It is recommended that DCA generate a detailed review process that identifies the exact criteria used to “clear” and “not clear” project sites. This detailed process should include what mitigation is appropriate with certain hazards. The review process criteria should identify what specific documents or maps will be used to support any determination and who will be making those determinations.

Document Review: If the document review is an Open Public Records Act (OPRA) file review request, online documents only, the qualifications to perform the review must be noted on behalf of DCA. It is recommended for DCA staff to be trained on GeoWeb information to understand the information and to establish the connected databases that can be used determine site-specific SRP information.

Consultation: DCA intends to determine that the site and/or facilities do not conflict with the intended use of the project, and clarify how the information is determined. Including if there are multiple media concerns and transport concerns via soil, groundwater, and vapor. It is recommended that DCA document a review diagram of when consultation is needed and who they intend to consult with when these transport and potential exposure concerns are identified. This may be an internal meeting with SRP staff to agree on consultation criteria including time frame, contacts, and consultation product.

Site Inspections: Site inspections should include past and/or present evidence of Underground Storage Tanks (USTs) and/or Aboveground Storage Tanks (ASTs) not only on the property or within a structure but adjacent to the structure/property. It is recommended that the site inspection identify hazards such as asbestos, LBP, or mold.

Phase 1 Reviews: It is unclear the purpose of a Phase 1 at this stage of the funding. If all the above-noted items were reviewed and the hazards and mitigation requirements the Phase 1 would be the document needed for a purchaser to protect their property investment. The Tier 2’s are essentially the documents that protect HUD’s investment. On previous HUD-funded projects, Phase 1 documents were typically provided by commercial entities to protect their investment. The project team utilizes that Phase 1 and any other site remediation-type documents to support remediation of a hazard or that no hazard exists. The project team would confirm those hazards with the Tier 2 review. It is not recommended DCA perform Phase 1 reviews.

If you have any questions, please contact Kim McEvoy at Kim.McEvoy@dep.nj.gov.

Air Permitting

N.J.S.A. 26:2C-9.2d exempts (1) One- or two-family dwellings and (2) A dwelling of six or less family units, one of which is owner occupied from air permitting.

The applicant should review the requirements of N.J.A.C. 7:27-8.2(c) 1-21 for stationary permitting requirements. This includes but is not limited to, construction equipment-stationary construction equipment or emergency generators, may require air pollution permits if it is located on the site for longer than one year N.J.A.C. 7:27-8.2(d)15.

There are general permits for boilers and emergency generators (<https://www.state.nj.us/dep/aqpp/gp.html>) if the units can meet the prescribed requirement in the general permits.

Idling Vehicles- any vehicles involved on the project must adhere to the idling standards (less than 3 minutes) in N.J.A.C. 7:27-14 and 15.

Air pollution including odors that are detectable offsite that are injurious to human health or would result in citizen complaints are prohibited. N.J.A.C. 7:27-5.2.

Fugitive Dust - dust emissions either windblown or generated from construction activities should be controlled to prevent offsite impacts or material tracked onto the roadways. N.J.A.C. 7:27-5.2.

If you have any questions, please contact Danny Wong at Danny.Wong@dep.nj.gov.

Air Bureau of Evaluation and Planning

The Air Quality Evaluation states the 12 counties determined eligible for funding include: Bergen, Essex, Gloucester, Hudson, Hunterdon, Mercer, Middlesex, Morris, Passaic, Somerset, Union, and Warren.

Bergen, Essex, Hudson, Hunterdon, Middlesex, Morris, Passaic, Somerset, Union, and Warren counties are part of the New York, Northern New Jersey, Long Island, and Connecticut (NY-NJ-CT) ozone nonattainment area, while Gloucester and Mercer counties are part of the Philadelphia-Wilmington-Atlantic City (PA-NJ-MD-DE) ozone nonattainment area. On October 7, 2022, the U.S. Environmental Protection Agency (USEPA) issued two final rules that reclassified New Jersey's nonattainment areas. 87 FR 60926 reclassified the NY-NJ-CT nonattainment area from "serious" to "severe" nonattainment for the 75 ppb 2008 8-hour ozone National Ambient Air Quality Standard (NAAQS), and 87 FR 60897 reclassified the PA-NJ-MD-DE nonattainment area from "marginal" to "moderate" for the 70 ppb 2015 8-hour ozone NAAQS. In the Federal General Conformity regulation (40 CFR 93.153), the corresponding de minimis level for a "severe" nonattainment area is 25 tons per year (tpy) for NOx or VOC, and 100 tpy for NOx and 50 tpy for VOC for a "moderate" nonattainment area. The effective date of these rules is November 7, 2022.

It is recommended that the applicant ensure that the correct classifications and thresholds are included in the draft Environmental Assessments and used to determine compliance with General Conformity regulations.

More information on the reclassification of the NY-NJ-CT nonattainment area for the 2008 8-hour ozone standard can be found here: <https://www.govinfo.gov/content/pkg/FR-2022-10-07/pdf/2022-20458.pdf>.

More information on the reclassification of the PA-NJ-MD-DE nonattainment area for the 2015 8-hour ozone standard can be found here: <https://www.govinfo.gov/content/pkg/FR-2022-10-07/pdf/2022-20460.pdf>.

Attachment 2 of the Air Quality Evaluation (“Methodology to Estimate Emissions from the Housing Rehabilitation, Reconstruction, Elevation, and Mitigation Associated with Hurricane Sandy – Use of Fuel for Residential Construction and Average Pollutant Emission Factors”) contains the methodology used to estimate emissions for New Jersey Sandy Recovery projects that took place during a 24 month period beginning mid-2013 and ending mid-2015. While the Department accepted this methodology for the evaluation of the analogous Sandy recovery projects, please note that use of this methodology with all of the Sandy assumptions would result in very conservative (high) estimates of emissions from the upcoming Ida recovery projects. The producer price indices (PPI) for finished goods less food and energy (from 2012), and the nonroad equipment emission factors (from 2014) can be updated to more recent values that will result in directionally lower project emissions estimates.

For example, the most recently available PPI for finished goods less food and energy for the year 2022 (242.771) can be found here: <https://www.bls.gov/ppi/detailed-report/ppi-detailed-report-december-2022.pdf>.

If you have any questions, please contact Connor Milligan at Connor.Milligan@dep.nj.gov.

Thank you for providing the New Jersey Department of Environmental Protection the opportunity to comment on the Request for Guidance: NJ Department of Community Affairs Hurricane Ida Tier 1 Environmental Assessment. Should you have any questions or need additional information, please contact Hannah Locke at the Office of Permitting and Project Navigation at Hannah.Locke@dep.nj.gov.

Sincerely,



David Pepe, Director

From: [Locke, Hannah \[DEP\]](#)
To: [Greene, Robert](#); [Burton, Judith \[DCA\]](#); [Mackay, Elizabeth \[DCA\]](#); [Leager, Leslie](#); [Sherman, Steven](#)
Cc: [Pepe, David \[DEP\]](#); [Nolan, Katherine \[DEP\]](#); [Martin-Torres, Chaneice \[DEP\]](#)
Subject: NJ DCA Hurricane Ida Tier 1 EAs - NJDEP Comment Letter
Date: Wednesday, February 22, 2023 12:13:32 PM
Attachments: [DCA Tier 1 EA - Request for Guidance - NJDEP Comment Letter.pdf](#)

Good afternoon,

Please see the attached NJDEP comment letter. Please let me know if you have any questions.

Sincerely,

Hannah Locke (she/her)

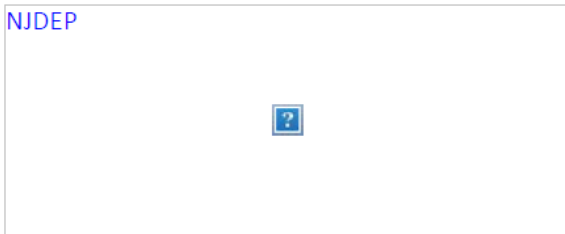
Environmental Services Trainee

[Office of Permitting and Project Navigation](#)

New Jersey Department of Environmental Protection

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NJDEP



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Attachment 4: Coastal Zone Management

Coastal Zone Management Act, section 307 (c) & (d)

Table A4-1: Coastal Management Zones – Passaic County

Coastal Management Zones	Acreage
Passaic County	0 (0%)

Table A4-2: Coastal Management Zones Source

Agency	Internet Link	Accessed Date	Dataset Date
New Jersey Department of Environmental Protection (DEP) Bureau of GIS	https://njdep.maps.arcgis.com/home/item.html?id=6608f9feb7314ce7bfc26aba82cf1be (Coastal Area Facilities Review Act Boundary for New Jersey)	1/16/2024	11/8/2021

Agencies/Regulations Consulted During the Broad Review

- DEP Coastal Management Program

Supporting Documentation

- Figure A4-1: Coastal Management Zones and Tidelands Map Passaic County, NJ
- Figure A4-2: DEP Tidelands Claim Response¹⁴

Environmental Finding

Compliance with Coastal Zone Management has been achieved through the Tier 1 Broad review since proposed project activities would relocate people away from the Coastal Zone, including the Hackensack Meadowlands Region and designated Tidelands areas. Evaluation at a site-specific level is not required.

¹⁴ Not all of the 12 affected counties by Tropical Storm Ida are located in coastal management zones or have Tidelands claims that are protected by compliance determinations.

Figure A4-1: Coastal Management Zones and Tidelands in Passaic County Map

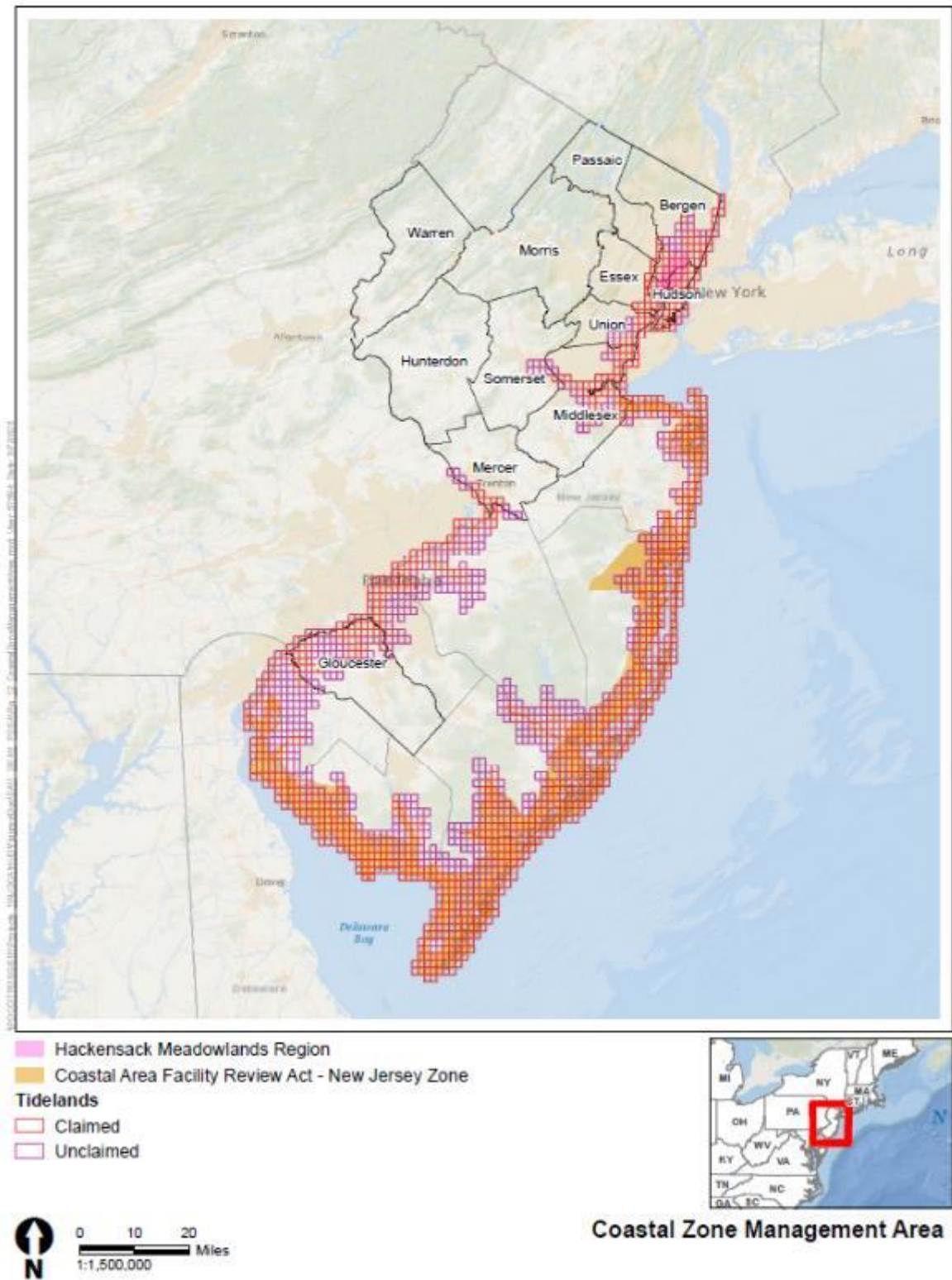


Figure A4-2: NJDEP Tidelands Claim Response

From: [Nolan, Katherine \[DEP\]](#)
To: [Sherman, Steven](#); [Locke, Hannah \[DEP\]](#); [Greene, Robert](#); [Burton, Judith \[DCA\]](#); [Mackay, Elizabeth \[DCA\]](#); [Leager, Leslie](#)
Subject: RE: NJ DCA Hurricane Ida Tier 1 EAs - NJDEP Comment Letter
Date: Thursday, March 9, 2023 12:53:13 PM
Attachments: [image001.png](#)

Hi Steve,

I'm reaching out for Hannah who is on vacation this week. I reached out to Randy Bearce in our Bureau of Tidelands and he is not familiar with any mapped data layer for the Mean-High Water Line in general or former post Ida mean high water line mapping. There was some discussion post-Sandy about mapping the current MHWL but nothing came of it.

Randy wanted to note that the Tidelands claim line is NOT the MHWL. People often have a misunderstanding of this layer. It was not intended to be the MHWL. It is one overall datalayer but the line itself is made up of segments that can be from a variety of sources. At some locations it may have been the MHWL at the time the claim line mapping was done, but that would have been around 1980, over 40 years have passed since then. The real purpose was to assert the State's claim of ownership for those areas that were formerly flowed by the tide but were filled prior to the claims mapping. The claim is not fixed or static along existing shorelines.

His suggestion would be that the DCA application form should ask questions like –

Does the property border the water?

What is the name of the water-body?

Is the property regularly inundated by the tide?

Is the house on piles or elevated?

Is the house or other structures or outbuildings regularly inundated on a regular basis?

If the answer is yes to any of those, then the location of the MHWL may be an issue that then should be explored further.

He would assume that if a property may border the water / MHWL wouldn't matter as much as far as DCA funding goes, as long as it doesn't touch the house, but if the house itself is inundated by the MHWL that would be a different story.

Please feel free to reach out to him if you have further questions. His email is Randy.Bearce@dep.nj.gov.

Thank you,

Katie Nolan

Environmental Specialist 3

[Office of Permitting and Project Navigation](#)

401 E. State St. | P.O. Box 420 | Trenton, N.J. 08625

Direct: (609) 984-6506 | Office: (609) 292-3600 | Fax: (609) 633-1196

Attachment A-5: Contamination and Toxic Substances

24 CFR 50.3(i) and 24 CFR 58.5(i)(2).

Table A5-1: 2023 USEPA Contaminated and Hazardous Sites – Passaic County

Hazardous Site Type	Number in Passaic County
Hazardous Waste (RCRAInfo)	2,110
Air Pollution (ICIS-AIR)	642
Water Dischargers (National Pollutant Discharge Elimination System [NPDES])	577
Toxic Releases (Federal Toxic Release Inventory [TRI])	170
Superfund (NPL)	2
Federal Toxic Substances Control Act (TSCSA)	51
Brownfields (ACRES website)	12
Total	3,564

Table A5-2: DEP Contaminated and Hazardous Sites – Passaic County

NJDEP Sites and Facilities	Number of Sites/Facilities
Known Contaminated Sites	753
Solid and Hazardous Waste Facilities	13
Total	766

Table A5-3: Potentially Hazardous Facility Review Radius

Potentially Hazardous Facilities	Review Radius (feet)
Federal Air Pollution Facility (ICIS-AIR)	250
Federal Brownfields (ACRES website)	3,000
Federal Hazardous Waste (RCRAInfo)	250
Federal Superfund (Comprehensive Environmental Response, Compensation, and Liability Act and NPL)	3,000
TRI	250
TSCA	250
Federal Water Discharge (NPDES)	250
State Known Contaminated Sites	250
State Solid and Hazardous Waste Facilities	250

Table A5-4: Contamination and Toxic Substances Sources

Agency	Internet Link	Accessed Date	Dataset Date
American Society for Testing and Materials (ASTM) International	https://www.astm.org/e1527-13.html	1/02/2024	2014
USEPA	https://www.epa.gov/enviro/data-downloads	1/02/2024	4/6/2022
USEPA	https://www.epa.gov/superfund/superfund-data-and-reports	1/02/2024	6/10/2022
DEP	https://njdep.maps.arcgis.com/apps/webappviewer/index.html?id=02251e521d97454aabafd8cf168e44d	1/02/2024	N/A

Agencies/Regulations Consulted During the Broad Review

- USEPA
- HUD
- DEP

Supporting Documentation

- Figure A5-1: USEPA Contaminated and Toxic Substances Sites Map – Passaic County
- Figure A5-2: DEP Contaminated and Toxic Substances Sites Map – Passaic County
- Figure A5-3: DEP Potentially Hazardous Facilities Request Letter, Response and Email Transmittal

Environmental Finding

Compliance will be achieved during site-specific review since the Blue Acres project has the potential to be impacted by on-site or nearby toxic and contaminated substances including asbestos, lead-based paint, and mold. See Site-Specific Review Strategy and Checklist Appendix B.

Figure A5-1: USEPA Contaminated and Toxic Substances Sites Map – Passaic County

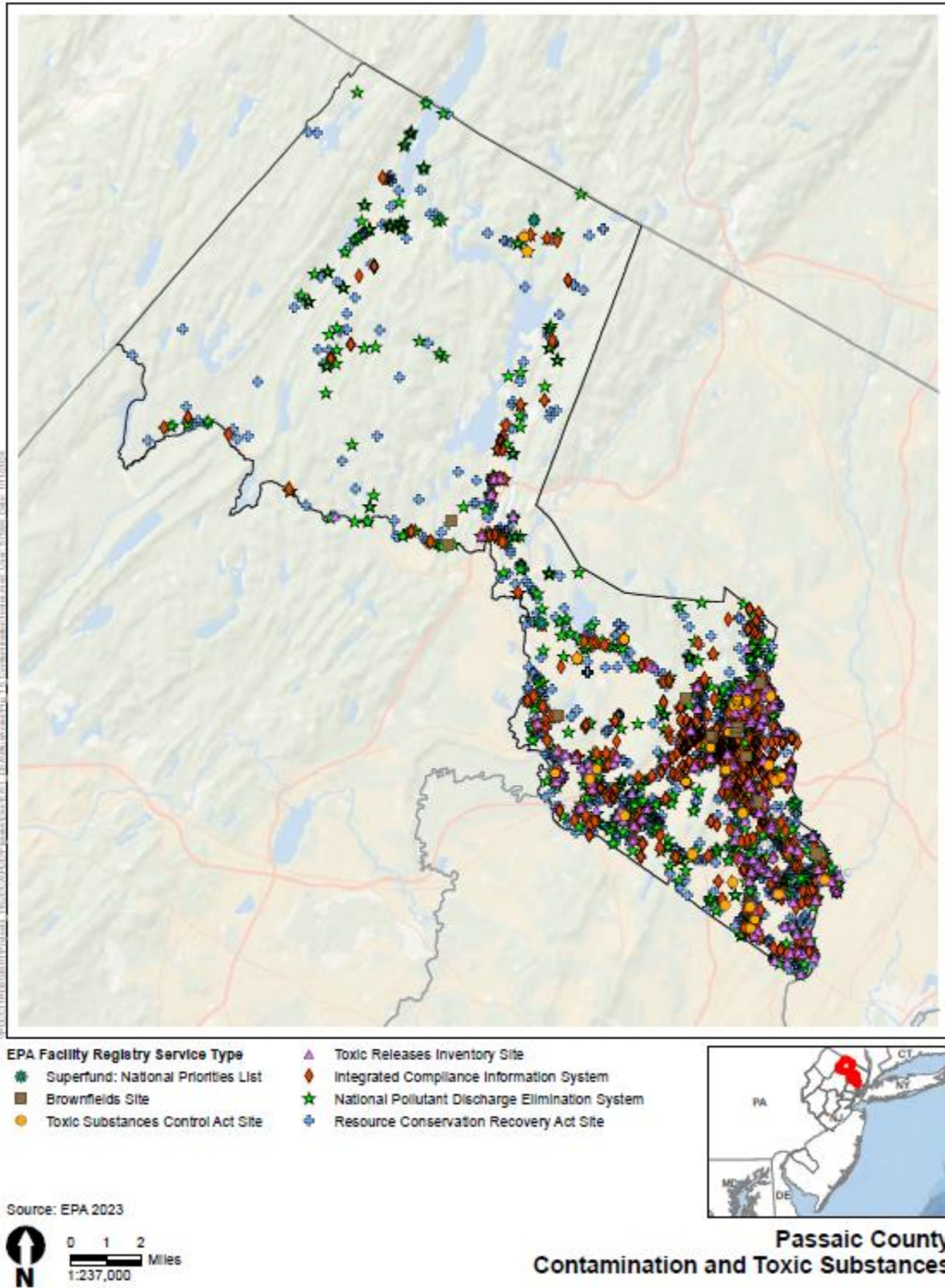
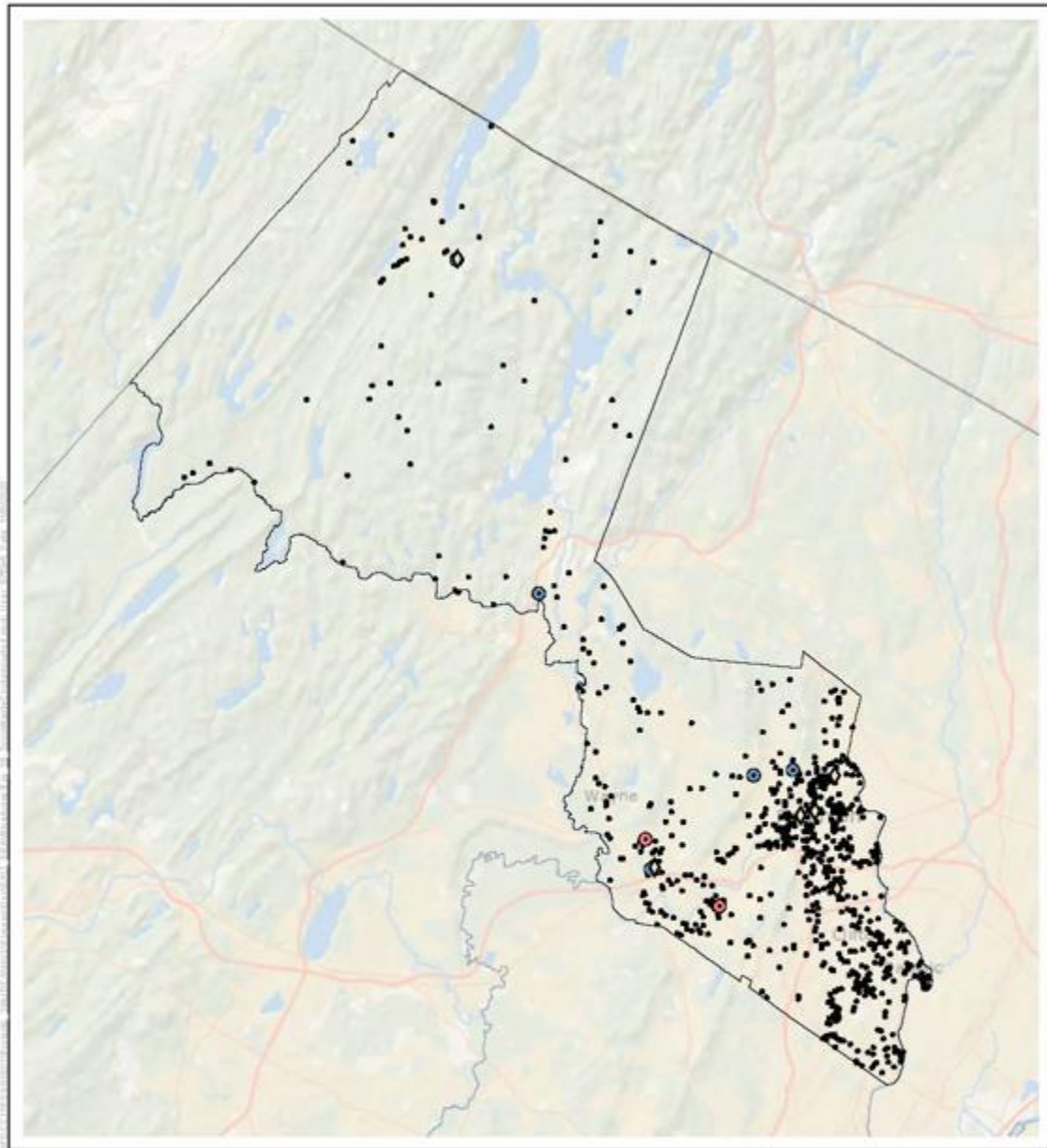


Figure A5-2: DEP Solid Waste Facilities and Contaminated Sites Map – Passaic County



- Facility Type**
- Solid Waste Recycling Facility - Class B
 - Solid Waste Recycling Facility - Multi-Class B & C
 - ◆ Transfer Station / Materials Recovery Facility
 - Known Contaminated Site



**Passaic County
Solid & Hazardous Waste Facilities, Contaminated Sites**

**Figure A5-3: DEP Potentially Hazardous Facilities Request Letter,
Email Transmittal, and Methodology**



State of New Jersey
DEPARTMENT OF COMMUNITY AFFAIRS
DISASTER RECOVERY AND MITIGATION
101 SOUTH BROAD STREET
PO Box 823
TRENTON, NJ 08625-0823

PHILIP D. MURPHY
Governor

LT. GOVERNOR SHEILA Y. OLIVER
Commissioner

January 18, 2023

NJDEP-Office of Permitting & Project Navigation
David Pepe, Director
401 East State Street
Mail Code 401-07J
P.O. Box 420
Trenton, NJ 08625-0420
Phone: (609)-292-3600

Subject: NJ DCA Tier 1 Environmental Assessment Contamination and Toxic Substances Approach

Dear Mr. Pepe,

The New Jersey Department of Community Affairs (DCA) is preparing a Tiered Environmental Review in accordance with the National Environmental Policy Act (NEPA) to process applications for long-term recovery and mitigation efforts following Tropical Storm Ida through U.S. Department of Housing and Urban Development (HUD) Community Development Block Grant – Disaster Recovery (CDBG-DR) funds. CDBG-DR funds will be used to restore storm-damaged homes, including rehabilitation, reconstruction, elevation and/or other mitigation activities (including structural and utility retrofits, grading and slope stabilization, and drainage improvements), from the remnants of Tropical Storm Ida in 2021. DCA, acting as the Responsible Entity in lieu of HUD, is required as described in 24 CFR Part 50.3(i) and 24 CFR 58.5(i)(2) to review for on-site or nearby toxic, hazardous, or radioactive substances found that could affect the health and safety of project occupants or conflict with the intended use of the property.

Provided below is a proposed approach and review criteria for federally listed and state listed sites of hazardous or toxic concern. DCA is requesting your review of the proposed procedures and review criteria.

Proposed Project Background

DCA has allocated CDBG-DR funds for the Homeowner Assistance and Recovery Program (HARP), the Small Rental Repair Program (SRRP), and Smart Move Program. Provided below is a detailed description of each program:

- **Homeowner Assistance and Recovery Program (HARP)** - Provides grants to eligible homeowners for expenses necessary to restore their storm-damaged homes, including rehabilitation, reconstruction, elevation, and/or other mitigation activities. Mitigation activities could include, but are not limited to, structural and utility retrofits to make the building more resistant to floods, grading and slope stabilization, and drainage improvements. Eligible structure types include single-family homes, duplexes, triplexes, townhomes, modular homes, manufactured homes, and condominiums. Only costs incurred after an award would be eligible.
- **Small Rental Repair Program (SRRP)** - Provides zero interest forgivable loans to owners of rental properties for activities necessary to restore storm-damaged rental housing for low- and moderate-

income renters, including rehabilitation, reconstruction, elevation, and/or other mitigation activities. Mitigation activities include, but are not limited to, structural and utility retrofits to make the building more resistant to floods, grading and slope stabilization, and drainage improvements.

- **Smart Move Program** - Subsidizes the new development of quality, energy-efficient, resilient, and affordable single-family housing in lower risk areas within or near disaster-impacted communities that are participating in Blue Acres buyout programs, as well as disaster impacted first-time homebuyers with incomes at or below 120% AMI. The program aims to provide safe housing for relocating residents and new affordable housing in low-risk areas.

The geographic extent of these programs will be the 12 counties determined eligible for funding under presidential declaration DR-4614 and identified under New Jersey's Ida Recovery Action Plan, located on the DCA website: <https://www.nj.gov/dca/ddrm/home/Idaactionplan.shtml>. Counties include Bergen, Essex, Gloucester, Hudson, Hunterdon, Mercer, Middlesex, Morris, Passaic, Somerset, Union, and Warren (**Attachment 1**).

Review Procedures

DCA, in accordance with NEPA and HUD environmental review procedures, will act as the Responsible Entity to oversee and document that the proposed action complies with state and federal regulations.

Since site-specific locations are not known at this time, DCA intends to complete a tiered environmental review, made up of a broad review (Tier 1) and a site-specific review (Tier 2). The first tier will be 12 county-wide environmental reviews, which examine all environmental resources listed in the HUD regulations for CDGB-DR funding, including 24 CFR 58.5 and 58.6, and NEPA. The second tier will include those environmental resources that require analysis at the site-specific review level. Each site-specific project will be assigned to one of the following activity categories.

- 1) **Rehabilitation:** Repairing (possibly including elevating) homes and small rental properties that sustained damage as a result of Tropical Storm Ida but were not so severely damaged that reconstruction is required. The rehabilitation must result in a housing unit that meets minimum property standards, the State of New Jersey's Uniform Construction Code, and the HUD Office of Community Planning and Development's Green Building Retrofit checklist, when applicable ("Proposed Action 1").
- 2) **Reconstruction within existing footprint:** Construction of a new dwelling on the existing property within 20.0 percent of the original (first-floor) building footprint ("Proposed Action 2").
- 3) **Reconstruction beyond existing footprint:** Construction of a new dwelling on the existing property that exceeds 20.0 percent of the original (first-floor) building footprint ("Proposed Action 3").
- 4) **New Construction:** New construction of single-family homes. The new developments will be built outside the 500-year floodplain and the inland or coastal climate adjusted floodplain, as defined by NJDEP. The site and housing designs will include additional resilience and energy efficiency construction standards, which will be defined in the program guidelines. ("Proposed Action 4").

HUD policy requires that the proposed project site and adjacent areas be free of hazardous materials, contamination, toxic chemicals and gases, and radioactive substances, where a hazard could affect the health and safety of occupants of the property or conflict with the intended utilization of the property. In order to identify sites near the proposed project locations that have hazardous materials, contamination, toxic chemicals, gases and radioactive substances as specified in 24 CFR 58.5(i), DCA proposes the use of source data from NEPAssist, a web-based application tool that draws environmental data from the U.S. Environmental Protection Agency's (EPA's) Geographic Information System (GIS) databases. The review would include an examination of the EPA's Superfund (CERCLA) and National Priorities List (NPL), Water Dischargers (NPDES), Toxic Substances Control Act (TSCA), Toxics Release Inventory (TRI), Brownfields (ACRES), Air Pollution (ICIS-

AIR), and Hazardous Waste databases (RCRAInfo). Table 1 lists the number of EPA Facilities located in the 12 counties eligible for funding.

Table 1: EPA Facilities in 12 Counties Eligible for Funding

EPA Facility Type	Number of Facilities
Air Pollution	5220
Brownfields	380
Hazardous Waste	25730
Superfund	82
Toxic Releases	1476
Toxic Substances Control Act	971
Water Discharge	8822
Total	42681

If NEPAassist source data¹ demonstrates that there are no EPA facilities within a county, then that would be addressed in the broad review (Tier 1). Otherwise, the site-specific (Tier 2) review would include a listing of EPA Facilities and corresponding map(s) of the facilities within a specified review criterion. DCA proposes to use the review radius for EPA facilities shown in Table 2². These distances allow DCA to focus on EPA facilities within an immediate proximity of the site-specific structures which may pose a greater concern to the site-specific property than facilities outside of the review radius.

Table 2: Review Radius for EPA Facilities

EPA Facility Type	Review Radius
Air Pollution	250 feet
Brownfields	3,000 feet
Hazardous Waste	250 feet
Superfund	3,000 feet
Toxic Releases	250 feet
Toxic Substances Control Act	250 feet
Water Discharge	250 feet

For EPA facilities within the review radius, DCA would reference the EPA’s Enforcement and Compliance History Online (ECHO) report (or other EPA sourced document) to determine if there are any enforcement and compliance concerns. If no concerns are noted, then DCA would conclude that the EPA facilities would not impact the health and safety of occupants or conflict with the intended utilization of the property. A brief statement regarding the number of EPA facilities within the review radius and their compliance status would be included in the site-specific review.

DCA proposes to use the NJDEP GeoWeb³ on-line based application mapping tool to identify state listed sites of concern which have the potential to affect the health and safety of project occupants or conflict with the intended use of the property. DCA would conduct an assessment of “Known Contaminated Sites” and “Solid & Hazardous Waste Facilities (35 Acres and above)”. Table 3 lists the number of NJ DEP Sites and Facilities located in the 12 counties eligible for funding.

¹ <https://www.epa.gov/nepa/nepassist>

² The distances are more conservative than the HUD approved distances for CDBG-DR site specific reviews in Harris County, Texas in 2019 (see Attachment 2).

³ <https://njdep.maps.arcgis.com/apps/webappviewer/index.html?id=02251e521d97454aabadfd8cf168c44d>

Table 3: Number of NJ DEP Sites/Facilities

NJ DEP Sites and Facilities	Number of Sites/Facilities
Known Contaminated Sites	1710
Solid & Hazardous Waste Facilities	149
Total:	1859

If the NJ DEP sites and facilities are within the review radius of the proposed project property, a listing of the NJ DEP sites and facilities along with a corresponding map(s) would be provided within the site-specific review. DCA proposes to use the review radius for NJ DEP sites and facilities shown in Table 4. The distances for the review radius are based upon the HUD Exchange guidance to assess sites within "3,000 feet of a toxic or solid waste landfill site"⁴.

Table 4: Review Radius for NJ DEP Sites/Facilities

NJ DEP Sites and Facilities	Review Radius
Known Contaminated Sites	3,000 feet
Solid & Hazardous Waste Facilities	3,000 feet

If sites are shown to be within the review radius, then DCA would perform a document review of the sites and facilities to determine if there is the potential to affect the health and safety of project occupants or conflict with the intended use of the property. If DCA is not able to reach this determination, then DCA would consult with NJDEP to determine whether the site/facility is in substantial compliance with NJDEP regulations and is therefore considered under control.

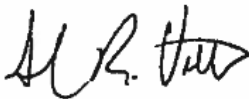
In addition, site inspections would be conducted, to assess each applicant's property for potential hazards, soil stains, odors, and any other visible signs of contamination. If no visible signs of contamination are noted, then DCA would conclude that the site is clear of such hazards.

For acquisitions and proposed sites that are determined or suspected to be contaminated by toxic chemicals or radioactive materials, DCA would perform a Phase I Environmental Site Assessment in accordance with the requirements of ASTM E 1527-21 *Standard Practice for Environmental Site Assessments, Phase I Environmental Site Assessment Process*.

If any signs of contamination are identified, the project would not be funded by DCA until evidence is provided that the site is clear of such hazards or appropriate mitigation measures are completed.

Thank you for your assistance with this matter. Please provide your response to Samuel Viavattine via e-mail at Samuel.Viavattine@dca.nj.gov.

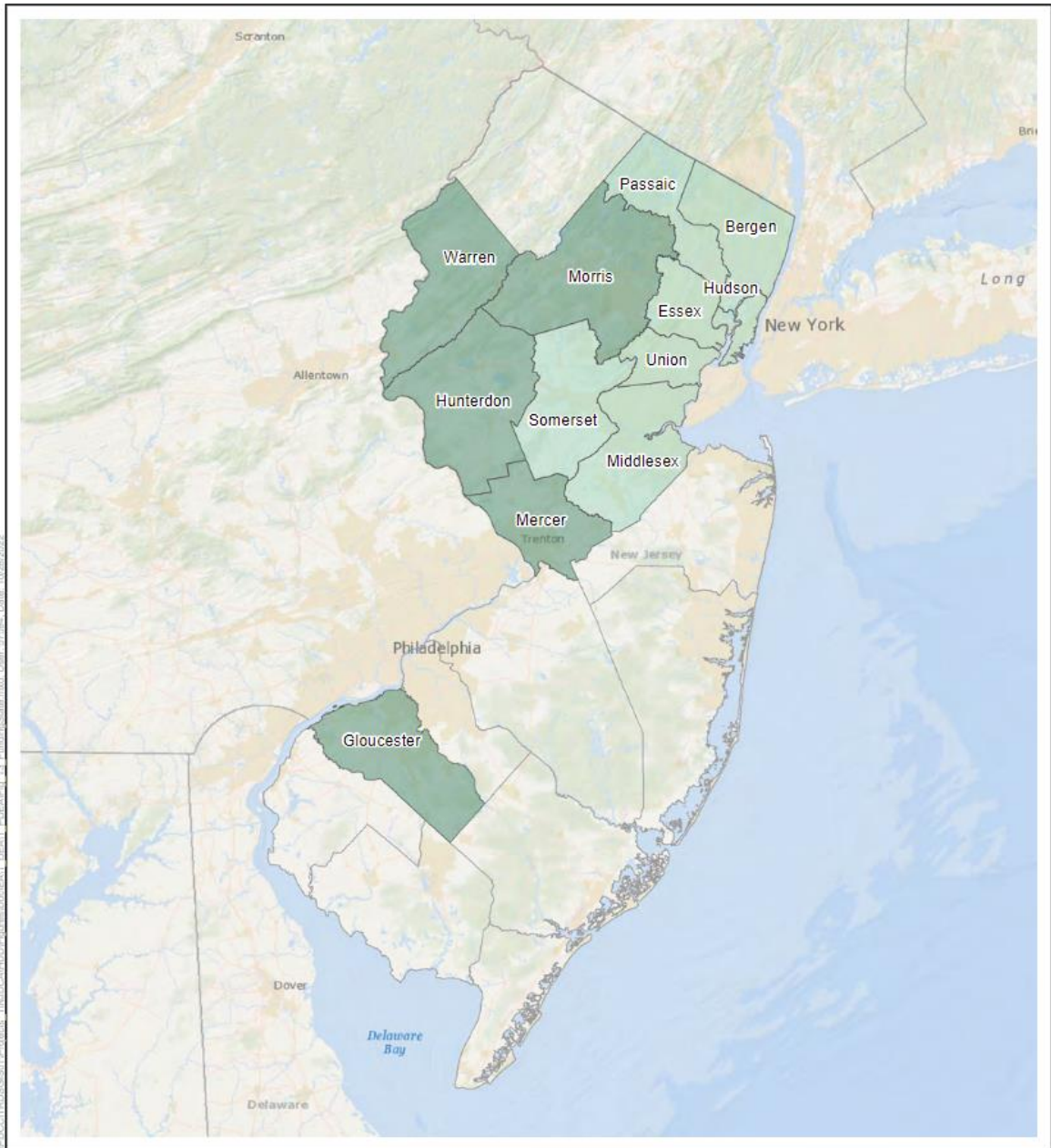
Sincerely,



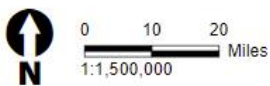
Samuel Viavattine, Deputy Commissioner
New Jersey Department of Community Affairs
PO Box 823
Trenton, NJ 08625

Attachment 1: Counties eligible for Hurricane Ida funding.

⁴ <https://www.hudexchange.info/environmental-review/site-contamination/>



- Grantee-Identified MID areas
- HUD-identified MID areas



Attachment 1: Counties Eligible for HARP, SRRP and Smart Move Funding

From: [Greene, Robert](#)
To: [Pepe, David \[DEP\]](#)
Cc: [Burton, Judith \[DCA\]](#); [Mackay, Elizabeth \[DCA\]](#); [Leager, Leslie](#); [Sherman, Steven](#); [Nolan, Katherine \[DEP\]](#)
Subject: RE: NJ DCA Hurricane Ida Tier 1 EAs
Date: Thursday, January 19, 2023 4:01:37 PM
Attachments: [image001.png](#)
[image002.png](#)
[NJDEP Contamination and Toxic Substances.pdf](#)
[NJ DCA Tier 1 EA Air Quality.pdf](#)

Hi David,

Signed letters for Contamination and Toxic Substances and Air Quality are attached. We have one more letter that we will be sending for ENSP review in the next week or two after incorporating USFWS feedback.

Thanks again for your help coordinating everything.
Rob

From: Pepe, David [DEP] <David.Pepe@dep.nj.gov>
Sent: Wednesday, January 4, 2023 8:38 AM
To: Sherman, Steven <Steven.Sherman@icf.com>; Nolan, Katherine [DEP] <Katherine.Nolan@dep.nj.gov>
Cc: Burton, Judith [DCA] <Judith.Burton@dca.nj.gov>; Mackay, Elizabeth [DCA] <Elizabeth.Mackay@dca.nj.gov>; Greene, Robert <Robert.Greene@icf.com>; Leager, Leslie <Leslie.Leager@icf.com>
Subject: RE: NJ DCA Hurricane Ida Tier 1 EAs

Hi Steve - you can send them to me and I will make sure the proper programs review.

Thank you,

David Pepe, P.G., Director
New Jersey Department of Environmental Protection
Office of Permitting & Project Navigation
Office Phone (609) 292-3600
Direct Phone (609) 984-4515
Fax (609) 292-1921
Email: david.pepe@dep.nj.gov
Website: <http://www.nj.gov/dep/pcer/>



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From: Sherman, Steven <Steven.Sherman@icf.com>
Sent: Wednesday, January 4, 2023 8:23 AM
To: Pepe, David [DEP] <David.Pepe@dep.nj.gov>; Nolan, Katherine [DEP] <Katherine.Nolan@dep.nj.gov>
Cc: Burton, Judith [DCA] <Judith.Burton@dca.nj.gov>; Mackay, Elizabeth [DCA] <Elizabeth.Mackay@dca.nj.gov>; Greene, Robert <Robert.Greene@icf.com>; Leager, Leslie <Leslie.Leager@icf.com>
Subject: [EXTERNAL] RE: NJ DCA Hurricane Ida Tier 1 EAs

Good Morning,

Hope you had a nice holiday. I just wanted to follow up on the request below. For HUD-funded CDBG-DR Tier 1 (county-wide) environmental assessments, should we send consultation letters regarding Air Quality, Endangered Species and Contamination and Toxic Substances to the Office of Permitting and Project Navigation or to the relevant NJDEP divisions (i.e.. Division of Air Quality)?

Thank you,
Steven

From: Sherman, Steven
Sent: Wednesday, December 28, 2022 10:03 AM
To: David.Pepe@dep.nj.gov; Katherine.Nolan@dep.nj.gov
Cc: Burton, Judith <Judith.Burton@dca.nj.gov>; Mackay, Elizabeth [DCA] <Elizabeth.Mackay@dca.nj.gov>; Greene, Robert <Robert.Greene@icf.com>; Leager, Leslie <Leslie.Leager@icf.com>
Subject: NJ DCA Hurricane Ida Tier 1 EAs

Good Morning,

ICF is supporting DCA in drafting 12 county-wide Tier 1 HUD Community Development Block Grant-Disaster Recovery Environmental Assessments (EAs). The Tier 1 EAs will analyze the proposed program actions of providing housing assistance for properties that were impacted from Hurricane Ida or areas located within or near disaster-impacted communities. These actions include activities necessary to restore homeowners/landlords' storm-damaged homes, including rehabilitation, reconstruction, elevation and/or other mitigation activities. While the Tier 1 EAs will be a broad county-wide review of environmental impacts, the subsequent Tier 2s will be site-specific reviews of reconstruction, rehabilitation or new construction of housing structures.

In developing the Tier 1 EAs, we wanted to confirm the proposed approach and obtain guidance on a few environmental resource sections. Provided below are those resources along with some additional details of which we are requesting information. Where applicable, we are modeling the approaches based on the NJ Sandy Recovery Program.

- **Air Quality:**

- Confirmation of the proposed Broad County Tier 1 and Site-Specific Tier 2 approach
- **Endangered Species**
 - Confirmation of the proposed Broad County Tier 1 and Site-Specific Tier 2 approach
 - Guidance on incorporating state listed species and critical habitat in environmental reviews
 - Guidance on required state permits and/or mitigation measures
- **Contamination and Toxic Substances**
 - Confirmation of the proposed Broad County Tier 1 and Site-Specific Tier 2 approach
 - Confirmation of search radius/clearance requirements for toxic sites (ex: superfund, brownfield, RCRA...)
 - Guidance on required state listed sites to analyze within range of the proposed action

While we do not anticipate that permits will be required for the Broad County-wide Tier 1 EAs, there may be some permits for the subsequent site-specific Tier 2 environmental reviews of mostly single-family structures. Do you know which points of contact I should reach out to at DEP for the above resources categories? We will be sending along a letter and email to the appropriate points of contact which detail the proposed action (for Tier 1s and Tier 2s) along with the proposed approaches.

Thanks,
Steve



Steven Sherman | Senior Environmental Planner, Environment &
Planning | steven.sherman@icf.com | icf.com +1.215.359.7856 mobile

Process for NJDEP Consultation and Compliance Determinations

The process begins with the consultant submitting the toxic site(s) identified within 3,000 feet of the property applying for HUD Funds (Applicant) for a NJDEP consultation. Then a NJDEP consultation process is performed internally by NJDEP compliance personnel and NJDEP Geologists. Initial compliance determination for each Toxic Review is based on information originating from the New Jersey Environmental Management System (NJEMS). NJEMS is a database maintained by NJDEP that catalogues environmental issues within the State of New Jersey. The further assessment of an identified “Out of Compliance” site would require that a formal NJDEP Toxic review request be made from the contractor.

The NJDEP Toxics review is then performed within the NJDEP as a separate administrative function. This review process consists of a two-stage screening process: 1) desktop database (NJEMS) review and 2) physical file search/site-specific geological review (performed by an NJDEP geologist). The purpose of this review is to identify potential Areas of Concern (AOC’s) that represent the location of greatest contaminant concentration and risk, and secondly, to identify potential receptors and exposure pathways. Each review contains a baseline description of the site and surrounding area and includes:

Physical Setting, Topography, Current/Historical Property Use, Local Property Use, Aerial photographs, and any information gained from review of any Prior Environmental Assessment Investigations conducted at the site. In the absence of site-specific data, information on geology and ground water flow may be extrapolated from information gleaned from surrounding properties. This supplemental information is utilized to estimate drainage patterns, depth and direction of ground water flow. Ground water acts as a transport mechanism for contamination that might impact potable water supplies, structures or represent a vapor intrusion (VI) hazard. The conclusion of this two-stage review identifies if the “Out of Compliance” site is actually an environmental concern that could impact the HUD funded project.

If the NJDEP geologist determines that the site is indeed “Out of Compliance” after the 2-stage review, he/she will then determine the “Limited Sites Impacted” through a “blind” study. The geologist is unaware of the location of the applicant relative to the contaminated site until after he/she has determined the “Limited Sites Impacted”. The “Limited Sites Impacted” includes the non-compliant site and any adjacent properties that the geologist has determined may be affected by the non-compliant site. A “**Limited Sites Impacted**” designation is then given to the non-compliant site; meaning that the NJDEP has pared down the list of sites identified within the 3,000 foot radius of the out of compliance site to a fewer amount of lots. This area is plotted on a map and a geologic assessment report is generated. If the applicant location falls within the “**Limited Sites Impacted**” area, the applicant will need either a “conditional clearance” from NJDEP (see details below) or they must conduct a Phase 1 and Phase 2 ASTM investigation to determine if they are actually impacted by the contaminated site.

After all relevant levels of the NJDEP toxic review are complete, the NJDEP emails the contractor with a HUD compliance review outcome for each requested site. There are three HUD compliance outcomes that the NJDEP issues: “**clear**,” “**not clear**” or “**conditional clearance**.” A “clear” designation means that the site is actually in compliance or the discharge at an “Out-of-Compliance” site does not represent a threat to the HUD funded project. A “not clear” designation means that the applicant is the discharger,

is “Out of Compliance” and will not reach compliance unless further environmental investigations or remediation is performed. A “conditional clearance” designation indicates that a potential environmental hazard has been identified at the site but the applicant can be conditionally cleared if engineering controls are employed as mitigation measures during construction.

This process has decreased the number of applicants that were potentially impacted by threatening sites.

The State of New Jersey has primacy over its hazardous waste program, and NJEMS acts as a clearinghouse for regulated activities and regulated discharges called into the Spill Hotline. Identification within the NJEMS database is typically the result of programmatic regulation or contaminant discovery during property transfers. The listings contained within NJEMS are identified by program, and some sites may be involved with multiple regulatory programs within the NJDEP. NJEMS is updated by the NJDEP on a daily basis.

For sites undergoing a NJDEP Toxic review, each file is accessed and information on the violation or discharge is recorded, including any information on interim remedial measures, remedial investigations and remediation. A determination on the origin of potential contaminants (petroleum vs. non-petroleum based) is made. Data is examined and compared to current standards. In the absence of site-specific data, neighboring NJEMS sites are accessed for information on depth and direction of ground water. Available information is characterized according to its level of regulatory compliance. Terminology outlined in ASTM 1527-13 defines Recognized Environmental Conditions (RECS), Controlled Recognized Environmental Conditions (CRECS) and Historical Recognized Environmental Conditions (HRECS). Those terms are described below in relation to how NJEMS data is utilized in the site review.

Recognized Environmental Conditions (RECS) – NJEMS records are utilized to determine site specific concerns related to discharges or potential discharges from regulated materials. RECS may be identified through a field inspection, or through involvement in a regulated program, such as RCRA, ECRA/ISRA, or UST.

Controlled Recognized Environmental Conditions (CRECS) – NJEMS identifies and is capable of displaying sites that have institutional controls such as a ground water Classification Exception Area (CEA) or a Deed Restriction. These are sites that have media contaminated above regulatory standards but have defined the extent and modeled contaminated fate and transport to a compliance point. Information from a CEA at a site other than the target site can be utilized for determining regional ground water quality, ground water depth, ground water directions, and can provide assumptions on the rate of contaminant transport.

Historical Recognized Environmental Concerns (HRECS) – NJEMS information is reviewed to determine if a discharge or regulated unit has been closed according to applicable State and Federal regulations. If applicable standards for soil, vapor and ground water have been met, the applicant is not considered to be impacted by the Toxic Review Site.

1. NJDEP Compliance Review Process. NJDEP personnel identifies the SRP PI # for each Toxic site. The Consultant provides the TOXIC site’s Contaminated Site ID to help identify the SRP PI#. The SRP PI # is found through either NJEMS or Masterfile Search engines. This SRP PI #

is used to do further Compliance file searches since it identifies files/information associated specifically with the NJDEP Site Remediation Program (SRP).

2. Once the SRP PI # is identified then the TOXIC site is sent on for Compliance Determinations through a NJEMS file search. NJEMS Compliance Determination Reviews are done by looking only at information uploaded into the NJDEP NJEMS system. NJEMS is a database for active or inactive SRP cases. Each TOXIC site is looked at through NJEMS to answer the question – Is the TOXIC site COMPLIANT with NJDEP Regulations and Timeframes?

NJDEP personnel determines if a site is a Publicly Funded Case, Brownfield, Unknown Source Investigation, Immediate Environmental Concern / Homeowner Heating Oil Case/ Licensed Site Remediation Professional (LSRP) Case, etc. – need to understand what type of case it is to understand if it is in compliance (can be cleared) or out of Compliance (cannot be cleared).

Items that would be searched to identify Compliance:

- Each Activity under the Grey Bar – Understand Grey Bar codes to understand if there is different Activity not in Compliance
- Must be Current on submittals if a LSRP case or if the IEC is currently be investigated
- Status of Case
- When Report Submittals are Due
- Enforcement Action against facility – old versus new
- Closure Documents
- Outstanding Underground Storage Tank issues

These items are searched to Identify if anything is delinquent. If the only issues found are administrative type issues (example: a fee has not been paid) we will not hold up the case clearance. No applicant will be denied because they are within 3,000 feet of a site that is out of compliance for ONLY administrative reasons. These cases will be considered “In Compliance” for the purposes of the HUD review process.

If the case is delinquent for technical reasons (examples: no investigation/cleanup work has been done, work has stalled and deadlines have not been met or the case has been sent to enforcement) the Department may declare the site to be “Out of Compliance.”

Compliance Review Outcomes:

Cleared – NJDEP has found this site to be in substantial compliance with NJDEP regulations and is therefore considered under control.

Not cleared – Site is not in compliance with NJDEP regulations and is still considered a potential threat to the HUD applicant site.

Conditional Clearance – Site could be cleared if the construction of the project would mitigate the potential environmental hazard. For example, if the environmental issue was vapor

intrusion and the home will be built on unenclosed pilings, the vapor intrusion concern is no longer relevant. Specific comments will be provided when appropriate.

Working On – DEP staff are working to gather information to make a determination.

Using NJ-GeoWeb for Identifying NJEMS sites for Project Sites

1. Go to Mapping Link on NJDEP website <http://www.nj.gov/dep/gis/newmapping.htm>
2. Select Interactive Mapping NJ-GeoWeb
3. Select the **Launch GeoWeb Profile** bar
4. Select in the upper left tab “Searches” and search by Parcels by Block/Lot by entering the Pams Pin number
5. Under the Blue Map Content Box (on right side)
 - a. expand **GeoWeb** and then expand the **Sites and Facilities**
 - b. select “NJEMS sites”
6. Select Advanced Tool (on the left side); select Buffer Selections and at the FIND drop down select “NJEMS sites” then select the “Near Currently selected” and change the distance to 3000 ft. and then select Search
7. This will give you a list of sites at the bottom of the page marked “Results”
 - a. Click on Identify button on top toolbar of Map
 - b. Make sure Attribute Detail is for NJEMS Sites
 - c. Identify Program Interest for each Result (make sure you scroll through all Program Types listed in More Information)
8. Submit **ONLY** those that are listed as **SRP-PI** sites to NJDEP for Compliance Determination.
 - a. Please submit in the spreadsheet the NJEMS ID # as with any submittal
 - b. Additional SRP-PI # is OK but we **NEED** the NJEMS ID #
9. Click on or off of the Result toolbar to generate a map of **ONLY** the SRP-PI sites or use another mapping tool for map

If **Compliance Cannot be Determined**, then information received from NJEMS review needs additional action.

Additional Action is needed by NJDEP personnel. A follow-up call to the NJDEP Case Manager or LSRP is made to determine if they are out of Compliance or if the information was not current in NJEMS database.

If **Non-Compliant** or no information exists, then **Geologic Review**.

NJDEP Geologist will look at NJEMS information then pull Site Remediation Program (SRP) files, look at GIS and geologic information to determine if there was:

- Any impact at the site by looking at media impacted, contaminants impacting media, Soil/Aquifer/Ground water information, and review most current information that pertains to contaminant transport and depth of contamination that may be present at site.

Physical Files on individual sites are used to determine available information that is not entered into the NJEMS system. Examples may include, but not be limited to, hand written field notes, diagrams, photographs and ancillary information on contaminant fate and transport. Investigative data is evaluated to determine aquifer characteristics and estimates on plume travel. Potable well impact information is considered to be an immediate environmental concern (IEC) that is addressed through the installation of POETS or connection to a municipal water supply. Information may identify a source or a likely source but is generally restricted in that follow up data is limited or dated. As much information as possible is gleaned from the file review and incorporated into the geologic review to determine the following:

- **Ground Water** – Depth and direction of flow may be inferred from neighboring remedial sites or surface water bodies. Intersection of the water table with utilities or historic fill represents a preferential pathway for contaminant transport. The type of contaminant and the discharge environment factor into the longevity of the plume. Depositional environments (i.e. aerobic/anaerobic) and the presence of organic material in the soil influence degradation rates. Soil, ground water and vapor data from the target site and/or nearby sites are compared to State standards.

- **Vapor Intrusion** – Potentially impacted sites may be exposed to a risk of vapor intrusion from impacted soils and from a ground water plume. Potentially impacted sites may be upgradient, downgradient, or sidegradient from the source of contamination. The State of New Jersey requires the collection of VI samples if product, or contamination that exceeds the Ground Water Screening Level (GWSL) within 100 ft. (vertically or horizontally) of a building for non-petroleum products or within 30 ft. of a building for petroleum products. For HUD Compliance purposes, a tiered screening process consistent with ASTM E2600-08 is used to identify vapor intrusion potential at a particular property.
 - **Tier 1** – An initial non-invasive screening process based on the likelihood of vapor intrusion due to the physical setting or site conditions is conducted. In accordance with NJDEP guidelines, the potential for vapor intrusion is considered to be unlikely if the lineal distance between the defined edge of the contaminant exceeds 30.0 ft. for petroleum based contamination or 100.0 ft. for non-petroleum based contamination and a structure designed for occupation. For HUD compliance purposes in relation to the Toxic Review, an additional safety factor has been added to the separation distance calculation for sites with limited or no data. Rather than base the separation distance on the edge of the plume to a structure, the separation distances are calculated based on property line to property line.
 - **Tier 2** – Sampling is not performed by the NJDEP, but if available, site specific ground water and/or soil vapor concentrations are compared to the NJDEP vapor intrusion screening levels.
 - **Tier 3** – Consideration of attenuation factors. Physical samples are not collected as part of the Toxic Review process. Geology, stratigraphy and hydrology are considered to determine if a physical barrier is present between the contamination and potentially affected areas. If ground water contamination exceeds the vapor

intrusion screening level, separation distances described above or the presence of a clean water lens at least 6.0 ft. thick between the contamination and the residential structure are considered attenuating factors that remove vapor intrusion as a concern for the applicant.

- Tier 4 – Selection of mitigation alternatives. If an applicant is within an area identified by the Toxics reviewer as potentially being impacted by vapor intrusion, engineering control measures are provided to the contractor for consideration in lieu of collecting compliance samples.

The DEP geologist writes up their findings that encapsulates all of the information reviewed to determine the impacted area: Soil/ground water impacted, free product onsite/offsite, direction of potential ground water plume, and Vapor Intrusion concerns. The “Area Impacted” is then plotted on a map that includes the non-compliant site and adjacent properties that the geologist has determined may be impacted by the non-compliant site. A “**Limited Sites Impacted**” designation is given to the non-compliant site.

The “Area Impacted” is determined through a “blind” study. The geologist doesn’t plot the location of the applicant relative to the contaminated site until after he has determined the “Area Impacted”. If the applicant location falls within the **Limited Sites Impacted** area, the applicant will need either a “conditional clearance” from NJDEP or they must conduct a Phase 1 and Phase 2 ASTM investigation to determine if they are actually impacted by the contaminated site.

If Geologist determines that the contamination is unlikely to impact the applicant property via soils, groundwater or Vapor Intrusion (VI) then a **Clear by Geologist** designation is given to the site.

Attachment A-6: Threatened, Endangered, and Migratory Species

- ESA, particularly Section 7; 50 CFR 402
- Migratory Bird Treaty Act of 1918; 50 CFR 10, 20, 21; EO 13186

Table A6-1: Federally Listed Critical Habitat – Passaic County:

Designated Critical Habitat in Passaic County	Acres in Passaic County
None	N/A

Table A6-2: Federally Listed Threatened, Endangered and Migratory Species – Passaic County:

Species	Category	Status
Indiana Bat	Mammals	Endangered
Northern Long-eared Bat	Mammals	Endangered
Tricolored Bat	Mammals	Proposed Endangered
Bog Turtle	Reptiles	Threatened
Monarch Butterfly	Insects	Candidate
Small Whorled Pogonia	Flowering Plants	Threatened
Bald Eagle	Birds	Migratory Birds
Bicknell's Thrush	Birds	Migratory Birds
Black Skimmer	Birds	Migratory Birds
Black-billed Cuckoo	Birds	Migratory Birds
Black-capped Chickadee	Birds	Migratory Birds
Bobolink	Birds	Migratory Birds
Canada Warbler	Birds	Migratory Birds
Chimney Swift	Birds	Migratory Birds
Chuck-will's-widow	Birds	Migratory Birds
Eastern Whip-poor-will	Birds	Migratory Birds
Golden Eagle	Birds	Migratory Birds
Golden-winged Warbler	Birds	Migratory Birds
Hudsonian Godwit	Birds	Migratory Birds
Lesser Yellowlegs	Birds	Migratory Birds
Long-eared Owl	Birds	Migratory Birds
Northern Saw-whet Owl	Birds	Migratory Birds
Prothonotary Warbler	Birds	Migratory Birds
Red-headed Woodpecker	Birds	Migratory Birds
Ruddy Turnstone	Birds	Migratory Birds
Rusty Blackbird	Birds	Migratory Birds
Scarlet Tanager	Birds	Migratory Birds
Short-billed Dowitcher	Birds	Migratory Birds

Species	Category	Status
Willet	Birds	Migratory Birds
Wood Thrush	Birds	Migratory Birds

Table A6-3: Threatened, Endangered and Migratory Species Sources

Agency	Internet Link	Accessed Date	Dataset Date
USFWS	https://www.fws.gov/program/endangered-species	1/02/2024	N/A
USFWS	https://ipac.ecosphere.fws.gov/	1/02/2024	N/A
USFWS	https://services.arcgis.com/QVENGdaPbd4LUkLV/ArcGIS/rest/services/USFWS_Critical_Habitat/FeatureServer	1/02/2024	11/10/2022
USFWS	https://www.fws.gov/office/new-jersey-ecological-services/new-jersey-field-office-project-review-guide	1/02/2024	N/A

Agencies/Regulations Consulted During the Broad Review

- USFWS
- DEP

Supporting Documentation

- Figure A6-1: USFWS IPaC Report – Passaic County¹⁵
- Figure A6-2: Section 7 ESA Consultation Letter and Response between DCA and USFWS
- Figure A6-3: DEP Endangered Species Consultation Request Letter, Response and Email Transmittal

Environmental Finding

Compliance will be achieved during site-specific review since the Blue Acres project has the potential to impact threatened and endangered species. See Site-Specific Review Strategy and Checklist Appendix B.

¹⁵ Another IPaC report will be generate for each site-specific Tier 2 project which will be the most up to date listing.

Figure A6-1: USFWS IPaC Report – Passaic County



United States Department of the Interior

FISH AND WILDLIFE SERVICE
New Jersey Ecological Services Field Office
4 E. Jimmie Leeds Road, Suite 4
Galloway, NJ 08205
Phone: (609) 646-9310



In Reply Refer To:
Project Code: 2024-0073993
Project Name: Passaic County

04/08/2024 16:20:11 UTC

Subject: List of threatened and endangered species that may occur in your proposed project location or may be affected by your proposed project

To Whom It May Concern:

The enclosed species list identifies threatened, endangered, proposed, and candidate species, as well as proposed and final designated critical habitat, that may occur within the boundary of your proposed project and/or may be affected by your proposed project. The species list fulfills the requirements of the U.S. Fish and Wildlife Service (Service) under section 7(c) of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*).

New information based on updated surveys, changes in the abundance and distribution of species, changed habitat conditions, or other factors could change this list. Please feel free to contact us if you need more current information or assistance regarding the potential impacts to federally proposed, listed, and candidate species and federally designated and proposed critical habitat. Please note that under 50 CFR 402.12(e) of the regulations implementing section 7 of the Act, the accuracy of this species list should be verified after 90 days. This verification can be completed formally or informally as desired. The Service recommends that verification be completed by visiting the IPaC website at regular intervals during project planning and implementation for updates to species lists and information. An updated list may be requested through IPaC by completing the same process used to receive the enclosed list.

The purpose of the Act is to provide a means whereby threatened and endangered species and the ecosystems upon which they depend may be conserved. Under sections 7(a)(1) and 7(a)(2) of the Act and its implementing regulations (50 CFR 402 *et seq.*), Federal agencies are required to utilize their authorities to carry out programs for the conservation of threatened and endangered species and to determine whether projects may affect threatened and endangered species and/or designated critical habitat.

A Biological Assessment is required for construction projects (or other undertakings having similar physical impacts) that are major Federal actions significantly affecting the quality of the human environment as defined in the National Environmental Policy Act (42 U.S.C. 4332(2)(c)). For projects other than major construction activities, the Service suggests that a biological

evaluation similar to a Biological Assessment be prepared to determine whether the project may affect listed or proposed species and/or designated or proposed critical habitat. Recommended contents of a Biological Assessment are described at 50 CFR 402.12.

If a Federal agency determines, based on the Biological Assessment or biological evaluation, that listed species and/or designated critical habitat may be affected by the proposed project, the agency is required to consult with the Service pursuant to 50 CFR 402. In addition, the Service recommends that candidate species, proposed species and proposed critical habitat be addressed within the consultation. More information on the regulations and procedures for section 7 consultation, including the role of permit or license applicants, can be found in the "Endangered Species Consultation Handbook" at: <https://www.fws.gov/sites/default/files/documents/endangered-species-consultation-handbook.pdf>

Migratory Birds: In addition to responsibilities to protect threatened and endangered species under the Endangered Species Act (ESA), there are additional responsibilities under the Migratory Bird Treaty Act (MBTA) and the Bald and Golden Eagle Protection Act (BGEPA) to protect native birds from project-related impacts. Any activity, intentional or unintentional, resulting in take of migratory birds, including eagles, is prohibited unless otherwise permitted by the U.S. Fish and Wildlife Service (50 C.F.R. Sec. 10.12 and 16 U.S.C. Sec. 668(a)). For more information regarding these Acts, see [Migratory Bird Permit | What We Do | U.S. Fish & Wildlife Service \(fws.gov\)](https://www.fws.gov/partner/council-conservation-migratory-birds).

The MBTA has no provision for allowing take of migratory birds that may be unintentionally killed or injured by otherwise lawful activities. It is the responsibility of the project proponent to comply with these Acts by identifying potential impacts to migratory birds and eagles within applicable NEPA documents (when there is a federal nexus) or a Bird/Eagle Conservation Plan (when there is no federal nexus). Proponents should implement conservation measures to avoid or minimize the production of project-related stressors or minimize the exposure of birds and their resources to the project-related stressors. For more information on avian stressors and recommended conservation measures, see <https://www.fws.gov/library/collections/threats-birds>.

In addition to MBTA and BGEPA, Executive Order 13186: *Responsibilities of Federal Agencies to Protect Migratory Birds*, obligates all Federal agencies that engage in or authorize activities that might affect migratory birds, to minimize those effects and encourage conservation measures that will improve bird populations. Executive Order 13186 provides for the protection of both migratory birds and migratory bird habitat. For information regarding the implementation of Executive Order 13186, please visit <https://www.fws.gov/partner/council-conservation-migratory-birds>.

We appreciate your concern for threatened and endangered species. The Service encourages Federal agencies to include conservation of threatened and endangered species into their project planning to further the purposes of the Act. Please include the Consultation Code in the header of this letter with any request for consultation or correspondence about your project that you submit to our office.

Note: IPaC has provided all available attachments because this project is in multiple field office jurisdictions.

Attachment(s):

- Official Species List
- USFWS National Wildlife Refuges and Fish Hatcheries
- Bald & Golden Eagles
- Migratory Birds
- Wetlands

OFFICIAL SPECIES LIST

This list is provided pursuant to Section 7 of the Endangered Species Act, and fulfills the requirement for Federal agencies to "request of the Secretary of the Interior information whether any species which is listed or proposed to be listed may be present in the area of a proposed action".

This species list is provided by:

New Jersey Ecological Services Field Office

4 E. Jimmie Leeds Road, Suite 4
Galloway, NJ 08205
(609) 646-9310

This project's location is within the jurisdiction of multiple offices. However, only one species list document will be provided for all offices. The species and critical habitats in this document reflect the aggregation of those that fall in each of the affiliated office's jurisdiction. Other offices affiliated with the project:

Long Island Ecological Services Field Office

340 Smith Road
Shirley, NY 11967-2258
(631) 286-0485

New York Ecological Services Field Office

3817 Luker Road
Cortland, NY 13045-9385
(607) 753-9334

PROJECT SUMMARY

Project Code: 2024-0073993

Project Name: Passaic County

Project Type: Disaster-related Grants

Project Description: Blue Acres is the program through which Passaic County residents are receiving HUD funding covered under this Tier 1 EA. This voluntary buyout program actions covered in the DCA Tropical Storm Ida Action Plan. These include the following.

1. Residential properties will be acquired (i.e., those that serve either as a full-time rental or owner-occupied home are prioritized). Eligible properties must be located in a floodway, floodplain, or other Disaster Risk Reduction Area that reduces the risk from future flooding. Commercial properties and second homes will not be acquired because they are not eligible for CDBG Blue Acres program funding.
2. Buyout properties will be voluntarily sold to DEP or their designee for current fair-market value (i.e., post-storm value) and must be restored to and maintained per open space, recreational or wetlands management, or other disaster risk reduction practices.
3. Incentives may be provided to help eligible homeowners with the expense of relocating to a lower-risk area. Incentives will not be offered to compensate for property loss.
4. Housing counseling services will be available to help those with disabilities find accessible units.
5. Consistently with the State of New Jersey's environmental justice goals, and to maximize the use of CDBG-DR funds for buyouts, Blue Acres buyouts will initially be directed toward socially vulnerable populations and homeowners who are identified as Low-to-Moderate Income (LMI) persons. Some non-LMI households may be eligible for buyout assistance if funding is available.
6. After properties are acquired, CDBG-DR funds also may be used to conduct demolition and debris-removal activities, restore land as wetlands and floodplains, and serve a defined open space and climate-resilience purpose.

Project Location:

The approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/@41.011408700000004,-74.3078550196294,14z>

Passaic County
Tropical Storm Ida Recovery

Project code: 2024-0073993

04/08/2024 16:20:11 UTC



Counties: New Jersey and New York

ENDANGERED SPECIES ACT SPECIES

There is a total of 6 threatened, endangered, or candidate species on this species list.

Species on this list should be considered in an effects analysis for your project and could include species that exist in another geographic area. For example, certain fish may appear on the species list because a project could affect downstream species.

IPaC does not display listed species or critical habitats under the sole jurisdiction of NOAA Fisheries¹, as USFWS does not have the authority to speak on behalf of NOAA and the Department of Commerce.

See the "Critical habitats" section below for those critical habitats that lie wholly or partially within your project area under this office's jurisdiction. Please contact the designated FWS office if you have questions.

-
1. [NOAA Fisheries](#), also known as the National Marine Fisheries Service (NMFS), is an office of the National Oceanic and Atmospheric Administration within the Department of Commerce.

MAMMALS

NAME	STATUS
Indiana Bat <i>Myotis sodalis</i> There is final critical habitat for this species. Your location does not overlap the critical habitat. Species profile: https://ecos.fws.gov/ecp/species/5949	Endangered
Northern Long-eared Bat <i>Myotis septentrionalis</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/9045	Endangered
Tricolored Bat <i>Perimyotis subflavus</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/10515	Proposed Endangered

REPTILES

NAME	STATUS
Bog Turtle <i>Glyptemys muhlenbergii</i> Population: Wherever found, except GA, NC, SC, TN, VA. No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/6962	Threatened

INSECTS

NAME	STATUS
Monarch Butterfly <i>Danaus plexippus</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/9743	Candidate

FLOWERING PLANTS

NAME	STATUS
Small Whorled Pogonia <i>Isotria medeoloides</i> Population: No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/1890	Threatened

CRITICAL HABITATS

THERE ARE NO CRITICAL HABITATS WITHIN YOUR PROJECT AREA UNDER THIS OFFICE'S JURISDICTION.

YOU ARE STILL REQUIRED TO DETERMINE IF YOUR PROJECT(S) MAY HAVE EFFECTS ON ALL ABOVE LISTED SPECIES.

USFWS NATIONAL WILDLIFE REFUGE LANDS AND FISH HATCHERIES

Any activity proposed on lands managed by the [National Wildlife Refuge](#) system must undergo a 'Compatibility Determination' conducted by the Refuge. Please contact the individual Refuges to discuss any questions or concerns.

THERE ARE NO REFUGE LANDS OR FISH HATCHERIES WITHIN YOUR PROJECT AREA.

BALD & GOLDEN EAGLES

Bald and golden eagles are protected under the Bald and Golden Eagle Protection Act¹ and the Migratory Bird Treaty Act².

Any person or organization who plans or conducts activities that may result in impacts to bald or golden eagles, or their habitats³, should follow appropriate regulations and consider implementing appropriate conservation measures, as described in the links below. Specifically, please review the "[Supplemental Information on Migratory Birds and Eagles](#)".

1. The [Bald and Golden Eagle Protection Act](#) of 1940.
2. The [Migratory Birds Treaty Act](#) of 1918.
3. 50 C.F.R. Sec. 10.12 and 16 U.S.C. Sec. 668(a)

There are likely bald eagles present in your project area. For additional information on bald eagles, refer to [Bald Eagle Nesting and Sensitivity to Human Activity](#)

For guidance on when to schedule activities or implement avoidance and minimization measures to reduce impacts to migratory birds on your list, see the PROBABILITY OF PRESENCE SUMMARY below to see when these birds are most likely to be present and breeding in your project area.

NAME	BREEDING SEASON
Bald Eagle <i>Haliaeetus leucocephalus</i> This is not a Bird of Conservation Concern (BCC) in this area, but warrants attention because of the Eagle Act or for potential susceptibilities in offshore areas from certain types of development or activities. https://ecos.fws.gov/ecp/species/1626	Breeds Sep 1 to Aug 31
Golden Eagle <i>Aquila chrysaetos</i> This is not a Bird of Conservation Concern (BCC) in this area, but warrants attention because of the Eagle Act or for potential susceptibilities in offshore areas from certain types of development or activities. https://ecos.fws.gov/ecp/species/1680	Breeds elsewhere

MIGRATORY BIRDS

Certain birds are protected under the Migratory Bird Treaty Act¹ and the Bald and Golden Eagle Protection Act².

Any person or organization who plans or conducts activities that may result in impacts to migratory birds, eagles, and their habitats³ should follow appropriate regulations and consider implementing appropriate conservation measures, as described in the links below. Specifically, please review the "[Supplemental Information on Migratory Birds and Eagles](#)".

1. The [Migratory Birds Treaty Act](#) of 1918.
2. The [Bald and Golden Eagle Protection Act](#) of 1940.
3. 50 C.F.R. Sec. 10.12 and 16 U.S.C. Sec. 668(a)

For guidance on when to schedule activities or implement avoidance and minimization measures to reduce impacts to migratory birds on your list, see the PROBABILITY OF PRESENCE SUMMARY below to see when these birds are most likely to be present and breeding in your project area.

NAME	BREEDING SEASON
Bald Eagle <i>Haliaeetus leucocephalus</i> This is not a Bird of Conservation Concern (BCC) in this area, but warrants attention because of the Eagle Act or for potential susceptibilities in offshore areas from certain types of development or activities. https://ecos.fws.gov/ecp/species/1626	Breeds Sep 1 to Aug 31
Bicknell's Thrush <i>Catharus bicknelli</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska. https://ecos.fws.gov/ecp/species/606	Breeds Jun 10 to Aug 20
Black Skimmer <i>Rynchops niger</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska. https://ecos.fws.gov/ecp/species/5234	Breeds May 20 to Sep 15
Black-billed Cuckoo <i>Coccyzus erythrophthalmus</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska. https://ecos.fws.gov/ecp/species/9399	Breeds May 15 to Oct 10
Black-capped Chickadee <i>Poecile atricapillus praticus</i> This is a Bird of Conservation Concern (BCC) only in particular Bird Conservation Regions (BCRs) in the continental USA https://ecos.fws.gov/ecp/species/10645	Breeds Apr 10 to Jul 31

NAME	BREEDING SEASON
<p>Bobolink <i>Dolichonyx oryzivorus</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska. https://ecos.fws.gov/ecp/species/9454</p>	Breeds May 20 to Jul 31
<p>Canada Warbler <i>Cardellina canadensis</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska. https://ecos.fws.gov/ecp/species/9643</p>	Breeds May 20 to Aug 10
<p>Chimney Swift <i>Chaetura pelagica</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska. https://ecos.fws.gov/ecp/species/9406</p>	Breeds Mar 15 to Aug 25
<p>Chuck-will's-widow <i>Antrostomus carolinensis</i> This is a Bird of Conservation Concern (BCC) only in particular Bird Conservation Regions (BCRs) in the continental USA https://ecos.fws.gov/ecp/species/9604</p>	Breeds May 10 to Jul 10
<p>Eastern Whip-poor-will <i>Antrostomus vociferus</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska. https://ecos.fws.gov/ecp/species/10678</p>	Breeds May 1 to Aug 20
<p>Golden Eagle <i>Aquila chrysaetos</i> This is not a Bird of Conservation Concern (BCC) in this area, but warrants attention because of the Eagle Act or for potential susceptibilities in offshore areas from certain types of development or activities. https://ecos.fws.gov/ecp/species/1680</p>	Breeds elsewhere
<p>Golden-winged Warbler <i>Vermivora chrysoptera</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska. https://ecos.fws.gov/ecp/species/8745</p>	Breeds May 1 to Jul 20
<p>Hudsonian Godwit <i>Limosa haemastica</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska. https://ecos.fws.gov/ecp/species/9482</p>	Breeds elsewhere
<p>Lesser Yellowlegs <i>Tringa flavipes</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska. https://ecos.fws.gov/ecp/species/9679</p>	Breeds elsewhere
<p>Long-eared Owl <i>asio otus</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska. https://ecos.fws.gov/ecp/species/3631</p>	Breeds Mar 1 to Jul 15

NAME	BREEDING SEASON
<p>Northern Saw-whet Owl <i>Aegolius acadicus acadicus</i> This is a Bird of Conservation Concern (BCC) only in particular Bird Conservation Regions (BCRs) in the continental USA https://ecos.fws.gov/ecp/species/10655</p>	Breeds Mar 1 to Jul 31
<p>Pectoral Sandpiper <i>Calidris melanotos</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska. https://ecos.fws.gov/ecp/species/9561</p>	Breeds elsewhere
<p>Prothonotary Warbler <i>Protonotaria citrea</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska. https://ecos.fws.gov/ecp/species/9439</p>	Breeds Apr 1 to Jul 31
<p>Red-headed Woodpecker <i>Melanerpes erythrocephalus</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska. https://ecos.fws.gov/ecp/species/9398</p>	Breeds May 10 to Sep 10
<p>Ruddy Turnstone <i>Arenaria interpres morinella</i> This is a Bird of Conservation Concern (BCC) only in particular Bird Conservation Regions (BCRs) in the continental USA https://ecos.fws.gov/ecp/species/10633</p>	Breeds elsewhere
<p>Rusty Blackbird <i>Euphagus carolinus</i> This is a Bird of Conservation Concern (BCC) only in particular Bird Conservation Regions (BCRs) in the continental USA https://ecos.fws.gov/ecp/species/9478</p>	Breeds elsewhere
<p>Scarlet Tanager <i>Piranga olivacea</i> This is a Bird of Conservation Concern (BCC) only in particular Bird Conservation Regions (BCRs) in the continental USA https://ecos.fws.gov/ecp/species/11967</p>	Breeds May 10 to Aug 10
<p>Short-billed Dowitcher <i>Limnodromus griseus</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska. https://ecos.fws.gov/ecp/species/9480</p>	Breeds elsewhere
<p>Willet <i>Tringa semipalmata</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska. https://ecos.fws.gov/ecp/species/10669</p>	Breeds Apr 20 to Aug 5
<p>Wood Thrush <i>Hylocichla mustelina</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska. https://ecos.fws.gov/ecp/species/9431</p>	Breeds May 10 to Aug 31

PROBABILITY OF PRESENCE SUMMARY

The graphs below provide our best understanding of when birds of concern are most likely to be present in your project area. This information can be used to tailor and schedule your project activities to avoid or minimize impacts to birds. Please make sure you read "[Supplemental Information on Migratory Birds and Eagles](#)", specifically the FAQ section titled "Proper Interpretation and Use of Your Migratory Bird Report" before using or attempting to interpret this report.

Probability of Presence (■)

Green bars; the bird's relative probability of presence in the 10km grid cell(s) your project overlaps during that week of the year.

Breeding Season (■)

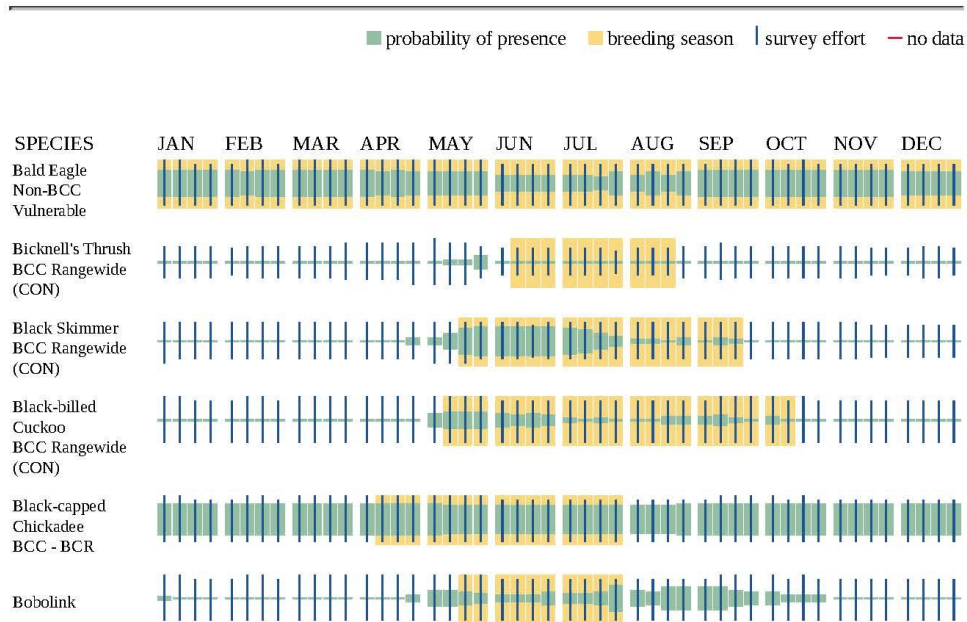
Yellow bars; liberal estimate of the timeframe inside which the bird breeds across its entire range.

Survey Effort (|)

Vertical black lines; the number of surveys performed for that species in the 10km grid cell(s) your project area overlaps.

No Data (—)

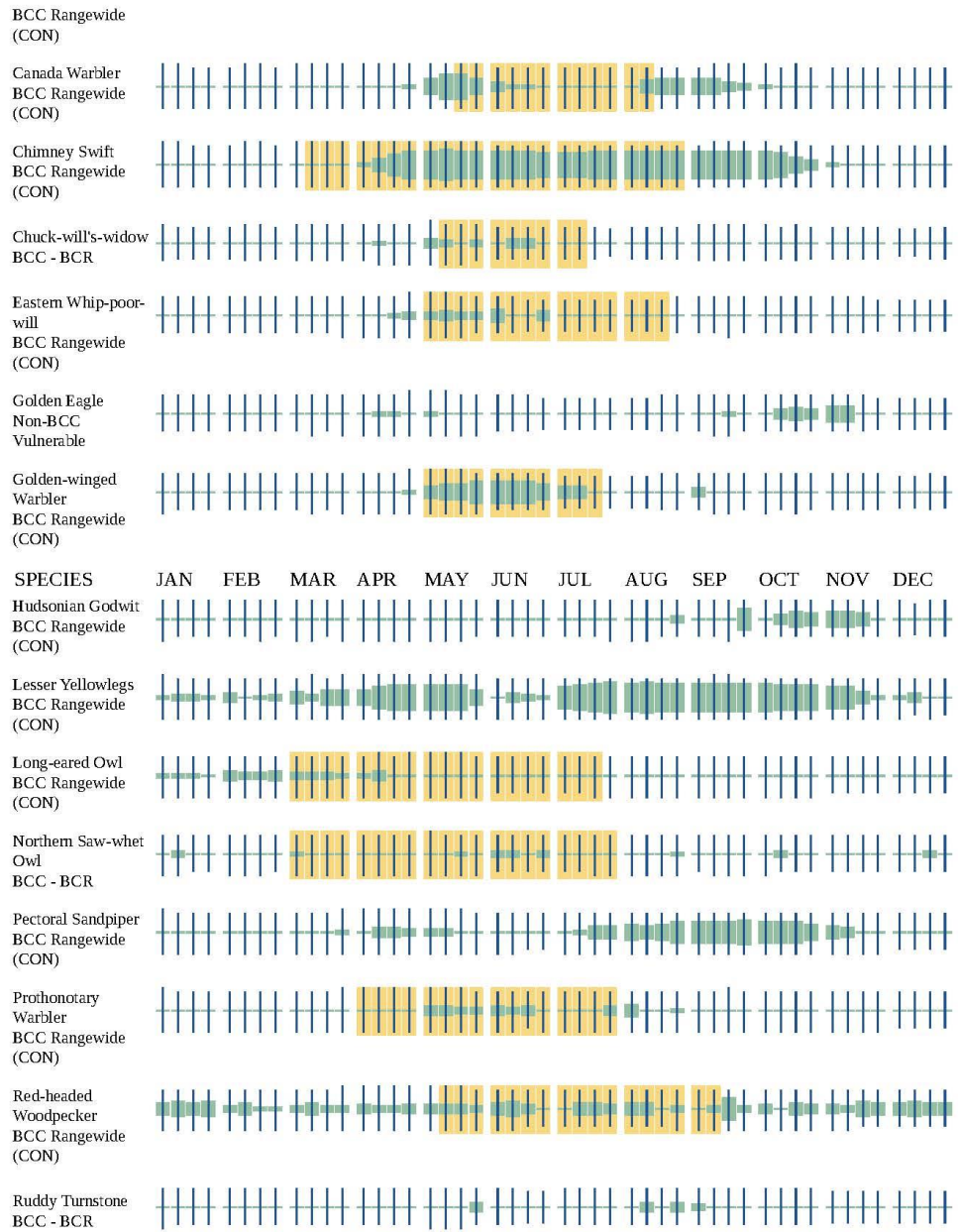
A week is marked as having no data if there were no survey events for that week.

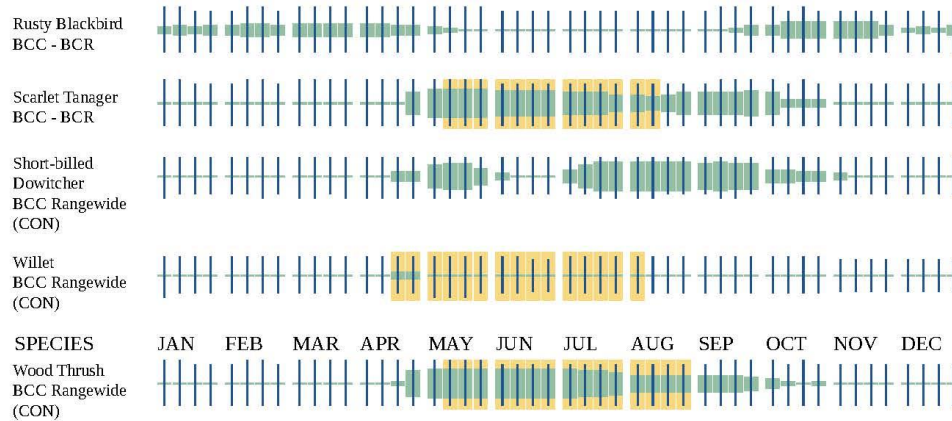


Passaic County
Tropical Storm Ida Recovery

Project code: 2024-0073993

04/08/2024 16:20:11 UTC





Additional information can be found using the following links:

- Eagle Management <https://www.fws.gov/program/eagle-management>
- Measures for avoiding and minimizing impacts to birds <https://www.fws.gov/library/collections/avoiding-and-minimizing-incident-take-migratory-birds>
- Nationwide conservation measures for birds <https://www.fws.gov/sites/default/files/documents/nationwide-standard-conservation-measures.pdf>
- Supplemental Information for Migratory Birds and Eagles in IPaC <https://www.fws.gov/media/supplemental-information-migratory-birds-and-bald-and-golden-eagles-may-occur-project-action>

WETLANDS

Impacts to [NWI wetlands](#) and other aquatic habitats may be subject to regulation under Section 404 of the Clean Water Act, or other State/Federal statutes.

For more information please contact the Regulatory Program of the local [U.S. Army Corps of Engineers District](#).

Please note that the NWI data being shown may be out of date. We are currently working to update our NWI data set. We recommend you verify these results with a site visit to determine the actual extent of wetlands on site.

Due to your project's size, the list below may be incomplete, or the acreages reported may be inaccurate. For a full list, please contact the local U.S. Fish and Wildlife office or visit <https://www.fws.gov/wetlands/data/mapper.HTML>.

- RIVERINE
- R4SBC

- R2UBF
- R4SBCx
- R3UBF
- R5UBH
- R2UBH
- R2UBHx

FRESHWATER FORESTED/SHRUB WETLAND

- PFO4D
- PFO1/4E
- PFO1F
- PFO2/4E
- PFO1D
- PFO1/SS1D
- PSS1/EM1E
- PFO2B
- PFO4A
- PSS1C
- PFO4B
- PFO1C
- PFO4E
- PFO4/1E
- PSS1B
- PSS1A
- PFO4/1D
- PFO4/1B
- PSS1/FO4E
- PSS1D
- PFO1/4B
- PFO1/4C
- PFO1/SS1C
- PFO1/5F
- PFO1/4A
- PFO1/SS1F
- PSS1/EM1C
- PFO1A
- PFO2E

- PSS4/1E
- PFO1/SS1A
- PSS1Ex
- PSS4A
- PSS1/EM1F
- PFO1E
- PFO1/SS1E
- PSS1/4E
- PFO4/1C
- PFO4Eg
- PSS1E
- PFO1/4D
- PSS1/4A
- PSS1F
- PFO1B
- PFO4C
- PSS3E
- PSS4E
- PSS1/EM1A
- PSS1Eh
- PFO1Ed
- PSS1/4C

LAKE

- L1UBH
- L1UBHh

FRESHWATER EMERGENT WETLAND

- PEM1C
- PEM1A
- PEM1B
- PEM1D
- PEM1E
- PEM1/SS1C
- PEM1F
- PEM1Eh

FRESHWATER POND

- PUBH

Project code: 2024-0073993

04/08/2024 16:20:11 UTC

- PUBHh
- PUBHx
- PUBKx

IPAC USER CONTACT INFORMATION

Agency: State of New Jersey
Name: Sharon Wright
Address: 1155 SW Morrison Street Suite 211
City: Portland
State: OR
Zip: 97205
Email: sharon.wright@icf.com
Phone: 5034120413

Figure A6-2: Section 7 ESA Consultation Letter and Response between DCA and USFWS



December 9, 2022

Eric Schradung, Field Supervisor
United States Fish and Wildlife Service
New Jersey Ecological Services
927 North Main Street, Building D
Pleasantville, New Jersey 08232
<http://www.fws.gov/northeast/njfieldoffice>
Tel: (609) 646 – 9310
By email to: NJFO_ProjectReview@fws.gov

Subject: NJ DCA Tier 1 Environmental Assessment Section 7 Consultation

Dear Mr. Schradung,

The New Jersey Department of Community Affairs (DCA) is preparing a Tiered Environmental Review to process applications for long-term recovery and mitigation efforts following Hurricane Ida through Federal U.S. Department of Housing and Urban Development (HUD) Community Development Block Grant – Disaster Recovery (CDBG-DR) funds. CDBG-DR funds will be used to restore storm-damaged homes, including rehabilitation, reconstruction, elevation and/or other mitigation activities (including structural and utility retrofits, grading and slope stabilization, and drainage improvements) from the remnants of Hurricane Ida in 2021. DCA, acting as the Responsible Entity in lieu of HUD, is required under 24 CFR 58.5(e) to evaluate potential impacts not only to any listed endangered or threatened species but also to any proposed endangered or threatened species and critical habitats, as described under Endangered Species Act Section 7.

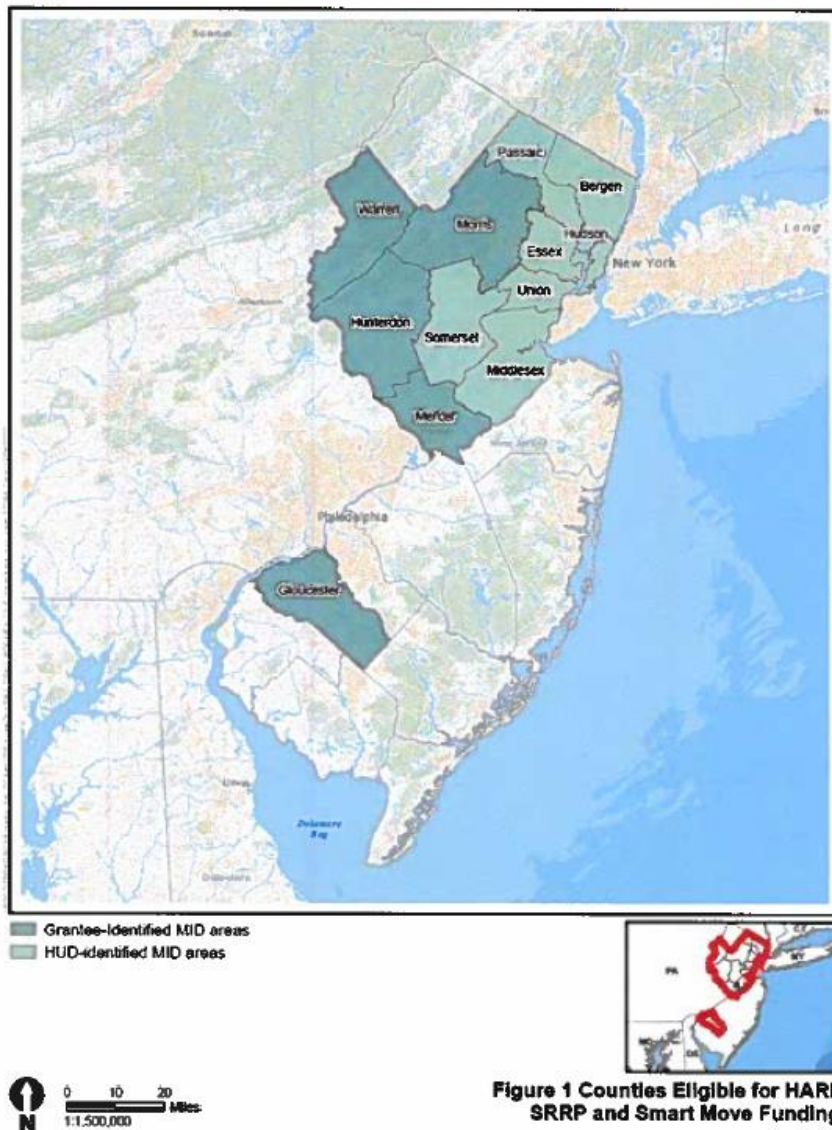
DCA is requesting the United States Fish and Wildlife Service (USFWS) review the following methodology and provide comments and or approval of the proposed process.

DCA has allocated CDBG-DR funds for the Homeowner Assistance and Recovery Program (HARP), the Small Rental Repair Program (SRRP), and Smart Move Program. Provided below is a detailed description of each program:

- **Homeowner Assistance and Recovery Program (HARP)** - Provides grants to eligible homeowners for expenses necessary to restore their storm-damaged homes, such expenses could relate to rehabilitation, reconstruction, elevation, and/or other mitigation activities. These mitigation activities could include, but are not limited to, structural and utility retrofits to make the building more resistant to floods, grading and slope stabilization, and drainage improvements. Eligible structure types include single-family homes, duplexes, triplexes, townhomes, modular homes, manufactured homes, and condominiums.

- **Small Rental Repair Program (SRRP)** - Provides zero interest forgivable loans to owners of rental properties for activities necessary to restore storm-damaged rental housing for low- and moderate-income renters, including rehabilitation, reconstruction, elevation, and/or other mitigation activities. Mitigation activities include, but are not limited to, structural and utility retrofits to make the building more resistant to floods, grading and slope stabilization, and drainage improvements.
- **Smart Move Program** - Subsidizes the new development of quality, energy-efficient, resilient, and affordable single-family housing in lower risk areas within or near disaster-impacted communities that may be participating in Blue Acres buyout programs as well as disaster impacted first-time homebuyers with incomes at or below 120% AMI. The program aims to provide safe housing for relocating residents and new affordable housing in low-risk areas.

The geographic extent of these programs will be 12 counties determined eligible for funding under presidential declaration DR-4614 and identified under New Jersey's Action Plan. Counties include Bergen, Essex, Gloucester, Hudson, Hunterdon, Mercer, Middlesex, Morris, Passaic, Somerset, Union, and Warren (Figure 1).



Through the environmental review procedures and applicable mitigation measures, DCA intends for proposed CDBG-DR funded activities to avoid negative impacts to threatened and endangered species' habitat to the maximum extent practicable. The proposed review procedures describe how DCA will act as the responsible federal entity to oversee and document that the proposed action complies with state and federal regulations.

Since site-specific locations are not known at this time, DCA intends to complete a tiered environmental review, made up of a broad review (Tier 1) and a site-specific review (Tier 2). The first tier will be 12 county-wide environmental reviews, which examine all environmental topics listed in the U.S. HUD regulations for CDGB-DR funding, including 24 CFR 58.5 and 58.6, and National Environmental Policy Act (NEPA). The second tier will require analysis at the site-specific review level. Each site-specific project will be assigned to one of the following activity categories.

- 1) **Rehabilitation:** Repairing (including elevation when required) homes and small rental properties that sustained damage as a result of Hurricane Ida but were not so severely damaged that reconstruction is required. The rehabilitation must result in a housing unit that meets minimum property standards, the State of New Jersey's Uniform Construction Code, and the HUD Office of Community Planning and Development's Green Building Retrofit checklist, when applicable ("Proposed Action 1").
- 2) **Reconstruction within existing footprint:** Construction of a new dwelling on the existing property within 20.0 percent of the original (first-floor) building footprint ("Proposed Action 2").
- 3) **Reconstruction beyond existing footprint:** Construction of a new dwelling on the existing property that exceeds 20.0 percent of the original (first-floor) building footprint ("Proposed Action 3").
- 4) **New Construction:** New construction of single-family homes. The new developments will be built outside the 500-year floodplain and the inland or coastal climate adjusted floodplain, as defined by DEP. The site and housing designs will include additional resilience and energy efficiency construction standards, which will be defined in the program guidelines. ("Proposed Action 4").

Within each site-specific environmental review, the Endangered Species section will provide an analysis and effects determination for federally listed species based on the list of species generated by the USFWS' Information for Planning and Consultation (IPaC) website,¹ state species databases [through NJDEP Endangered and Nongame Species Program (ENSP) and the NJDEP Natural Heritage Program (NHP)], and other available information (e.g., aerial photographs); and if necessary, site visits performed by a qualified biologist to evaluate the conditions, including potential habitat, of the site. The four possible review determinations include:

- **Survey Not Warranted/Had Negative Finding** – IPaC results indicate that federally listed species do not occur nor have potential to occur in or around the site (i.e., IPaC returns no results for threatened and endangered species), or, if IPaC does return results that indicate potential presence of species, the work location displays no evidence that the site would support the species based on available information (e.g., databases, field photographs, aerial photos).
- **No Effect** – the proposed residential construction action does not involve activities that would have the potential to affect threatened or endangered species listed or critical habitat listed on IPaC for the site.

<https://ipac.ecosphere.fws.gov/>

- **Not Likely to Adversely Affect** – the project may affect threatened or endangered species and/or critical habitat listed on IPaC for the site and will be further investigated.
- **Likely to Adversely Affect** – an adverse effect to threatened or endangered species and/or critical habitat listed on IPaC for the site may occur as a direct or indirect result of the proposed action or its connected actions.

If the database review identifies the potential for threatened and endangered species or their suitable habitat to be present that could potentially be affected by the construction activities, a qualified biologist/ecological professional will perform a site visit to definitively assess the potential for threatened and endangered species or their habitat to be affected by the program action.

If the professional biologist/ecologist deems the project would have “No Effect,” this aspect of the review is complete. A memo or letter report will be placed in the file’s Environmental Review Record (ERR) that justifies the finding made from the site visit, including appropriate photographs and maps. It shall be reviewed by DCA for accuracy before acceptance.

If the professional biologist/ecologist deems the project is “Not Likely to Adversely Affect” any protected species or habitat, then Section 7 consultation with the USFWS will be initiated by preparing and sending to the USFWS the memo or letter report that describes the site visit findings, including appropriate photographs and maps. The consultation document will also include any recommendations regarding realistic and appropriate avoidance and minimization actions that could be taken during construction. If the USFWS concurs with the finding, then all communications and any avoidance and minimization actions indicated by USFWS will be entered into the ERR and form part of the requirements for the applicant to receive assistance. The finding shall be reviewed by DCA for accuracy before acceptance.

If after the site visit the professional biologist/ecologist deems the project is “Likely to Adversely Affect” a federally protected T&E species, the applicant’s environmental reviewer will document this finding by preparing a memo or letter report for the ERR that describes the site visit findings, including appropriate photographs and maps. A similar process will be taken if the USFWS and DCA does not concur with a “Not Likely to Adversely Affect” determination after consultation has been initiated with your agency. In either case, the applicant will be notified that the currently proposed location is not eligible for federal funding and consulted to select an alternative viable location. A professional biologist/ecologist will review the new selected site to verify that it is suitable and then transmit this information to the USFWS for their concurrence. If no suitable alternative location is available, DCA may decline to fund the project or may instead initiate formal consultation with the USFWS under Section 7 of the Endangered Species Act per 50 CFR 402. All consultations and findings from this process will be kept in the project’s ERR and will be reviewed by DCA for accuracy before acceptance.

Tree clearing may be required for certain projects. Each Tier 2 site-specific environmental review will state if tree clearing is required for the proposed action and if tree clearing is required for projects for which the Indiana Bat or Northern-long-eared bat are present (per the IPaC report). For these types of projects, NJ DCA will follow the guidance below. The most current guidance on tree removal for the protection of federally listed bats would be implemented and that current guidance indicates:²

- “For projects where IPaC has returned a result of Indiana bat, please indicate whether or not tree clearing is proposed. If tree clearing is proposed, describe the species, size (diameter at breast height), and number (or acres) of trees proposed for removal; and indicate whether

² <https://www.fws.gov/office/new-jersey-ecological-services/new-jersey-field-office-project-review-guide>

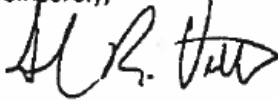
clearing of trees >5 inches in diameter at breast height will be seasonally restricted as follows, making reference to the [Bat Municipality List](#).

- with both hibernation and maternity occurrence: April 1 - November 15.
- In areas of potential occurrence (i.e., all areas returned by IPaC but not on the bat municipality list): April 1 - September 30.
- For projects where IPaC has returned a result of Northern long-eared bat, indicate whether or not the project occurs in a municipality with known hibernacula or maternity roost trees ([Bat Municipality List](#)).
- For projects involving any Federal funding or Federal authorization that may affect the Northern long-eared bat, the Federal action agency must notify the NJFO at least 30 days before starting the action.”

Attached to this email are IPaC reports for the 12 Counties covered in the proposed action of the tiered environmental review. We are aware that the Northern Long-Eared bat will be reclassified from threatened to endangered on January 30, 2023. If the Tier 1 EA is finalized after this date, DCA would include updated IPaC reports which would reflect this change.

Thank you for your assistance with this matter. Please provide your response to Samuel Viavattine via e-mail at Samuel.Viavattine@dca.nj.gov.

Sincerely,



Samuel Viavattine, Deputy Commissioner
New Jersey Department of Community Affairs
PO Box 823
Trenton, NJ 08625



United States Department of the Interior



FISH AND WILDLIFE SERVICE
New Jersey Field Office
4 East Jimmie Leeds
Road, Suite 4 Galloway,
New Jersey 08205 (609)
646-9310

January 13, 2023

Samuel Viavattine, Deputy Commissioner
New Jersey Department of Community Affairs
P.O. Box 823
Trenton, New Jersey 08625
Attn: Judith Burton

Dear Mr. Viavattine:

The New Jersey Department of Community Affairs (DCA) is preparing a Tiered Environmental Review to process applications for long-term recovery and mitigation efforts following Hurricane Ida through Federal U.S. Department of Housing and Urban Development (HUD) Community Development Block Grant - Disaster Recovery (COBG-OR) funds. The COBG-OR funds will be used to restore storm-damaged homes, including rehabilitation, reconstruction, elevation and/or other mitigation activities (including structural and utility retrofits, grading and slope stabilization, and drainage improvements) from the remnants of Hurricane Ida in 2021. The DCA, acting as the Responsible Entity in lieu of HUD, is required under 24 CFR 58.S(e) to evaluate potential impacts not only to any listed endangered or threatened species but also to any proposed endangered or threatened species and critical habitats, pursuant to Section 7 of the Endangered Species Act (87 Stat. 884, as amended; 16 U.S.C. 1531 *et seq.*). The DCA has requested the U.S. Fish and Wildlife Service (Service) review DCA's methodology and provide comments and/or approval of the proposed process.

To streamline review of future site-specific projects, the DCA should refer to the Service's New Jersey Field Office (NJFO) Project Screening Questions (<https://www.fws.gov/media/new-jersey-field-office-project-screening-questions>) to determine if project-specific review is needed. Additionally, projects may be screened for effect determinations through the Service's Information for Planning and Consultation (IPaC, <https://ipac.ecosphere.fws.gov/>) determination keys. Applicable keys include the Northeast Endangered Species Determination Key, currently available for use, and the Northern Long-eared Bat Rangelwide Determination Key, which will be available after January 30, 2023. Projects that reach a determination key result of "no effect" or "may affect, but not likely to adversely affect" will not need further consultation or technical assistance for the applicable species. Projects that reach a determination key result of "You have

reached a preliminary determination of may affect for species covered by this determination key.” should be submitted to the Service for additional review.

Enclosed are instructions for using the Northeast Endangered Species Determination Key and Using a Determination Key (Demo Only) video, to facilitate implementation of the procedures identified above. The Service has also enclosed the New Jersey Municipalities with Hibernation or Maternity Occurrence of Indiana Bat or Northern Long-eared Bat list.

Thank you for your efforts toward the conservation of fish and wildlife resources. Please contact Rebecca Klee at Rebecca_Klee@fws.gov if you have any questions or require further assistance regarding threatened or endangered species.

Sincerely,

ERIC

SCHRADING

Eric Schradung
Field Supervisor

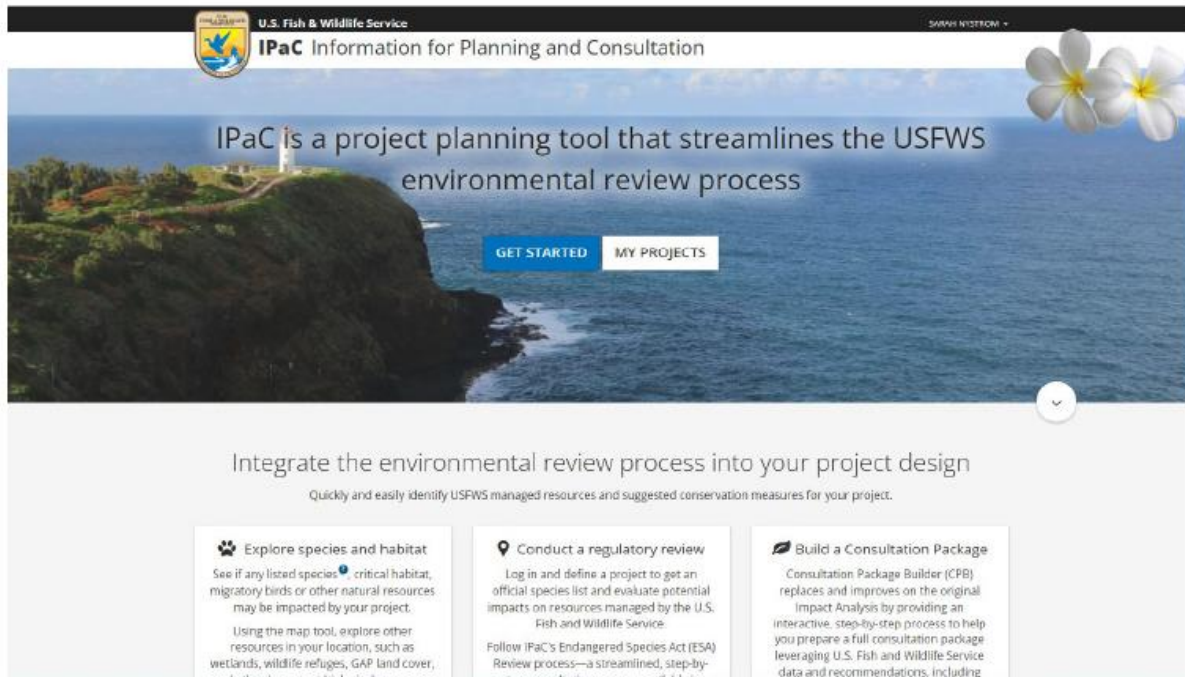
Digitally signed by ERIC
SCHRADING

Date: 2023.01.13
13:25:45 -05'00'

Enclosures

To Use a Determination Key in IPaC.

Navigate to IPaC at <https://ipac.ecosphere.fws.gov/>



Click **Log In** and log in with your login.gov information.

Click on **Get Started** and draw a project in a location where you expect to have northern long-eared bat presence and click continue.

In the What's Next box, click **Define Project**, enter a Project Name and Project Description (optional), click Save.

In the What's Next box, click **Start Review**.

Click **Continue** at the bottom of the page.

Request an Official Species List or skip this step.

Click on Next Step: **Determination Keys**.

On the next page, scroll down to the appropriate determination key.

Step 2: Evaluate determination keys

The U.S. Fish and Wildlife Service has performed up-front analyses for certain project types, agencies, and species. The analyses have been compiled into *determination keys*, a simple interview process to help you arrive at a recommended determination for some species in your project area.

There are 3 determination keys that may apply to your project. Each determination key starts with a qualification interview to see if the key is appropriate for your project.

- FHWA, FRA, FTA Programmatic Consultation for Transportation Projects affecting NLEB or Indiana Bat
Release date: December 1, 2022
The key is intended for projects funded or authorized by FHWA, FRA, or FTA, that may affect the endangered Indiana bat and/or the threatened northern long-eared bat, which requires consultation with the USFWS under Section 7 of the ESA.
- Northeast Endangered Species Determination Key
Release date: December 1, 2022
This key is intended to streamline review of projects for potential effects to federally listed threatened and endangered species and designated critical habitat. This key covers many species in the Northeast Region.
- Northern Long-Eared Bat (NLEB) Consultation and 4(d) Rule Consistency
Release date: November 16, 2022
This key expedites the optional streamlined consultation framework for the NLEB for Federal agencies & provides users who are not with or representing Federal agencies a mechanism to ensure their actions are consistent with the NLEB 4(d) rule.



Click **Evaluate** under the Northeast Endangered Species Determination Key. It's important to ensure that you're evaluating the correct key.

Scroll to the bottom of the description and click **Check if my Project Qualifies**

IpaC will start presenting the questions from the key. As you answer each question, a “**change answer**” box will appear underneath your answer in case you need to modify your answers. If you can apply avoidance and minimization measures that will allow you to avoid impacts to a species, you can modify the project description and return to the key to change your answers. This is appropriate because avoiding impacts is always beneficial to Endangered Species. Otherwise, please answer each questions as accurately as possible depending on the details provided in the project description/ proposed action.

The first questions are applicable to multiple species. We've set the key up to allow you to answer each question once, then apply that answer to additional species within the key. When that happens, text will appear automatically in the key without requiring you to provide individual answers. The key will show which species is being worked on by including an indication that your project has intersected the AOI of the species.

In some places, the key will answer questions automatically for you based on intersecting your project location with information included in the key (e.g., if your project is within 0.5 mile of Indiana bat hibernacula, the key will answer that question for you automatically).

To test questions that intersect the project location with data stored in the key, test the key by drawing different projects in locations that should intersect with known data points.

Once you reach a determination, that information will appear at the bottom of the key. Click **Save and Continue**.

If you're done with project review, click **Generate Consistency/Concurrence Letter**.

The output letter will include the project specific information entered into IPaC, a copy of all of your answers to the key and any other documents uploaded to the key (e.g., survey results). When you generate an output letter, IPaC will submit the letter by email to the appropriate local Field Office and right a record to our project tracking information. If you are a designated representative for a federal agency, IPaC will not submit these records to that agency. Please follow the instructions provided by the federal agency in order to provide key results to them. IPaC will store records associated with this project under the Project Name in the My Projects page. You can access these records in the future. If you need to change any of the answers to your questions, you can delete the current evaluation, re-answer the questions of the key and re-submit the key.

New Jersey Municipalities with Hibernation or Maternity Occurrence of Indiana Bat or Northern Long-eared Bat.

Maternity Time of Year Restriction: April 1 – September 30

Potential Time of Year Restriction: April 1 – September 30

Hibernation Time of Year Restriction: April 1 – November 15

All municipalities returned by IPaC for these bat species but not shown on this list are potential occurrences.

COUNTY	Municipality	Indiana Bat	Northern long-eared Bat
ATLANTIC	Absecon City		Maternity
ATLANTIC	Atlantic City		Maternity
ATLANTIC	Egg Harbor Township		Maternity
ATLANTIC	Galloway Township		Maternity
ATLANTIC	Hamilton Township		Maternity
ATLANTIC	Hammonton Town		Maternity
ATLANTIC	Pleasantville City		Maternity
BERGEN	Fair Lawn Borough		Maternity
BERGEN	Franklin Lakes Borough		Maternity
BERGEN	Glen Rock Borough		Maternity
BERGEN	Mahwah Township		Hibernation/Maternity
BERGEN	Oakland Borough		Hibernation/Maternity
BERGEN	Ridgewood Village		Maternity
BERGEN	Wyckoff Township		Maternity
BURLINGTON	Bass River Township		Maternity
BURLINGTON	Shamong Township		Maternity
BURLINGTON	Tabernacle Township		Maternity
BURLINGTON	Washington Township		Maternity
CAMDEN	Waterford Township		Maternity
ESSEX	Fairfield Township	Hibernation	Maternity
ESSEX	Livingston Township	Maternity	Maternity
ESSEX	Millburn Township	Maternity	
ESSEX	Roseland Borough		Maternity
ESSEX	West Caldwell Township		Maternity
HUNTERDON	Alexandria Township		Hibernation
HUNTERDON	Bethlehem Township		Hibernation
HUNTERDON	Bloomsbury Borough		Hibernation
HUNTERDON	Clinton Town		Hibernation
HUNTERDON	Clinton Township		Hibernation
HUNTERDON	Delaware Township		Maternity
HUNTERDON	East Amwell Township		Maternity
HUNTERDON	Hampton Borough		Hibernation
HUNTERDON	High Bridge Borough		Hibernation
HUNTERDON	Holland Township		Hibernation
HUNTERDON	Lebanon Borough		Hibernation
HUNTERDON	Raritan Township		Hibernation
HUNTERDON	Readington Township		Hibernation
HUNTERDON	Tewksbury Township	Maternity	Hibernation
HUNTERDON	Union Township		Hibernation
HUNTERDON	West Amwell Township		Maternity

Passaic County
Tropical Storm Ida Recovery

MERCER	Ewing Township		Maternity
MERCER	Hopewell Borough		Maternity
MERCER	Hopewell Township		Maternity
MERCER	Lawrence Township		Maternity
MERCER	Princeton Borough		Maternity
MERCER	Princeton Township		Maternity
MIDDLESEX	Dunellen Borough	Maternity	
MIDDLESEX	East Brunswick Township		Maternity
MIDDLESEX	Edison Township		Maternity
MIDDLESEX	Highland Park Borough		Maternity
MIDDLESEX	Middlesex Borough	Maternity	
MIDDLESEX	New Brunswick City		Maternity
MIDDLESEX	North Brunswick Township		Maternity
MIDDLESEX	Piscataway Township		Maternity
MIDDLESEX	South Plainfield Borough		Maternity
MONMOUTH	Colts Neck Township		Maternity
MONMOUTH	Eatontown Borough		Maternity
MONMOUTH	Howell Township		Maternity
MONMOUTH	Ocean Township		Maternity
MONMOUTH	Tinton Falls Borough		Maternity
MORRIS	Boonton Town	Hibernation	Hibernation
MORRIS	Boonton Township	Hibernation/Maternity	Hibernation
MORRIS	Butler Borough	Hibernation	Hibernation/Maternity
MORRIS	Chatham Borough	Maternity	Maternity
MORRIS	Chatham Township	Maternity	Maternity
MORRIS	Chester Township	Hibernation/Maternity	
MORRIS	Denville Township	Hibernation/Maternity	Hibernation/Maternity
MORRIS	Dover Town	Hibernation	Hibernation/Maternity
MORRIS	East Hanover Township	Maternity	Maternity
MORRIS	Florham Park Borough	Maternity	Maternity
MORRIS	Hanover Township	Hibernation/Maternity	Maternity
MORRIS	Harding Township	Maternity	Maternity
MORRIS	Jefferson Township	Maternity	Hibernation/Maternity
MORRIS	Kinnelon Borough	Maternity	Hibernation/Maternity
MORRIS	Lincoln Park Borough	Hibernation	Maternity
MORRIS	Long Hill Township	Maternity	Maternity
MORRIS	Madison Borough	Maternity	Maternity
MORRIS	Mendham Borough	Hibernation/Maternity	Maternity
MORRIS	Mendham Township	Maternity	Maternity
MORRIS	Mine Hill Township	Hibernation	Hibernation/Maternity
MORRIS	Montville Township	Hibernation	Hibernation/Maternity
MORRIS	Morris Plains Borough	Hibernation/Maternity	
MORRIS	Morris Township	Hibernation/Maternity	Maternity
MORRIS	Morristown Town	Hibernation/Maternity	Maternity
MORRIS	Mount Arlington Borough	Hibernation	Hibernation/Maternity
MORRIS	Mount Olive Township	Hibernation	Maternity
MORRIS	Mountain Lakes Borough	Hibernation	Hibernation
MORRIS	Netcong Borough	Hibernation	Maternity
MORRIS	Parsippany-Troy Hills Township	Hibernation/Maternity	Hibernation/Maternity
MORRIS	Pequannock Township	Hibernation	Maternity
MORRIS	Randolph Township	Hibernation	Hibernation/Maternity
MORRIS	Riverdale Borough	Hibernation	Hibernation/Maternity
MORRIS	Rockaway Borough	Hibernation/Maternity	Hibernation/Maternity

Passaic County
Tropical Storm Ida Recovery

MORRIS	Rockaway Township	Hibernation/Maternity	Hibernation/Maternity
MORRIS	Roxbury Township	Hibernation	Hibernation/Maternity
MORRIS	Victory Gardens Borough	Hibernation	Hibernation/Maternity
MORRIS	Washington Township	Maternity	
MORRIS	Wharton Borough	Hibernation	Hibernation/Maternity
OCEAN	Barnegat Township		Maternity
OCEAN	Berkeley Township		Maternity
OCEAN	Island Heights Borough		Maternity
OCEAN	Long Beach Township		Maternity
OCEAN	Ocean Gate Borough		Maternity
OCEAN	South Toms River Borough		Maternity
OCEAN	Stafford Township		Maternity
OCEAN	Toms River Township		Maternity
PASSAIC	Bloomington Borough	Hibernation	Hibernation/Maternity
PASSAIC	Haledon Borough		Maternity
PASSAIC	Hawthorne Borough		Maternity
PASSAIC	North Haledon Borough		Maternity
PASSAIC	Paterson City		Maternity
PASSAIC	Pompton Lakes Borough		Hibernation/Maternity
PASSAIC	Prospect Park Borough		Maternity
PASSAIC	Ringwood Borough		Hibernation/Maternity
PASSAIC	Totowa Borough		Maternity
PASSAIC	Wanaque Borough		Hibernation/Maternity
PASSAIC	Wayne Township		Hibernation/Maternity
PASSAIC	West Milford Township	Hibernation/Maternity	Hibernation/Maternity
PASSAIC	West Paterson Borough		Maternity
SALEM	Pennsville Township		Maternity
SOMERSET	Bedminster Township	Maternity	Maternity
SOMERSET	Bernards Township	Maternity	Maternity
SOMERSET	Bernardsville Borough	Maternity	Maternity
SOMERSET	Far Hills Borough	Maternity	Maternity
SOMERSET	Franklin Township		Hibernation/Maternity
SOMERSET	Green Brook Township	Maternity	
SOMERSET	Hillsborough Township		Maternity
SOMERSET	Manville Borough		Maternity
SOMERSET	Millstone Borough		Maternity
SOMERSET	Montgomery Township		Maternity
SOMERSET	North Plainfield Borough	Maternity	
SOMERSET	Peapack-Gladstone Borough	Maternity	Maternity
SOMERSET	Warren Township	Maternity	
SOMERSET	Watchung Borough	Maternity	
SUSSEX	Andover Township	Maternity	Hibernation
SUSSEX	Byram Township	Hibernation/Maternity	Hibernation/Maternity
SUSSEX	Franklin Borough	Maternity	Hibernation/Maternity
SUSSEX	Hamburg Borough	Maternity	Hibernation
SUSSEX	Hardyston Township	Maternity	Hibernation/Maternity
SUSSEX	Hopatcong Borough	Hibernation	Hibernation/Maternity
SUSSEX	Lafayette Township	Maternity	Hibernation
SUSSEX	Newton Town	Maternity	
SUSSEX	Ogdensburg Borough	Hibernation	Hibernation/Maternity
SUSSEX	Sparta Township	Hibernation/Maternity	Hibernation/Maternity
SUSSEX	Stanhope Borough	Hibernation	Maternity
SUSSEX	Stillwater Township		Maternity

SUSSEX	Sussex Borough	Maternity	Maternity
SUSSEX	Vernon Township	Maternity	Maternity
SUSSEX	Walpack Township		Hibernation/Maternity
SUSSEX	Wantage Township	Maternity	Maternity
UNION	Berkeley Heights Township	Maternity	Maternity
UNION	Mountainside Borough	Maternity	
UNION	New Providence Borough	Maternity	Maternity
UNION	Plainfield City	Maternity	
UNION	Scotch Plains Township	Maternity	
UNION	Springfield Township	Maternity	
UNION	Summit City	Maternity	Maternity
WARREN	Blairstown Township		Hibernation/Maternity
WARREN	Greenwich Township		Hibernation
WARREN	Hardwick Township		Hibernation/Maternity
WARREN	Knowlton Township		Hibernation
WARREN	Pohatcong Township		Hibernation

Sherman, Steven

From: Klee, Rebecca J <rebecca_klee@fws.gov>
Sent: Friday, January 13, 2023 1:38 PM
To: Burton, Judith [DCA]; michael.r.furda@hud.gov
Cc: Smith-Herman, Nicholas [DCA]; Mahon, Donna M; Mackay, Elizabeth [DCA]; Sherman, Steven
Subject: Re: [EXTERNAL] RE: NJ DCA Tier 1 Environmental Assessment Section 7 Consultation - Meeting Request
Attachments: 20230113_DCA_ConsultationProcedures.pdf; Northeast Endangered Species Dkey Instructions .pdf; 2022 bat municipalities table_lbat_Revised.pdf

Hi All,

Following our phone call, I have put together an attached letter documenting the streamlining tools that should be included in the DCA's protocol when screening HUD projects.

To streamline review of future site-specific projects, the DCA should refer to the Service's New Jersey Field Office (NJFO) Project Screening Questions (<https://www.fws.gov/media/new-jersey-field-office-project-screening-questions>) to determine if project-specific review is needed. Additionally, projects may be screened for effect determinations through the Service's Information for Planning and Consultation (IPaC, <https://ipac.ecosphere.fws.gov/>) determination keys. Applicable keys include the Northeast Endangered Species Determination Key, currently available for use, and the Northern Long-eared Bat Rangewide Determination Key, which will be available after January 30, 2023. Projects that reach a determination key result of "no effect" or "may affect, but not likely to adversely affect" will not need further consultation or technical assistance for the applicable species. Projects that reach a determination key result of "You have 2 reached a preliminary determination of may affect for species covered by this determination key." should be submitted to the Service for additional review.

Enclosed are instructions for using the Northeast Endangered Species Determination Key and Using a Determination Key (Demo Only) video (<https://www.youtube.com/watch?v=QkamFZK8EfU>), to facilitate implementation of the procedures identified above. The Service has also enclosed the New Jersey Municipalities with Hibernation or Maternity Occurrence of Indiana Bat or Northern Long-eared Bat list.

Thank you for your efforts toward the conservation of fish and wildlife resources. Please contact Rebecca Klee at Rebecca_Klee@fws.gov if you have any questions or require further assistance regarding threatened or endangered species.

Rebecca Klee
Fish and Wildlife Biologist
New Jersey Ecological Services Field Office
US Fish and Wildlife Service
4 E. Jimmie Leeds Road, Suite 4
Galloway, New Jersey 08205

Office Phone: 609-382- 5625
Cell: 908-930-1878
Email: rebecca_klee@fws.gov
<https://www.fws.gov/office/new-jersey-ecological-services>

From: Klee, Rebecca J <rebecca_klee@fws.gov>
Sent: Wednesday, January 4, 2023 11:24 AM
To: Burton, Judith [DCA] <Judith.Burton@dca.nj.gov>; michael.r.furda@hud.gov <michael.r.furda@hud.gov>
Cc: Smith-Herman, Nicholas [DCA] <Nicholas.Smith-Herman@dca.nj.gov>; Mackay, Elizabeth [DCA] <Elizabeth.Mackay@dca.nj.gov>; Steven.sherman@icf.com <Steven.Sherman@icf.com>
Subject: Re: [EXTERNAL] RE: NJ DCA Tier 1 Environmental Assessment Section 7 Consultation - Meeting Request

Sounds good! I'll send an invite to all.

Rebecca Klee
Fish and Wildlife Biologist
New Jersey Ecological Services Field Office
US Fish and Wildlife Service
4 E. Jimmie Leeds Road, Suite 4
Galloway, New Jersey 08205

Office Phone: 609-382- 5625
Cell: 908-930-1878
Email: rebecca_klee@fws.gov
<https://www.fws.gov/office/new-jersey-ecological-services>

From: Burton, Judith [DCA] <Judith.Burton@dca.nj.gov>
Sent: Wednesday, January 4, 2023 11:22 AM
To: Klee, Rebecca J <rebecca_klee@fws.gov>; michael.r.furda@hud.gov <michael.r.furda@hud.gov>
Cc: Smith-Herman, Nicholas [DCA] <Nicholas.Smith-Herman@dca.nj.gov>; Mackay, Elizabeth [DCA] <Elizabeth.Mackay@dca.nj.gov>; Steven.sherman@icf.com <Steven.Sherman@icf.com>
Subject: [EXTERNAL] RE: NJ DCA Tier 1 Environmental Assessment Section 7 Consultation - Meeting Request

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Hi Rebecca,

We would like to set time to meeting to be Friday, 1/13/2023 at 10:00AM.

Thank you.

Judith Burton, Program Specialist 3
Subrecipient Oversight and Monitoring
Division of Disaster Recovery & Mitigation
NJ Department of Community Affairs
Direct: 609-913-4229
Email: Judith.Burton@dca.nj.gov



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From: Klee, Rebecca J <rebecca_klee@fws.gov>
Sent: Tuesday, January 3, 2023 1:59 PM
To: michael.r.furda@hud.gov
Cc: Diehl, Nancy [DCA] <Nancy.Diehl@dca.nj.gov>; Smith-Herman, Nicholas [DCA] <Nicholas.Smith-Herman@dca.nj.gov>; Burton, Judith [DCA] <Judith.Burton@dca.nj.gov>
Subject: [EXTERNAL] NJ DCA Tier 1 Environmental Assessment Section 7 Consultation - Meeting Request

Hi All,

My name is Rebecca Klee of the New Jersey Field Office. I recently received your request for a NJ DCA Tier 1 Environmental Assessment Section 7 Consultation to work on establishing a streamlined informal consultation process for certain HUD projects. I thought it would be best to have a meeting to discuss next steps. Here is my availability the next 2 weeks:

Thursday 1/5 before 12pm or after 2pm
Friday 1/5 All Day
Monday 1/9 before 3pm
Tuesday 1/10 All day
Wednesday 1/11 after 1pm
Thursday 1/12 All day
Friday 1/13 All Day

Please let me know what works best and I will send a Microsoft Teams Invite. Please let me know who to include on the meeting. Thank you!

Rebecca Klee
Fish and Wildlife Biologist
New Jersey Ecological Services Field Office
US Fish and Wildlife Service
4 E. Jimmie Leeds Road, Suite 4
Galloway, New Jersey 08205

Office Phone: 609-382- 5625
Cell: 908-930-1878
Email: rebecca_klee@fws.gov
<https://www.fws.gov/office/new-jersey-ecological-services>

Figure A6-3: DEP Endangered Species Consultation Request Letter, Response and Email Transmittal



January 20, 2023

NJ Fish and Wildlife – ENSP
John Heilferty, Chief
Mail Code 501-03
P.O. Box 420
Trenton, NJ 08625-0420
Tel: (609) 292-9400

Subject: NJ DCA Tier 1 Environmental Assessment Section 7 Consultation

Dear Mr. Heilferty,

The New Jersey Department of Community Affairs (DCA) is preparing a National Environmental Policy Act (NEPA) Tiered Environmental Review to process applications for long term recovery and mitigation efforts following Tropical Storm Ida. The program is funded through Federal U.S. Department of Housing and Urban Development (HUD) Community Development Block Grant – Disaster Recovery (CDBG-DR) funds. CDBG-DR funds will be used to restore storm-damaged homes, including rehabilitation, reconstruction, elevation and/or other mitigation activities (including structural and utility retrofits, grading and slope stabilization, and drainage improvements) from the remnants of Tropical Storm Ida in 2021. DCA, acting as the Responsible Entity in lieu of HUD, is required under 24 CFR 58.5(e) to evaluate potential impacts not only to any listed endangered or threatened species but also to any proposed endangered or threatened species and critical habitats, as described under Endangered Species Act (ESA) Section 7.

DCA has initiated consultation with the United States Fish and Wildlife Service (USFWS) and provided a proposed methodology to demonstrate compliance with Section 7. DCA requested that USFWS provide comments on, or approval of, the proposed process. The USFWS requested a meeting in response to the consultation request, and a call was held on Friday, January 13, 2023, with USFWS, HUD, and DCA representatives. The proposed approach was updated based on feedback provided by the USFWS and incorporates their recommended tools and resources. USFWS provided a letter with comments on the proposed approach on January 13, 2023 (**Attachment 1**).

Program Background

DCA has allocated CDBG-DR funds for the Homeowner Assistance and Recovery Program (HARP), the Small Rental Repair Program (SRRP), and Smart Move Program. Provided below is a detailed description of each program:

- **Homeowner Assistance and Recovery Program (HARP)** - Provides grants to eligible homeowners for expenses necessary to restore their storm-damaged homes, such expenses could relate to rehabilitation, reconstruction, elevation, and/or other mitigation activities. These mitigation activities could include, but are not limited to, structural and utility retrofits to make the building more resistant to floods, grading and slope stabilization, and drainage improvements. Eligible structure types include single-family homes, duplexes, triplexes, townhomes, modular homes, manufactured homes, and condominiums. Only costs incurred after an award would be eligible.
- **Small Rental Repair Program (SRRP)** - Provides zero interest forgivable loans to owners of rental properties for activities necessary to restore storm-damaged rental housing for low- and moderate-income renters, including rehabilitation, reconstruction, elevation, and/or other mitigation activities. Mitigation activities include, but are not limited to, structural and utility retrofits to make the building more resistant to floods, grading and slope stabilization, and drainage improvements.
- **Smart Move Program** - Subsidizes the new development of quality, energy-efficient, resilient, and affordable single-family housing in lower risk areas within or near disaster-impacted communities that may be participating in Blue Acres buyout programs as well as disaster impacted first-time homebuyers with incomes at or below 120% AMI. The program aims to provide safe housing for relocating residents and new affordable housing in low-risk areas.

The geographic extent of these programs will be the 12 counties determined eligible for funding under presidential declaration DR-4614 and identified under New Jersey's Ida Recovery Action Plan, located on the DCA website: <https://www.nj.gov/dca/ddrm/home/idaactionplan.shtml>. Counties include Bergen, Essex, Gloucester, Hudson, Hunterdon, Mercer, Middlesex, Morris, Passaic, Somerset, Union, and Warren (**Attachment 2**).

Proposed Review Process

Through the environmental review procedures and applicable mitigation measures, DCA intends for proposed CDBG-DR funded activities to avoid negative impacts to threatened and endangered species' habitat to the maximum extent practicable. The proposed review procedures describe how DCA will act as the responsible federal entity to oversee and document that the proposed action complies with state and federal regulations.

Because site-specific locations are not known at this time, DCA intends to complete a tiered environmental review, made up of a broad review (Tier 1) and a site-specific review (Tier 2). The first tier will be 12 county-wide environmental reviews, which examine all environmental topics listed in the U.S. HUD regulations for CDGB-DR funding, including 24 CFR 58.5 and 58.6, and NEPA. The second tier will require analysis at the site-specific review level. Each site-specific project will be assigned to one of the following activity categories.

- 1) **Rehabilitation:** Repairing (possibly including elevating) homes and small rental properties that sustained damage as a result of Tropical Storm Ida but were not so severely damaged that reconstruction is required. The rehabilitation must result in a housing unit that meets minimum property standards, the State of New Jersey's Uniform Construction Code, and the HUD Office of Community Planning and Development's Green Building Retrofit checklist, when applicable ("Proposed Action 1").

- 2) **Reconstruction within existing footprint:** Construction of a new dwelling on the existing property within 20.0 percent of the original (first floor) building footprint (“Proposed Action 2”).
- 3) **Reconstruction beyond existing footprint:** Construction of a new dwelling on the existing property that exceeds 20.0 percent of the original (first floor) building footprint (“Proposed Action 3”).
- 4) **New Construction:** New construction of single-family homes. The new developments will be built outside the 500-year floodplain and the inland or coastal climate adjusted floodplain, as defined by DEP. The site and housing designs will include additional resilience and energy efficiency construction standards, which will be defined in the program guidelines. (“Proposed Action 4”).

Within each site-specific environmental review, the Endangered Species section will provide an analysis and effects determination for federally listed species based on the list of species generated by the USFWS’s Information for Planning and Consultation (IPaC) website, state species databases [through NJDEP Landscape Viewer and the NJDEP Natural Heritage Program (NHP)], and other available information (e.g., aerial photographs). If the IPaC report indicates the potential presence of a listed endangered or threatened species and/or critical habitat within the property of the proposed action, DCA will utilize the USFWS New Jersey Field Office (NJFO) Project Screening Questions and/or the USFWS IPaC determination keys. Based upon the IPaC review and other databases and resources (i.e. NJFO Screening Questions), DCA will propose an effect determination. The four possible review determinations include:

- **Survey Not Warranted/Had Negative Finding** – IPaC and other database results indicate that federally listed species do not occur nor have potential to occur in or around the site (i.e., IPaC returns no results for threatened and endangered species), or, if IPaC does return results that indicate potential presence of species, the work location displays no evidence that the site would support the species based on available information (e.g., databases, field photographs, aerial photos).
- **No Effect** – the proposed residential construction action does not involve activities that would have the potential to affect threatened or endangered species or critical habitat listed on IPaC and other databases for the site.
- **Not Likely to Adversely Affect** – the project may affect threatened or endangered species and/or critical habitat listed on IPaC and other databases for the site and will be further investigated.
- **Likely to Adversely Affect** – an adverse effect to threatened or endangered species and/or critical habitat listed on IPaC and other databases for the site may occur as a direct or indirect result of the proposed action or its connected actions.

If the database review identifies the potential for federally threatened and endangered species or their suitable habitat to be present that could potentially be affected by the construction activities, DCA will submit the project to USFWS for additional review.

Tree clearing may be required for certain projects. Each Tier 2 site-specific environmental review will state if tree clearing is required for the proposed action and if tree clearing is required for projects for which the Indiana Bat or Northern-long-eared bat are present (per the IPaC report). For these types of

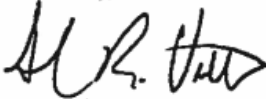
projects, NJ DCA will follow the guidance below. The most current guidance on tree removal for the protection of federally listed bats would be implemented and that current guidance indicates:¹

- For projects where IPaC indicates the presence of the Indiana bat, please indicate whether or not tree clearing is proposed. If tree clearing is proposed, describe the species, size (diameter at breast height), and number (or acres) of trees proposed for removal; and indicate whether clearing of trees >5 inches in diameter at breast height will be seasonally restricted as follows, making reference to the [Bat Municipality List](#).
 - In municipalities with hibernation occurrence: April 1 - November 15.
 - In municipalities with maternity occurrence: April 1 - September 30.
 - In municipalities with both hibernation and maternity occurrence: April 1 - November 15.
 - In areas of potential occurrence (i.e., all areas returned by IPaC but not on the bat municipality list): April 1 - September 30.
- For projects where IPaC has returned a result for the Northern long-eared bat, indicate whether or not the project occurs in a municipality with known hibernacula or maternity roost trees ([Bat Municipality List](#)).
- For projects involving any federal funding or federal authorization that may affect the Northern long-eared bat, the federal action agency must notify the NJ USFWS Field Office at least 30 days before starting the action.

Attachment 3 includes IPaC reports for the 12 Counties covered in the proposed action of the tiered environmental review. We are aware that the Northern Long-Eared bat will be reclassified from threatened to endangered on January 30, 2023. If the Tier 1 EA is finalized after this date, DCA would include updated IPaC reports which would reflect this change.

Thank you for your assistance with this matter. Please provide your response to Samuel Viavattine via e-mail at Samuel.Viavattine@dca.nj.gov.

Sincerely,



Samuel Viavattine, Deputy Commissioner
New Jersey Department of Community Affairs
PO Box 823
Trenton, NJ 08625

Attachment 1: USFWS Response Letter

Attachment 2: Project Location Map

Attachment 3: IPaC Reports

Greene, Robert

From: Greene, Robert
Sent: Friday, January 20, 2023 5:14 PM
To: Pepe, David [DEP]
Cc: Burton, Judith [DCA]; Mackay, Elizabeth [DCA]; Leager, Leslie; Sherman, Steven; Nolan, Katherine [DEP]
Subject: RE: NJ DCA Hurricane Ida Tier 1 EAs
Attachments: NJDEP ENSP Letter.pdf

Hi David,

Attached please find the signed letter for ENSP review.

Have a great weekend!
Rob

From: Greene, Robert
Sent: Thursday, January 19, 2023 4:00 PM
To: Pepe, David [DEP] <David.Pepe@dep.nj.gov>
Cc: Burton, Judith [DCA] <Judith.Burton@dca.nj.gov>; Mackay, Elizabeth [DCA] <Elizabeth.Mackay@dca.nj.gov>; Leager, Leslie <Leslie.Leager@icf.com>; Sherman, Steven <Steven.Sherman@icf.com>; Nolan, Katherine [DEP] <Katherine.Nolan@dep.nj.gov>
Subject: RE: NJ DCA Hurricane Ida Tier 1 EAs

Hi David,

Signed letters for Contamination and Toxic Substances and Air Quality are attached. We have one more letter that we will be sending for ENSP review in the next week or two after incorporating USFWS feedback.

Thanks again for your help coordinating everything.
Rob

From: Pepe, David [DEP] <David.Pepe@dep.nj.gov>
Sent: Wednesday, January 4, 2023 8:38 AM
To: Sherman, Steven <Steven.Sherman@icf.com>; Nolan, Katherine [DEP] <Katherine.Nolan@dep.nj.gov>
Cc: Burton, Judith [DCA] <Judith.Burton@dca.nj.gov>; Mackay, Elizabeth [DCA] <Elizabeth.Mackay@dca.nj.gov>; Greene, Robert <Robert.Greene@icf.com>; Leager, Leslie <Leslie.Leager@icf.com>
Subject: RE: NJ DCA Hurricane Ida Tier 1 EAs

Hi Steve - you can send them to me and I will make sure the proper programs review.

Thank you,
David Pepe, P.G. , Director
New Jersey Department of Environmental Protection
Office of Permitting & Project Navigation
Office Phone (609) 292-3600
Direct Phone (609) 984-4515
Fax (609) 292-1921

Email: david.pepe@dep.nj.gov

Website: <http://www.nj.gov/dep/pcer/>



**NEW JERSEY
DEPARTMENT OF
ENVIRONMENTAL
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From: Sherman, Steven <Steven.Sherman@icf.com>
Sent: Wednesday, January 4, 2023 8:23 AM
To: Pepe, David [DEP] <David.Pepe@dep.nj.gov>; Nolan, Katherine [DEP] <Katherine.Nolan@dep.nj.gov>
Cc: Burton, Judith [DCA] <Judith.Burton@dca.nj.gov>; Mackay, Elizabeth [DCA] <Elizabeth.Mackay@dca.nj.gov>; Greene, Robert <Robert.Greene@icf.com>; Leager, Leslie <Leslie.Leager@icf.com>
Subject: [EXTERNAL] RE: NJ DCA Hurricane Ida Tier 1 EAs

Good Morning,

Hope you had a nice holiday. I just wanted to follow up on the request below. For HUD-funded CDBG-DR Tier 1 (county-wide) environmental assessments, should we send consultation letters regarding Air Quality, Endangered Species and Contamination and Toxic Substances to the Office of Permitting and Project Navigation or to the relevant NJDEP divisions (i.e.. Division of Air Quality)?

Thank you,
Steven

From: Sherman, Steven
Sent: Wednesday, December 28, 2022 10:03 AM
To: David.Pepe@dep.nj.gov; Katherine.Nolan@dep.nj.gov
Cc: Burton, Judith <Judith.Burton@dca.nj.gov>; Mackay, Elizabeth [DCA] <Elizabeth.Mackay@dca.nj.gov>; Greene, Robert <Robert.Greene@icf.com>; Leager, Leslie <Leslie.Leager@icf.com>
Subject: NJ DCA Hurricane Ida Tier 1 EAs

Good Morning,

ICF is supporting DCA in drafting 12 county-wide Tier 1 HUD Community Development Block Grant-Disaster Recovery Environmental Assessments (EAs). The Tier 1 EAs will analyze the proposed program actions of providing housing assistance for properties that were impacted from Hurricane Ida or areas located within or near disaster-impacted communities. These actions include activities necessary to restore homeowners/landlords' storm-damaged homes, including rehabilitation, reconstruction, elevation and/or other mitigation activities. While the Tier 1 EAs will be a broad county-wide review of environmental impacts, the subsequent Tier 2s will be site-specific reviews of reconstruction, rehabilitation or new construction of housing structures.

In developing the Tier 1 EAs, we wanted to confirm the proposed approach and obtain guidance on a few environmental resource sections. Provided below are those resources along with some additional details of which we are requesting information. Where applicable, we are modeling the approaches based on the NJ Sandy Recovery Program.

- **Air Quality:**
 - Confirmation of the proposed Broad County Tier 1 and Site-Specific Tier 2 approach
- **Endangered Species**
 - Confirmation of the proposed Broad County Tier 1 and Site-Specific Tier 2 approach
 - Guidance on incorporating state listed species and critical habitat in environmental reviews
 - Guidance on required state permits and/or mitigation measures
- **Contamination and Toxic Substances**
 - Confirmation of the proposed Broad County Tier 1 and Site-Specific Tier 2 approach
 - Confirmation of search radius/clearance requirements for toxic sites (ex: superfund, brownfield, RCRA...)
 - Guidance on required state listed sites to analyze within range of the proposed action

While we do not anticipate that permits will be required for the Broad County-wide Tier 1 EAs, there may be some permits for the subsequent site-specific Tier 2 environmental reviews of mostly single-family structures. Do you know which points of contact I should reach out to at DEP for the above resources categories? We will be sending along a letter and email to the appropriate points of contact which detail the proposed action (for Tier 1s and Tier 2s) along with the proposed approaches.

Thanks,
Steve



Steven Sherman | Senior Environmental Planner, Environment & Planning | steven.sherman@icf.com | icf.com +1.215.359.7856 mobile

Threatened and Endangered Species HUD CDBG Methodology

Superstorm Sandy Recovery Roles and Methodology

- **NJDEP:** NJDEP is responsible for fulfilling HUD’s federal consultation obligations under the ESA. It is authorized to conduct all informal and formal consultation activities with the USFWS and NMFS, as applicable. NJDEP is also the agency responsible for state-listed threatened and endangered species.
- **ENSP:** ENSP is the NJDEP division that has oversight of the state’s endangered and threatened wildlife. ENSP has also been delegated the responsibility to consult with USFWS on behalf of NJDEP.
- **DPF:** DPF is the NJDEP division that has oversight of state threatened and endangered plants on the State Endangered Plant list.

T&E Species Consultation Procedures

Determination Scenario	Finding / Who Determines	Consultation Needed? / Which Agency
Federally Listed Animal	No Effect / Contractor determines using DEP screening tool (species and Centroids layers) and does <u>not</u> have to consult with ENSP or USFWS.	No / Consultation with ENSP or USFWS is not required.
Federally Listed Animal	May Affect / Contractor determines using DEP screening tool (species and Centroids layers) and then must consult with ENSP for verification.	Yes / ENSP reviews material provided by Contractor to determine if “May Affect” finding is accurate. If not, a No Effect determination is made and no further consultation required. If yes, ENSP must consult with USFWS.
Federally Listed Animal	May Affect, Not Likely to Adversely Affect / ENSP determines during consultation with Contractor (from EAF-provided materials)	Yes / If ENSP determines project May Affect, Not Likely to Adversely Affect, ENSP must seek concurrence with USFWS.
Federally Listed Animal	May Affect, Likely to Adversely Affect / ENSP determines during consultation with Contractor (from Contractor materials)	Yes / If ENSP determines May Affect, Likely to Adversely Affect, ENSP must enter formal consultation with USFWS.
State Listed Animal	State Listed Animal IS Present in Project Area AND DLUR Permit IS Needed / Contractor determines using DEP screening tool (state species category on Centroids layer) & based on DLUR permit requirement.	No / Consultation with ENSP is not needed under this scenario. Any mitigation will be outcome of permit DLUR permit process. EA/CEST must be conditioned on satisfying mitigation through permitting process.

Determination Scenario	Finding / Who Determines	Consultation Needed? / Which Agency
State Listed Animal	State Listed Animal IS Present in Project Area AND DLUR Permit NOT Needed / Contractor determines using DEP screening tool (state species category on Centroids layers) and based on DLUR permit requirement.	Yes / Contractor must consult with ENSP on any required mitigation.
Federally Listed Plant	No Effect / Contractor determines based on no plants being present in project area from results of the NHP Database search AND the USFWS IPaC landscape explorer tool.	No / Consultation not needed with NJDEP or USFWS for this scenario.
Federally Listed Plant	May Affect / Contractor determines using a positive hit result for plant(s) from the NHP Database search and/or, as needed, the USFWS IPaC landscape explorer tool.	Yes / Contractor must first determine whether to complete a biological assessment or evaluation; then, once biological review completed, must determine type of May Affect category; then informs NJDEP Division of Parks and Forestry (DPF) of May Affect finding; then, must consult with USFWS on behalf of NJDEP.
Federally Listed Plant	May Affect, Not Likely to Adversely Affect / Contractor determines using a positive hit result for plant(s) from the NHP Database search and/or, as needed, the USFWS IPaC landscape explorer tool, and the results of the biological assessment or evaluation.	Yes / Contractor, on behalf of DPF, must seek concurrence with USFWS.
Federally Listed Plant	May Affect, Likely to Adversely Affect / Contractor determines using a positive hit result for plant(s) from the NHP Database search and/or, as needed, the USFWS IPaC landscape explorer tool, and the results of the biological assessment or evaluation.	Yes / Contractor, on behalf of DPF, must undertake formal consultation with USFWS. DPF will coordinate gathering of additional needed information and facilitate EAF and USFWS discussions concerning acceptable mitigation.
State Listed Plant	State Listed Plant IS Present in Project Area / Contractor determines from the NHP Database search results.	Yes / If Contractor can't make a clear case for a No Effect determination, based on site inspection for state plant habitat, they must consult with DPF and mitigation measures will be determined by DPF ONLY during project wetland permitting process.

Tropical Storm Ida Proposed Roles and Methodology

- **NJDEP:** NJDEP is the agency responsible for state-listed threatened and endangered species.
- **ENSP:** ENSP is the NJDEP division that has oversight of the state’s endangered and threatened wildlife. Consultation requests for state-listed T&E animal species would be sent to ENSP for Tropical Storm Ida.
- **DPF:** DPF is the NJDEP division that has oversight of state threatened and endangered plants on the State Endangered Plant list. Consultation requests for state-listed T&E plant species would be sent to DPF for Tropical Storm Ida.

T&E Species Consultation Procedures

Determination Scenario	Finding / Who Determines	Consultation Needed? / Which Agency
State Listed Animal	State Listed Animal IS Present in Project Area AND DLUR Permit is Needed / Contractor determines using DEP screening tool (NJ Landscape Project) & based on DLUR permit requirement.	No / Consultation with ENSP is not needed under this scenario. Any mitigation will be outcome of DLUR permit process. EA/CEST must be conditioned on satisfying mitigation through permitting process.
State Listed Animal	State Listed Animal IS Present in Project Area AND DLUR Permit NOT Needed / Contractor determines using DEP screening tool (NJ Landscape Project) and based on DLUR permit requirement.	Yes, / If Contractor can’t make a clear case for a <i>No Effect</i> determination based on site inspection they must consult with ENSP on any required mitigation.
State Listed Plant ¹	State Listed Plant IS Present in Project Area / Contractor determines from the NHP Database search results.	Yes / If Contractor can’t make a clear case for a No Effect determination based on site inspection for state plant habitat they must consult with DPF and mitigation measures will be determined by DPF ONLY during project wetland permitting process.

Passaic County
Tropical Storm Ida Recovery

From: [Nolan, Katherine \[DEP\]](#)
To: [Burton, Judith \[DCA\]](#); [Locke, Hannah \[DEP\]](#)
CC: [Mackay, Elizabeth \[DCA\]](#); [Leager, Leslie](#); [Sherman, Steven](#); [Pepe, David \[DEP\]](#); [Greene, Robert](#); [Davis, Kelly \[DEP\]](#)
Subject: RE: NJ DCA Hurricane Ida Tier 1 EAs
Date: Thursday, March 9, 2023 8:28:13 AM
Attachments: [image001.png](#)
[image003.png](#)
[image004.png](#)
[ENSP proposed method for DCA - 1 final.docx](#)

Good Morning Judith,

Please see the attached outline provided by NJDEP Fish and Wildlife.

If you have any questions or need anything else, please let me know.

Sincerely,

Katie Nolan

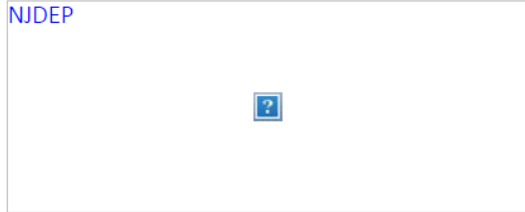
Environmental Specialist 3

[Office of Permitting and Project Navigation](#)

401 E. State St. | P.O. Box 420 | Trenton, N.J. 08625

Direct: (609) 984-6506 | Office: (609) 292-3600 | Fax: (609) 633-1196

NJDEP



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Tropical Storm Ida Proposed Roles and Methodology

NJ Department of Environmental Protection: NJDEP is the agency responsible for protecting environmental quality and public health, and creating vibrant, sustainable communities.

Division of Land Resource Protection: DLUR is the agency responsible for regulating land use activities through a permit process in accordance with the rules & regulations of NJ.

NJ Fish & Wildlife - Endangered & Non-game Species Program: NJFW is the agency dedicated to the protection, management and wise use of New Jersey’s fish and wildlife resources. ENSP is the NJFW Bureau that has oversight of the state’s endangered and threatened wildlife. Consultation requests for state-listed T&E animal species would be sent to ENSP for Tropical Storm Ida.

NJ Division of Parks & Forestry: DPF is the NJDEP division that has oversight of state threatened and endangered plants on the State Endangered Plant list. Consultation requests for state-listed T&E plant species would be sent to DPF for Tropical Storm Ida.

New Jersey Department of Community Affairs: DCA is the Department responsible for completing a tiered environmental review, made up of a broad review (Tier 1) and a site-specific review (Tier 2).

T&E Species Consultation Procedures

Determination Scenario	Finding / Who Determines	Consultation Needed? / Which Agency
State Listed Animal	State Listed Animal Habitat IS Present in Project Area AND DLUR Permit is Needed / DCA determines using DEP screening tool (NJ Landscape Project) & based on DLUR permit requirement	No / Consultation with ENSP is not needed under this scenario. Any mitigation will be outcome of DLUR permit process. EA/CEST must be conditioned on satisfying mitigation through permitting process.
State Listed Animal	State Listed Animal Habitat IS Present in Project Area AND DLUR Permit is NOT Needed / DCA determines using DEP screening tool (NJ Landscape Project).	Yes / If DCA can't make a clear case for " No Effect " (no impact to listed species habitat) determination based on site inspection, they must consult with ENSP on any required mitigation
State Listed Plant	State Listed Plant IS Present in Project Area / DCA determines using NHP Database search results	Yes / If DCA can't make a clear case for " No Effect " determination based on site inspection, they must consult with ENSP on any required mitigation

Attachment A-7: Explosive and Flammable Hazard

24 CFR 51(c)

HUD-listed flammable/explosive substance containers are located within Passaic County.

Source(s)

Not applicable for Tier 1 EA.

Agencies/Regulations Consulted During Broad Review

- HUD

Supporting Documentation

- Figure A7-1: Correspondence with HUD Office of Environment and Energy

Environmental Finding

Compliance with Explosive and Flammable Hazard requirements has been achieved through the Tier 1 Broad review since proposed project activities will not result in an increase in residential density which would require a site-specific review to identify explosive and flammable hazards located within one-mile of the project site. Evaluation at a site-specific level is not required.

Figure A7-1: Correspondence with HUD Office of Environment and Energy

From: Schopp, Danielle L [<mailto:Danielle.L.Schopp@hud.gov>]
Sent: Monday, March 18, 2013 12:32 PM
To: Sullivan, Neil
Cc: Potter, James M; Rivera, Nelson A; Furda, Michael R; Fretwell, Therese J; Sanders, Jerimiah J
Subject: RE: Noise and above ground storage tanks - New Jersey

Neil,

As discussed, noise is not applicable for a disaster recovery program including reconstruction and rehabilitation that meets the requirement at 24 CFR 51.101(a)(3).

In addition, ASD requirements do not apply because the definition for HUD assisted projects at 24 CFR Part 51.201 is predicated on whether the HUD project increases the number of people exposed to hazardous operations; therefore, the environmental review for grants to elevate, rehabilitate, or reconstruct housing that existed prior to the disaster where the number of dwelling units is not increased is not required to apply 24 CFR Part 51 Subpart C.

Mike Furda, as the FEO for New Jersey, is available for questions, follow up or additional guidance.

Thanks,
Danielle

Danielle Schopp, JD, MPA
Director, Office of Environment and Energy
Department of Housing and Urban Development
451 7th Street SW, Room 7250
Washington, DC 20410

phone (202) 402-4442
fax (202) 708-3363
<http://portal.hud.gov/portal/page/portal/HUD/topics/environment>



Please consider the environment before printing this e-mail

From: Sullivan, Neil [<mailto:Neil.Sullivan@icfi.com>]
Sent: Monday, March 18, 2013 10:26 AM
To: Schopp, Danielle L
Subject: Noise and above ground storage tanks - New Jersey

Danielle,

Just to follow up on our call on Thursday, NJ DEP requested that I e-mail you and confirm that there is no need to conduct a noise analysis for rehab and reconstruction projects (as defined by HUD) for 1-4 unit homes (the subject of NJ's first Tier 1 EA). Your comment that the analysis is unnecessary is based on the citation below at 24 CFR Part 51.101(a)(3). Can you please confirm that NJ can just cite the highlighted text below and avoid doing noise and AST analysis for both rehab and reconstruction projects?

Thanks
Neil

24 CFR Part 51.101(a)(3)

HUD support for new construction. HUD assistance for the construction of new noise sensitive uses is prohibited generally for projects with unacceptable noise exposures and is discouraged for projects with normally unacceptable noise exposure. (Standards of acceptability are contained in § 51.103(c).) This policy applies to all HUD programs providing assistance, subsidy or insurance for housing, manufactured home parks, nursing homes, hospitals, and all programs providing assistance or insurance for land development, redevelopment or any other provision of facilities and services which are directed to making land available for housing or noise sensitive development. The policy does not apply to research demonstration projects which do not result in new construction or reconstruction, flood insurance, interstate land sales registration, or any action or emergency assistance under disaster assistance provisions or appropriations which are provided to save lives, protect property, protect public health and safety, remove debris and wreckage, or assistance that has the effect of restoring facilities substantially as they existed prior to the disaster.

NEIL SULLIVAN | Senior Manager | 703.218.2533 (o) | Neil.Sullivan@icfi.com | icfi.com
ICF INTERNATIONAL | 9300 Lee Highway, Fairfax, VA 22031 | 703.975.8853 (m)

Attachment A-8: Farmland Protection

Farmland Protection Policy Act of 1981 (FPPA), particularly sections 1504(b) and 1541; 7 CFR 658

Table A8-1: Acres of Protected Farmland – Passaic County

Category	Acres in Passaic County
All areas are prime farmland	2,797
Farmland of local importance	4
Farmland of statewide importance	1,679
Farmland of unique importance	1,856
Subtotal protected farmland	6,336
Not prime farmland	119,838
Total	126,174

Table A8-2: Farmland Protection Sources

Agency	Internet link	Accessed Date	Dataset Date
U.S. Department of Agriculture	https://websoilsurvey.sc.egov.usda.gov/App/WebSoilSurvey.aspx	11/17/2022	11/8/2022
U.S. Department of Agriculture	https://nrcs.app.box.com/v/soils/folder/180112652169	11/17/2022	11/8/2022

Agencies/Regulations Consulted During Broad Review

- U.S. Department of Agriculture (USDA)

Supporting Documentation

- Not applicable

ENVIRONMENTAL FINDING: Compliance with Farmland Protection requirements has been achieved through the Tier 1 Broad review since proposed project activities will not result new construction or in-ground disturbance on land that was not previously disturbed or used for residential purposes. There is no potential to affect protected farmland. Evaluation at a site-specific level is not required.

Attachment A-9: Floodplain Management

EO 11988, particularly section 2(a); 24 CFR 55.

Table A9-1: Flood Zone Acres – Passaic County

Zone Designation	Acres in Passaic County
A	3,051
AE	12,611
AH	10
AO	29
Subtotal FEMA Special Flood Zone Hazard Areas	15,701
X	110,065
Total	125,766

Table A9-2: Floodplain Management Sources:

Agency	Internet Link	Accessed Date	Dataset Date
FEMA	https://msc.fema.gov/portal/home	1/02/2024	3/04/2021

Agencies/Regulations Consulted During Broad Review

- FEMA
- DEP

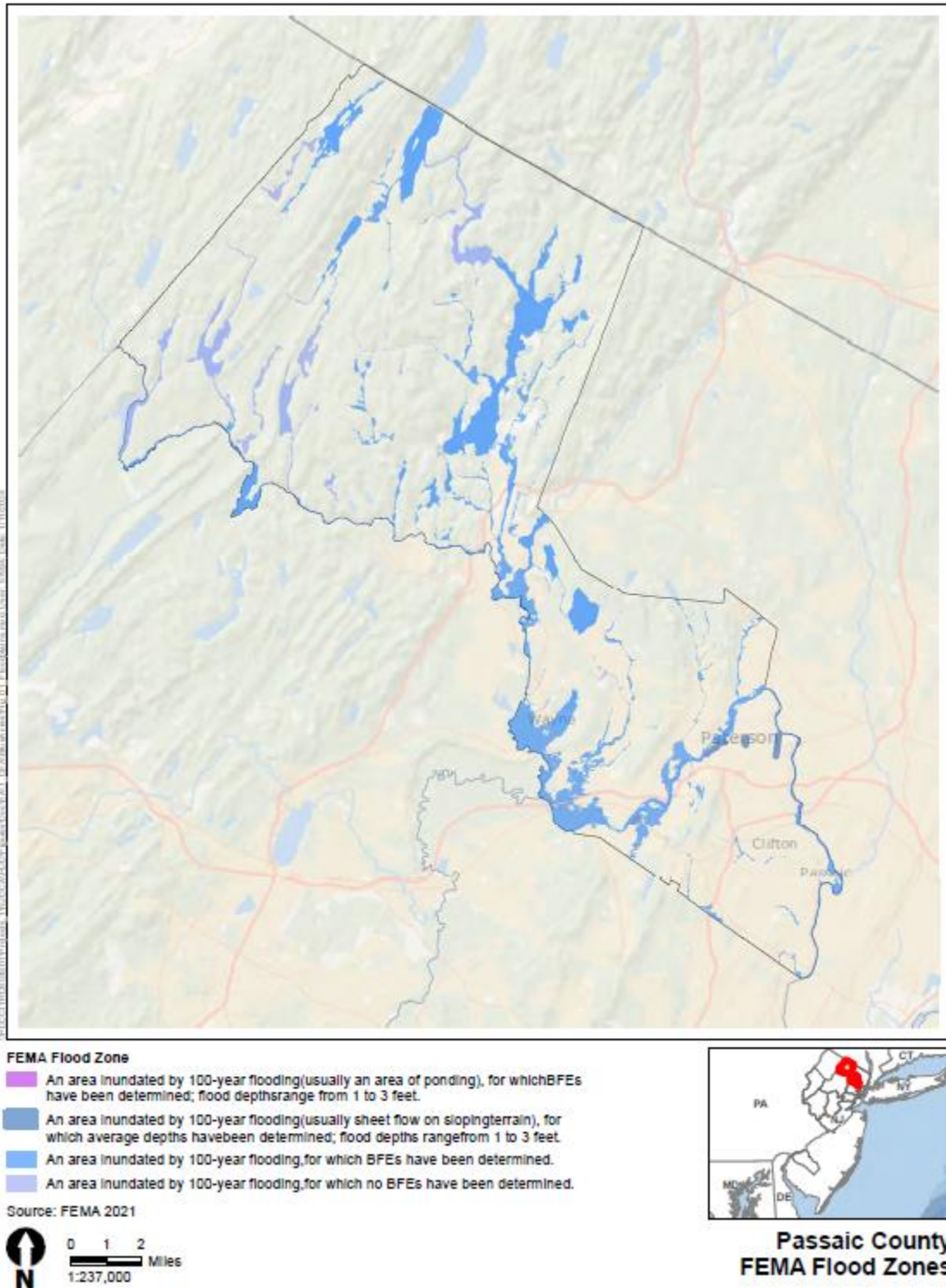
Supporting Documentation

- Figure A9-1: FEMA Special Flood Hazard Area Zones Map – Passaic County

Environmental Finding

Compliance with the Floodplain Management requirements has been achieved through the Tier 1 Broad review since the proposed project activities would involve eligible homeowner relocation to sites outside of the 100-year and 500-year floodplain and would thereby be in compliance with EO 11988. Evaluation at a site-specific level is not required.

Figure A9-1: FEMA Flood Zones Map – Passaic County



Attachment A-10: Historic Preservation

NHPA of 1966, particularly Sections 106 and 110; 36 CFR 800.

Table A10-1: Historic Resources – Passaic County

Category	Number in Passaic County
National Register of Historic Places (NHRP)	Listed: 45

Note: some properties may be tallied more than once, because they are included in more than one category, or because an action was taken to re-evaluate the property (e.g., boundary increase).

Table A10-2: Historic Preservation Sources

Agency	Internet link	Access Date	Dataset Date
National Park Service (NPS)	https://www.nps.gov/subjects/nationalregister/database-research.htm (National Register Database and Research)	1/02/2024	6/28/2022
HPO	https://www.nj.gov/dep/hpo/1identify/nrsr_lists/PASSAIC.pdf (New Jersey and National Registers of Historic Places – Passaic County)	1/02/2024	9/29/2022

Agencies/Regulations Consulted During Broad Review

- ACHP
- HUD
- NPS
- DEP
- DCA
- HPO

Supporting Documentation

- Figure A10-1: Historic Preservation Map (Known or Identified Historic Resources) – Passaic County
- Figure A10-2: Consultation Correspondence between DCA and Consulting Parties
- Figure A10-3: Section 106 Programmatic Agreement Execution Letter From ACHP to DCA
- Appendix D: Programmatic Agreement

Environmental Finding

Compliance will be achieved during the site-specific review since all proposed project activities actions have the potential to adversely affect historic properties, in the following manner:

1. If the building or structure proposed for demolition is individually listed on or eligible for listing on the NRHP or is located within the boundary of an NRHP-listed or NRHP-eligible historic district; and
2. If ground disturbance impacts an archaeological site that is NRHP-listed or may be determined NRHP-eligible.

Proposed project activities may require consultation with a Native American Tribe that attaches religious and cultural significance to historic properties that may be affected. Tribes with interests in Passaic County include the Delaware Nation and, Delaware Tribe of Indians.¹⁶

A PA developed in accordance with NHPA Regulations at 36 CFR Section 800.14(b) provides the mechanism for evaluating site-specific effects on historic properties related to CDBG-DR funding activities for Tropical Storm Ida recovery. The PA, executed in July 2023, was developed between the DCA, DEP, HPO, the Advisory Council on Historic Preservation, the Delaware Nation, Delaware Tribe of Indians, the Stockbridge-Munsee Community, the Absentee Shawnee Tribe of Indians of Oklahoma, and Shawnee Tribe and provides for the following.

1. Evaluating whether the funded activity has the potential to affect a historic property, regardless if any are known to exist at the project site
2. If activities may have an effect, provides the process for determining whether the property is listed on or eligible for the NRHP
3. If there is a historic property, assessing effects on the characteristics that qualify it for the NRHP
4. If effects would be adverse, seeking alternatives to eliminate the effect or mitigation measures to reduce the effect

See Appendix D, *Programmatic Agreement*, and Appendix B, *Site-Specific Review Strategy and Checklist*.

¹⁶ U. S. Department of Housing and Urban Development. 2024. *Tribal Directory Assessment Tool (TDAT)*. Last revised: 2024. Available: <https://egis.hud.gov/TDAT/>. Accessed: February 1, 2024.

Figure A10-1: Historic Preservation Map (Known or Identified Historic Resources)– Passaic County

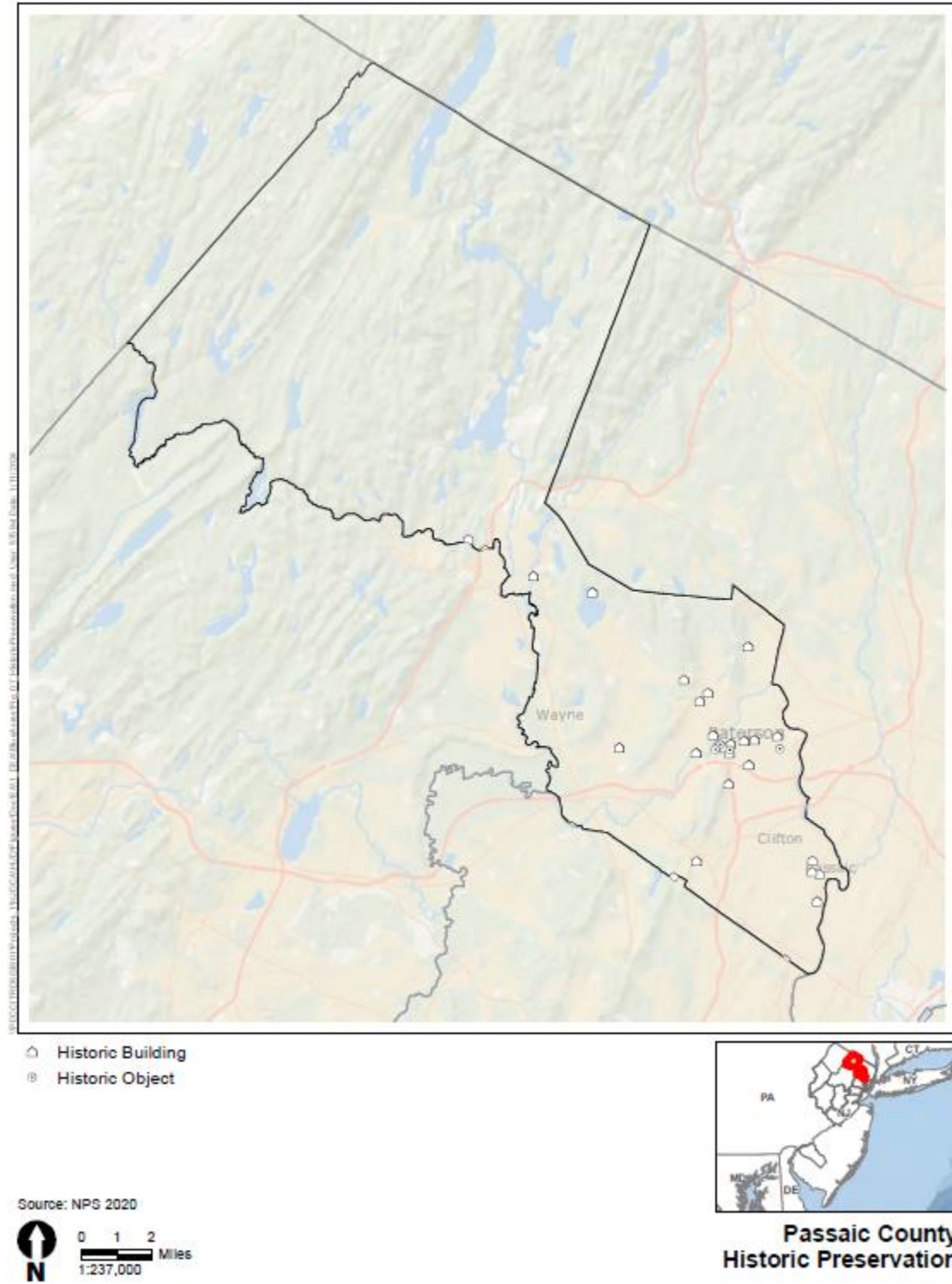


Figure A10-2: Consultation Correspondence between DCA and Consulting Parties



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101 SOUTH BROAD STREET
PO BOX 823
TRENTON, NJ 08625-0823

PHILIP D. MURPHY
Governor

LT. GOVERNOR SHEILA Y. OLIVER
Commissioner

January 9, 2023

Jaime Loichinger, Assistant Director
Advisory Council on Historic Preservation
via e-mail to e106@achp.gov

RE: Disaster recovery in New Jersey—invitation to participate in development of a Section 106 Programmatic Agreement for HUD funded activities

Dear Ms. Loichinger:

The New Jersey Department of Community Affairs (DCA) is the Department of Housing and Urban Development's (HUD) delegated responsible entity for complying with Section 106 of the National Historic Preservation Act for the use of Community Development Block Grant – Disaster Recovery (CDBG-DR) funds for disaster recovery activities in New Jersey, including Tropical Storm Ida. In previous years, beginning in 2013 with Superstorm Sandy recovery activities, DCA was able to utilize the Federal Emergency Management Agency's (FEMA) Prototype Programmatic Agreement (PPA) for Section 106 compliance—but this is no longer an option because the FEMA PPA has expired and is being amended in a manner that no longer affords this option for HUD's responsible entity. As a result of consultation with HUD and the New Jersey State Historic Preservation Officer (NJ HPO), DCA has now decided to develop our own programmatic agreement specifically tailored to activities utilizing CDBG-DR funds.

Pursuant to 36 CFR § 800.14(b), DCA respectfully requests the Advisory Council on Historic Preservation's (ACHP) involvement in the development of the Programmatic Agreement (PA). Details are provided below to inform and support ACHP's decision.

Description of programs

DCA has proposed a series of programs designed in accordance with HUD eligible activities to meet HUD National Objectives, including *Homeowner Assistance and Recovery Program (HARP)*; *Smart Move--New Housing Development*; *Blue Acres*; *Small Rental Repair Program (SRRP)*; *Tenant-Based Rental Assistance*; *Housing Counseling and Legal Aid Assistance*; *Resilient Communities*; *FEMA Non-Federal Cost Share*; *Resilient New Jersey*; and *Statewide Housing Mitigation Tool*.

Details about each of these programs are available in Appendix A of the attached draft PA and at the following link to DCA's *Action Plan for the State of New Jersey Tropical Storm Ida*: https://www.nj.gov/dca/ddrm/pdf_docs/Ida%20Action%20Plan_508_ENG.pdf Of these programs, the following have the potential to affect historic properties because they would provide funds to repair or replace



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damaged housing, build new housing units, develop more resilient infrastructure, or incorporate resilience and mitigation measures: *HARP, Smart Move, Blue Acres, Small Rental Repair Program, Resilient Communities Program, and FEMA Non-Federal Cost Share*. The review process for determining whether the scope of work could affect historic properties is described in Stipulation II—Project Review in the attached draft PA.

Rationale for Developing a Programmatic Agreement

The rationale for choosing to develop a programmatic agreement instead of the typical Section 106 process is consistent with three of four items in the ACHP's regulations at 36 CFR § 800.14(b) describing when a PA may be used, as follows:

- i. *When effects on historic properties are similar and repetitive...or regional in scope*
- ii. *When effects on historic properties cannot be fully determined prior to approval of an undertaking*
- iii. *When nonfederal parties are delegated major decision making responsibilities.*

In previous years, beginning in 2013 with Superstorm Sandy recovery activities, DCA was able to utilize FEMA's PPA for Section 106 compliance. Recently DCA learned the FEMA PPA expired and is being amended in a manner that no longer affords this option for HUD's responsible entity. On November 10, 2022, after consultation with HUD and NJ HPO, DCA decided an independent PA can and should be executed for activities utilizing CDBG-DR funds for Tropical Storm Ida recovery and future disasters.

DCA's draft PA (attached) was developed after a review of relevant components from FEMA's PPA in the State of New Jersey, and existing CDBG-DR PAs for Connecticut, Louisiana, Mississippi, North Carolina, and Texas. DCA's draft PA is customized based on CDBG-DR funded activities described in DCA's *Action Plan for the State of New Jersey Tropical Storm Ida* and existing environmental guidance detailed in the *New Jersey Department of Environmental Protection's Environmental Review Guidance for CEST and EA Projects Receiving CDBG-DR Funds Under 24 CFR Part 58 (NJ CDBG-DR Guidance)*, dated May 24, 2019.

Steps Already Taken to Identify Historic Properties

Program activities are widespread across the State of New Jersey and, as a result, Stipulation III.B.1 in the draft PA describes the process for identifying historic properties after a specific project applies for a HUD-funded program. Existing methodology described in *NJ CDBG-DR Guidance Section 2.3.10.3. Assessment—Status B* and included as Appendix C of the draft PA would be followed, including the use of specialized tools, forms, and process, including *Green Zones, Historic Archaeological Grid, Under Content, select Historic Archaeological Site Grid* and *NJ-Geoweb*.

Consultation Plan

For consistency, DCA and its contractors shall follow the steps for consultation detailed in the *NJ CDBG-DR Guidance*, dated May 24, 2019, with relevant pages attached as Appendix C to the draft PA. Stipulation III.B. items 2 through 5 in the draft PA describe DCA's consultation plan for determining and notifying appropriate



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consulting parties for each project, including but not limited to certified local governments, participating Tribes, and the NJ HPO. Stipulation III.C. in the draft PA describes the more rigorous Section 106 party consultation plan when a standard project review is required. To date, DCA has not received consulting party comments for Tropical Storm Ida recovery. However, DCA is consulting with the same parties which were signatories to the FEMA PPA. DCA will see consulting party comments during the development and review of the HUD CDBG-DR funded activities PA.

Tribal Consultation

DCA will be inviting and consulting with the same federally recognized tribes who were involved in FEMA's PPA, including The Absentee Shawnee Tribe of Indians of Oklahoma, The Delaware Nation, The Delaware Tribe of Indians, The Shawnee Tribe of Oklahoma, and The Stockbridge Munsee Band of Mohicans. The provisions are described in the draft PA as follows:

- Stipulation I.A.2—DCA's acknowledgment of Tribes' special expertise in assessing the National Register of Historic Places eligibility of properties to which they attach religious and cultural significance.
- Stipulation III.B.3—for DCA contractors to understand the provisions for tribal consultation
- Stipulation III.C—for tribal consultation under a standard project review
- Stipulation V.A.3—unanticipated discovery
- Stipulation V.A.5—human remains
- Appendix E—Guidance for Tribal Consultation.

Public Views

DCA published the *Action Plan for the State of New Jersey Tropical Storm Ida* on their website for public review and comment. Comments along with DCA responses are located in Section 5.4 of the Tropical Storm Ida Action Plan, located on the DCA website: <https://www.nj.gov/dca/ddrm/home/Idaactionplan.shtml>. Although not related to historic preservation, DCA published an early floodplain/wetland public notice on December 23, 2022, in multiple newspapers to advertise and request public comments on the proposed actions of housing recovery and mitigation efforts within the HARP, SRRP and Smart Move programs. The proposed actions of these programs are located in the following twelve affected counties: Bergen, Essex, Hudson, Middlesex, Passaic, Somerset, Union, Gloucester, Hunterdon, Mercer, Morris, and Warren. Public comment period closes on January 9, 2023, and to date no comments have been received on the proposed action.

Schedule

Given that FEMA's PPA is no longer in effect and that DCA is not able to utilize the in-process amendment to FEMA's PPA, DCA will be trying to complete its independent PA as soon as possible. Furthermore, because the parties have been consulting on Section 106 compliance for disaster recovery efforts in New Jersey through



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the FEMA PPA since 2013, DCA is hopeful they are familiar with the consultation process and will cooperate to achieve the following aggressive schedule:

- **December 1, 2022:** the attached draft PA was submitted by DCA to NJ HPO for conceptual review and comment.
- **Early-January 2023:** DCA will be reaching out to ACHP and Federally Recognized Tribes to notify them the draft PA is in development and to learn of their level of participation.
- **Mid-January 2023:** Revise draft PA with any comments received from NJ HPO and ACHP.
- **Late-January 2023:** The draft PA will be circulated to all signatories and consulting parties for review and comment.
- **February 2023:** The revised PA will be circulated for final review and execution.

Pursuant to 36 CFR § 800.14(b), DCA respectfully requests ACHP's involvement in the development of the PA. We hope the information provided in this letter is adequate for you to make an informed decision. A copy of the draft PA is attached for your convenience. If you have any questions, please do not hesitate to contact Judith Burton of my staff at 609-913-4229 or at Judith.Burton@dca.nj.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read "S. Viavattine".

Samuel Viavattine, Deputy Commissioner
New Jersey Department of Community Affairs
PO Box 823
Trenton, NJ 08625

cc: Katherine J. Marcopul, Deputy NJHPO, kate.marcopul@dep.nj.gov

Enclosure: Draft PA. Submitted to NJ HPO on December 1, 2022, updated January 5, 2023.

From: [Burton, Judith \[DCA\]](#)
To: jloichinger@achp.gov; [Marcopul, Kate \[DEP\]](mailto:Marcopul_Kate@DEP); dfrazier@astribe.com; 106NAGPRA@astribe.com; cbutler@astribe.com; ddotson@delawarenation-nsn.gov; sallen@delawarenation-nsn.gov; cspeck@delawarenation-nsn.gov; klucas@delawarenation-nsn.gov; lheady@delawaretribe.org; temple@delawaretribe.org; sbachor@delawaretribe.org; shawneetribeshawnee-tribe.com; tonya@shawnee-tribe.com; epaden@shawnee-tribe.com; thpo@mohican-nsn.gov
Cc: [Mackay, Elizabeth \[DCA\]](#); [Starzak, Richard](#); [Guzzo, Dorothy \[DCA\]](#); [Leager, Leslie](#); [Sherman, Steven](#); [Smith-Herman, Nicholas \[DCA\]](#)
Subject: Section 106 Draft Programmatic Agreement for HUD funded projects in New Jersey, request for comments
Date: Thursday, February 9, 2023 4:28:11 PM
Attachments: [image001.png](#)
[draft_DCA_CDBG-DR_PROGRAMMATIC AGREEMENT 2023-02-09 for consulting party review.docx](#)
[draft_DCA_CDBG-DR_PROGRAMMATIC AGREEMENT 2023-02-09 for consulting party review.pdf](#)

Hello, Section 106 Consulting Parties,

The New Jersey Department of Community Affairs (DCA) is the Department of Housing and Urban Development's (HUD) delegated responsible entity for complying with Section 106 of the National Historic Preservation Act for the use of Community Development Block Grant – Disaster Recovery (CDBG-DR) funds for disaster recovery activities in New Jersey, including Tropical Storm Ida. DCA is inviting you to participate in development of a draft Programmatic Agreement (PA). DCA's goal is to fulfill its responsibilities under Section 106 through a process that is thorough, efficient, and effective. To that end, this PA focuses on activities associated with various housing programs as described in DCA's Ida Recovery Action Plan (Appendix A). We have brought in programmatic allowances (Appendix B) found useful for CDBG-DR programs in other states including CT, LA, MS, NC, and TX. DCA is appreciative to the five federally recognized Tribes whose initial comments are shown in Appendices E1-E5, and we look forward to any further comments you may have.

Schedule. In terms of a schedule, we would like to receive your comments in 30 days, by Friday, March 10. For your convenience, we would be happy to schedule a group call to answer any questions you may have one week before the deadline, on approx. Friday, March 3. Of course, if you have questions before then, feel free to contact me via e-mail and we will get back to you promptly.

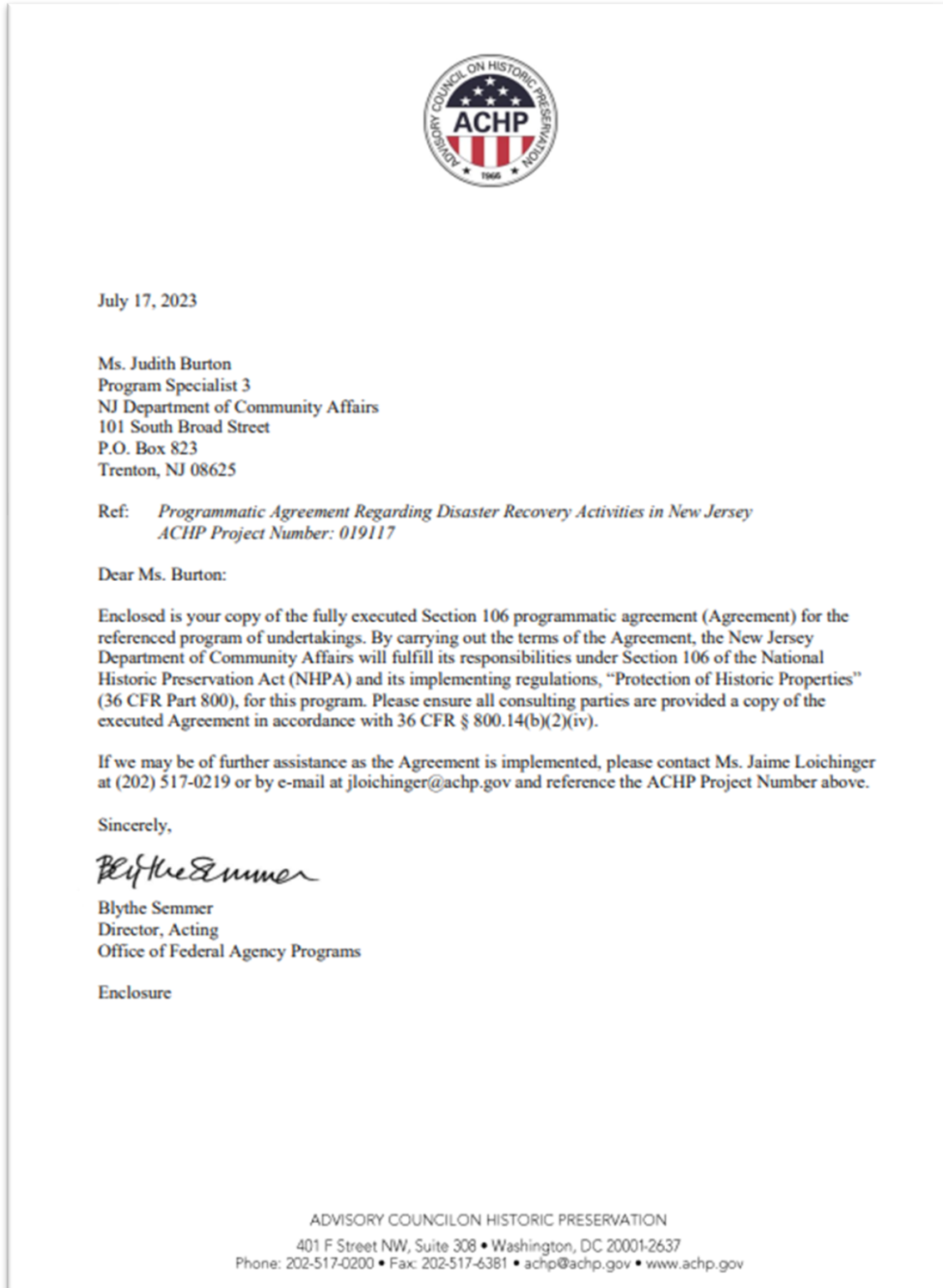
We look forward to your comments and working with you.

Sincerely,

Judith Burton, Program Specialist 3
Subrecipient Oversight and Monitoring
Division of Disaster Recovery & Mitigation
NJ Department of Community Affairs
Direct: 609-913-4229
Email: Judith.Burton@dca.nj.gov



Figure A10-3: Section 106 Programmatic Agreement Execution Letter From ACHP to DCA



Attachment A-11: Sole Source Aquifers

Safe Drinking Water Act of 1974, as amended, particularly section 1424(e); 40 CFR 149.

Table A11-1: Sole Source Aquifers – Passaic County

Sole Source Aquifer(s)
New Jersey Fifteen Basin Aquifers
Highlands Aquifer System Passaic Morris & Essex Counties
Ramapo River Basin Aquifer Systems
Buried Valley Aquifers, Central Basin, Essex and Morris Counties
Ridgewood Area Aquifers

Table A11-2: Sole Source Aquifers Sources

Agency	Internet Link	Accessed Date	Dataset Date
USEPA	https://www.epa.gov/dwssa/map-sole-source-aquifer-locations	1/02/2024	5/25/2022
DEP	https://nj.gov/dep/njgs/geodata/dgs98-6.htm (NJ Geological and Water Survey)	1/02/2024	6/1998

Agencies/Regulations Consulted During Broad Review

- HUD
- USEPA
- DEP

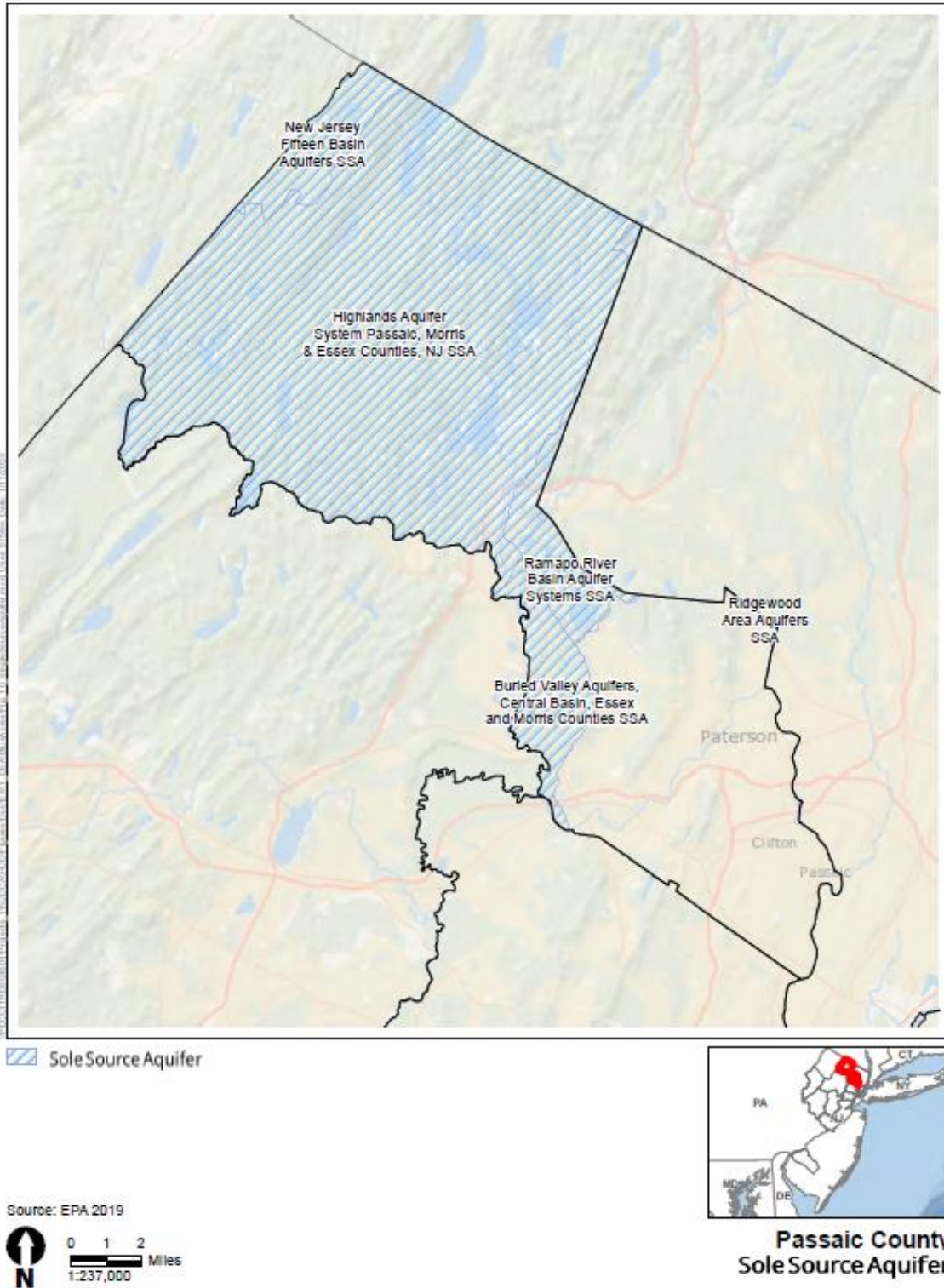
Supporting Documentation

- Figure A11-1: Sole Source Aquifer Map – Passaic County, NJ
- Figure A11-2: Sole Source Aquifers Memorandum of Understanding Between HUD and USEPA Region II

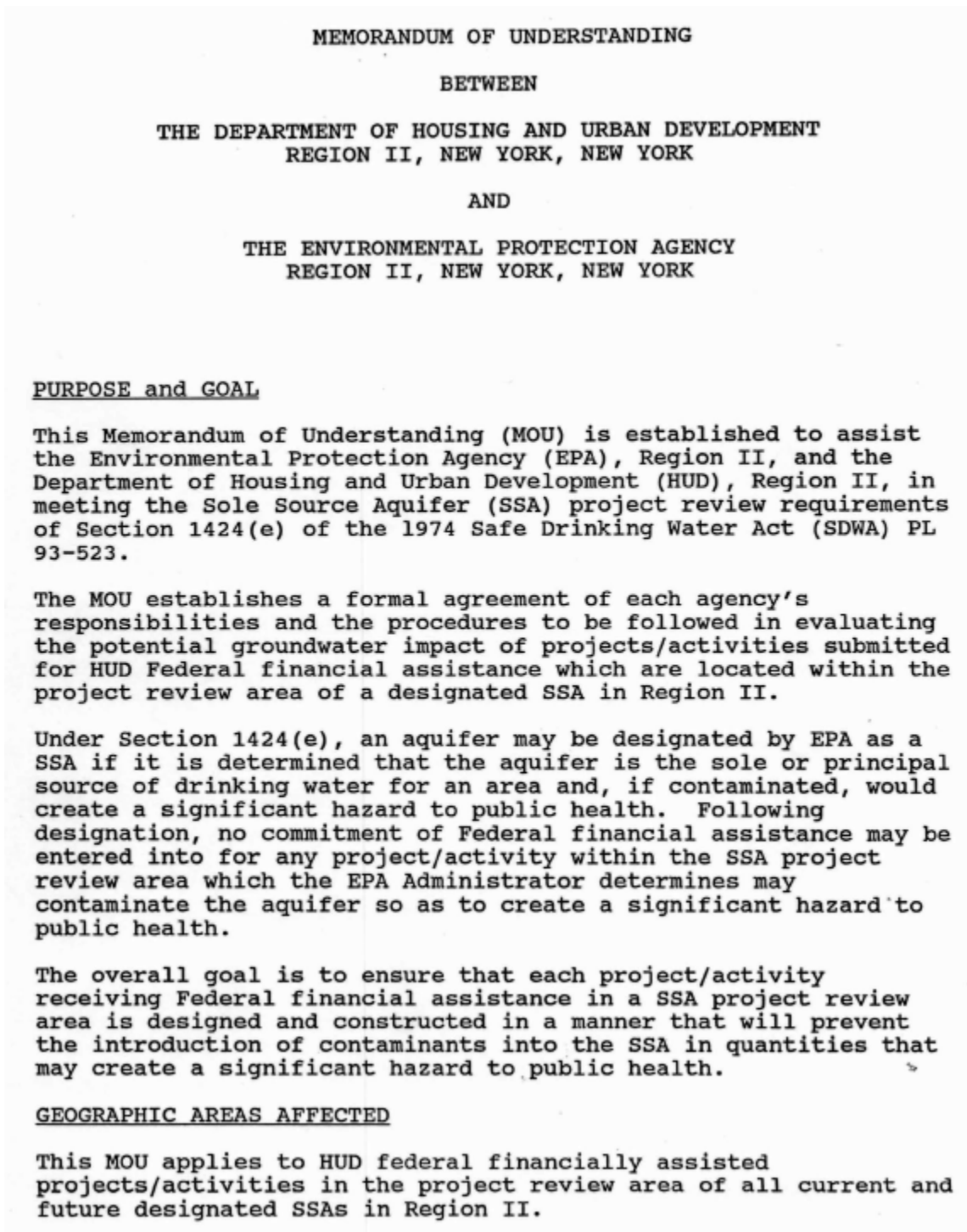
Environmental Finding

Compliance with the Sole Source Aquifers requirements has been achieved through the Tier 1 Broad review since the proposed Blue Acres program project activities involve best management practices associated with demolition of housing structures in the floodplain, debris removal, and restoration of the properties to open space. There will be no proposed project activities which would include any construction, including constructing new residential structures greater than four units, thus requiring consultation with USEPA. Evaluation at a site-specific level is not required.

Figure A11-1: Sole Source Aquifer Map – Passaic County, NJ



**Figure A11-2: Sole Source Aquifers Memorandum of Understanding
between HUD and USEPA Region II**



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Attachment 1, Designated SSAs in Region II, lists the designated SSA areas within the states of New York and New Jersey in EPA, Region II; the date of designation; and the Federal Register Notice citation. Attachment 1 also provides a map of the SSA project review area boundary for each of the designated aquifers. When any other SSAs are designated in Region II, EPA will notify HUD in writing.

DEFINITIONS

Significant Hazard to Public Health:

A level of contaminant which causes or may cause the aquifer to:

- (a) Exceed any (1) maximum contaminant level set forth in any promulgated National Primary Drinking Water Standard; (2) state standard where more stringent than the Federal standard; (3) public health advisory level for currently unregulated contaminants; at any point where the water may be used for drinking purposes, or
- (b) May otherwise adversely affect the health of persons, or
- (c) May require a public water system to install additional treatment to prevent such adverse effect.

Federal Financial Assistance:

Financial benefits provided directly as aid to a project by a department, agency, or instrumentality of the federal government in any form including contracts, grants and loan guarantees. Actions or projects carried out by the federal government itself do not involve federal financial assistance.

Actions performed for the federal government by contractors should be distinguished from contracts entered into specifically for the purpose of providing financial assistance, and will not be considered programs or actions receiving Federal financial assistance.

Federal financial assistance is limited to benefits earmarked for a specific project or action and directly awarded to the project or action. Indirect assistance, e.g., in the form of a loan to a developer by a lending institution which in turn receives federal assistance not specifically related to the project in question is not federal financial assistance under Section 1424(e).

SSA Project Review Area:

The area within which federal financially assisted projects/activities will be reviewed, which includes the designated area and may include all or a portion of the streamflow source area(s). The designated area can include the area above the aquifer, the area which recharges the aquifer (possibly including all or a portion of the streamflow source area) and the area where the population served by the aquifer resides. Streamflow source zone is defined as the upstream headwaters area of losing streams (streams contributing to recharge to Ground Water) that drain into the recharge area. The extent of the SSA project review area is outlined in the Federal Register designation notice for that SSA. Attachment 1 lists the Federal Register Notice citation and provides a map of the SSA project review area.

MOU ATTACHMENTS

- Attachment 1: Designated SSAs in Region II
- Attachment 2: A. Non-Housing Initial Screen Criteria
B. Housing Initial Screen Criteria
- Attachment 3: SSA Preliminary Review Information Requirements
- Attachment 4: Hazardous Constituents

ENVIRONMENTAL REVIEW RESPONSIBILITY

Pursuant to Section 1424(e) of the SDWA, EPA is responsible for designating SSAs and reviewing federal financially assisted projects/activities within SSA project review areas.

Pursuant to the National Environmental Policy Act (NEPA) and other provisions of law, HUD is responsible for environmental review and decision making except in those cases delegated by law such as with Community Development Block Grant Program (CPD). Environmental responsibility includes compliance with Section 1424(e) of the SDWA.

EIS EARLY NOTIFICATION/SCOPING

If an Environmental Impact Statement (EIS) is prepared for a project/activity in a SSA project review area, HUD or its grant recipients that assume by law environmental responsibilities and EPA shall coordinate at the earliest possible time so that the draft EIS contains EPA's SSA review determination. This is to ensure that any possible groundwater contamination has been considered.

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This early notification will serve to initiate consultations with the developer to determine the scope of study that may be necessary if any formal groundwater quality assessment is required.

REVIEW PROCESS:

COMMUNITY PLANNING AND DEVELOPMENT (CPD) and HOUSING PROGRAM

The general procedures to be followed by HUD, its delegated agencies and EPA in reviewing HUD federal financially assisted activities and determining their potential impact on the SSA are outlined below. The overall goal is to ensure that each project/activity receiving federal financial assistance is designed and constructed in a manner that will prevent the introduction of contaminants into the SSA in quantities that may create a significant hazard to public health. Two levels of potential review are: (1) Initial Screen/Preliminary Review, and (2) Formal Section 1424(e) Review.

I. Excluded Projects/Activities

EPA and HUD mutually agree that the following list of project/activity categories would not create a significant hazard to public health:

- Construction of individual new residential structures containing from one to four units
- Funding of planning grants
- Rehabilitation of residential units
- Funding of all other grants for non-construction projects/activities
- Projects identified as exempt in 24 CFR 58.34

These categories of projects/activities are therefore excluded from the Initial Screen/Preliminary Review requirements as outlined in Sections II and III below. Potential CPD recipients; states; other delegated agencies and HUD are responsible for making this determination for their respective programs. EPA may request information on these projects/activities and conduct a review if EPA determines it to be necessary.

II. CPD Applications/Final Statements

A. Initial Screen/Preliminary Review

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HUD shall notify all potential CPD recipients, including states that are administering HUD programs (Non-Entitlement Small Cities Program, etc.) and other delegated agencies with jurisdiction in SSA project review areas of the SSA review requirements under Section 1424(e) and of their responsibility as outlined in this MOU.

Potential CPD recipients shall conduct an initial screen of CPD projects/activities proposed for HUD federal financial assistance prior to submission of an application or final statement to HUD. Attachment 2.A, Non-Housing Initial Screen Criteria, shall be used for CPD projects/activities that do not involve housing; and Attachment 2.B, Housing Initial Screen Criteria, for CPD projects/activities involving housing only.

EPA shall be notified of any projects/activities which result in a positive response to one of the criteria questions in Attachment 2. Where a project/activity meets one of the criteria in Attachment 2, the information in Attachment 3, SSA Preliminary Review Information Requirements, shall also be completed and forwarded to EPA along with applicable project/final statement information.

Upon receipt of the above, EPA will conduct its Preliminary Review. If additional information is required, EPA will inform the potential CPD recipient and HUD. The potential CPD recipient shall be responsible for submitting to EPA any additional information requested in a timely manner.

Based on the information provided, EPA will make its determination on whether to complete its review at this stage and provide SSA review clearance, or proceed to a Formal Section 1424(e) Review. The project/activity may be cleared as is, or with modifications.

B. Timeframe for Preliminary Review and Notification

Within fifteen calendar days of EPA's receipt of the project's final statement, Attachment 2 and Attachment 3, EPA will notify the potential CPD recipient and HUD of one or more of the following:

- the project/activity has received SSA review clearance
- the project/activity requires modifications to receive SSA review clearance
- additional environmental information is required
- additional time to review the project, is required
- the project/activity raises major environmental concerns requiring interagency consultation
- a Formal Section 1424(e) Review is required

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If EPA does not notify HUD within 15 days of receipt of the project, HUD should proceed with its project review.

HUD shall not authorize a release of funds until all outstanding issues with regard to the subject project/activity have been resolved.

C. Formal Section 1424(e) Review

Should a Formal Section 1424(e) Review be required, EPA shall formally notify the potential CPD recipient and HUD of this decision. If additional information is required, the potential CPD recipient shall be responsible for submitting the requested information to EPA in a timely manner. EPA may also schedule a public hearing to gather additional information.

Based on the information provided, EPA shall make a determination to either approve the project/activity, request more information, suggest modifications or disapprove the project/activity.

III. Housing Program Applications

A. Initial Screen/Preliminary Review

HUD shall notify all of its field offices of the SSA review requirements under Section 1424(e) and of their responsibilities as outlined in this MOU.

HUD shall conduct an initial screen of housing projects proposed for HUD Federal financial assistance. Attachment 2.B, Housing Initial Screen Criteria, shall be used for this review. EPA shall be notified of any projects which result in a positive response to one of the criteria questions in Attachment 2.B. Where a project meets one of the criteria in Attachment 2.B, the information in Attachment 3, SSA Preliminary Review Information Requirements, shall also be completed and forwarded to EPA along with the applicable project information.

Upon receipt of the above, EPA will conduct its Preliminary Review. If additional information is required, EPA will inform the HUD field office who shall then be responsible for submitting to EPA the requested information in a timely manner.

Based on the information provided, EPA will make its determination on whether to complete its review at this stage and provide SSA review clearance or proceed to a Formal Section 1424(e) Review. The project may be cleared in its existing form, or with modifications.

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B. Timeframe for Preliminary Review and Notification

Within fifteen calendar days of EPA's receipt of the pertinent environmental information from the housing application, Attachment 2 and Attachment 3, EPA will notify HUD of one or more of the following:

- the project has received SSA review clearance
- the project requires modifications to receive SSA review clearance
- additional environmental information is required
- additional time to review the project is required
- the project raises major environmental concerns requiring interagency consultation
- a Formal Section 1424(e) Detailed Review is required

The project environmental clearance needed for project approval shall not be considered complete (appropriate sign-offs) until outstanding SSA issues with regard to the subject project have been satisfactorily resolved.

If EPA does not notify HUD within 15 days of receipt of the project, HUD should proceed with its project review.

C. Formal Section 1424(e) Review

Should a Formal Section 1424(e) Review be required, EPA shall formally notify HUD of this decision. If additional information is required, HUD shall be responsible for submitting the requested information to EPA in a timely manner. A public hearing may be held to gather additional information.

Based on the information provided, EPA shall make a determination to either approve the project, request more information, suggest modifications or disapprove the project.

D. Local Area Certification For Housing Environmental Review

If the community is wholly or partially within a SSA project review area boundary, the local certified agency shall have the same responsibility as HUD in meeting the SSA review requirements as outlined in Section 1424(e) and this MOU.

GENERAL PROCEDURAL MATTERS

Materials submitted to EPA by HUD or the applicant will be addressed to the attention of:

Chief, Environmental Impacts Branch U.S. EPA Region II 26 Federal Plaza, Room 500 New York, New York 10078	Chief, Environmental Review Section USEPA Region 2 290 Broadway, 25th floor New York, NY 10007
---	---

The following representatives will serve as liaisons for HUD and EPA respectively. The liaisons will maintain communication as needed regarding projects/activities affecting the SSAs and this MOU.

HUD: Regional Office Environmental Officer
(212) 264-0793

EPA: Chief, Environmental Impacts Branch (212) 264-1840
Chief, Environmental Review Section 212-637-3738

This MOU is subject to revision upon agreement by both parties.

U.S. Department of Housing and
Urban Development



A. M. Villane, Jr., DDS
Regional Administrator/
Regional Housing Commissioner

U.S. Environmental Protection
Agency



Constantine Sidamon-Eristoff
Regional Administrator

Date: AUG 24 1990

Date: 8/10/90

ATTACHMENT 1

DESIGNATED SOLE SOURCE AQUIFERS IN REGION II

<u>Name</u>	<u>State</u>	<u>Citation</u>	<u>Publication Date</u>
Brooklyn/Queens Aquifer System (AS)	NY	49 FR 2950	01/24/84
Buried Valley AS	NJ	45 FR 30537	05/08/80
Cattaraugus Creek AS	NY	52 FR 36100	09/25/87
Clinton Street- Ballpark AS	NY	50 FR 2025	01/14/85
Cortland-Homer- Preble AS	NY	53 FR 22045	06/13/88
Highlands AS	NJ/NY	52 FR 37213	10/05/87
Nassau/Suffolk	NY	43 FR 26611	06/21/78
New Jersey Coastal Plain AS	NJ	53 FR 23791	06/24/88
Northwest New Jersey Fifteen Basin AS	NJ	53 FR 23685	06/23/88
Ridgewood Area	NJ	49 FR 2943	01/24/84
Schenectady/Niskayuna AS	NY	50 FR 2022	01/14/85
Upper Rockaway River Basin AS	NJ	49 FR 2946	01/24/84

ATTACHMENT 2.A

NON-HOUSING PROJECT/ACTIVITY INITIAL SCREEN CRITERIA
(For projects in a designated Sole Source Aquifer area)

The following list of criteria questions are to be used as an initial screen to determine which non-housing projects/activities should be forwarded to the Environmental Protection Agency (EPA) for Preliminary Sole Source Aquifer (SSA) Review. (For housing projects/activities see Attachment 2.B) If any of the questions are answered affirmatively, Attachment 3, SSA Preliminary Review Requirements, should also be completed. The application/final statement, this Attachment, Attachment 3, and any other pertinent information should than be forwarded to EPA at the address below.

Any project/activity not meeting the criteria in this Attachment, but suspected of having a potential adverse effect on the Sole Source Aquifer should also be forwarded. Contact EPA if you have any questions.

Chief, Environmental Impacts Branch USEPA Region II 26 Federal Plaza, Room 500 New York, New York 10028 (212) 264-1840	Chief, Environmental Review Section USEPA Region 2 290 Broadway, 25th floor New York, NY 10007 212-637-3738
--	---

CRITERIA QUESTIONS

- | | <u>YES NO N/A</u> |
|---|-------------------|
| 1. Is the project/activity located within a currently designated or proposed groundwater sensitive area such as a special Ground Water Protection Area, Critical Supply Area, Wellhead Protection Area etc.? [This information can be obtained from the County or Regional planning board, the local health department, the State health department or the State environmental agency.] | _____ |
| 2. Is the project/activity located within a one half mile radius (2640 feet) of a current or proposed public water supply well or wellfield? [This information can be obtained from the local health department, the State health department or the State environmental agency.] | _____ |

3. Will the project/activity include or directly cause: (check appropriate items)
- construction or expansion of solid waste disposal, recycling or conversion facilities _____
 - construction or expansion or closure of landfills _____
 - construction or expansion of water supply facilities (i.e., treatment plant, pump house, etc.) _____
 - construction or expansion of on-site wastewater treatment plants or sewage trunk lines, greater than 1/4 mile _____
 - construction or expansion of gas or petroleum trunk lines, greater than 1200 feet _____
 - construction or expansion of railroad spurs or similar extensions _____
 - construction or expansion of municipal sewage treatment plants _____
4. Will the project/activity include storage or handling of any hazardous constituents as listed in Attachment 4, Hazardous Constituents? _____
- If these constituents are used during the construction phase of the project, than an assurance statement must be provided indicating that chemicals will be used in a safe and proper manner, and that they will be promptly removed after construction is completed.
5. Will the project/activity include bulk storage of petroleum in underground or above ground tanks in excess of 1100 gallons? _____
6. Will the project/activity require a federal or state discharge elimination permit or modification of an existing permit? _____

This attachment was completed by:

Name: _____

Title: _____

Address: _____

Telephone number: _____

Date: _____

ATTACHMENT 2.B

**HOUSING/PROJECT INITIAL SCREEN CRITERIA
(For projects in a designated Sole Source Aquifer area.)**

The following list of criteria questions are to be used as an initial screen to determine which housing projects/activities should be forwarded to the Environmental Protection Agency (EPA) for Preliminary Sole Source Aquifer (SSA) Review. (For non-housing projects see Attachment 2.A). If any of the questions are answered affirmatively, Attachment 3, SSA Preliminary Review Requirements, should also be completed. The application/final statement, this Attachment, Attachment 3, and applicable project information than be forwarded to EPA at the address below.

Any project not meeting the criteria in this Attachment, but suspected of having a potential adverse effect on the Sole Source Aquifer should also be forwarded. Contact EPA if you have any questions.

Chief, Environmental Impacts Branch USEPA Region II 26 Federal Plaza, Room 500 New York, New York 10007 (212) 264-1840	Chief, Environmental Review Section USEPA Region 2 290 Broadway, 25th floor New York, NY 10007 212-637-3738
--	---

CRITERIA QUESTIONS:

	<u>YES</u>	<u>NO</u>	<u>N/A</u>
1. Is the project located within a currently designated or proposed ground water sensitive area such as a Special Ground Water Protection Area, Critical Supply Area, Wellhead Protection Area etc.? [This information can be obtained from the County or Regional planning board, the local health department, the State health department or the State environmental agency.]	___	___	___
2. Is the project located within a one half mile radius (2640 feet) of a current or proposed public water supply well or wellfield? [This information can be obtained from the local health department, the State health department or the State environmental agency.]	___	___	___
3. Will the total impervious surfaces be greater than 75 percent?	___	___	___
4. Is the proposed project site greater than 30 acres?	___	___	___
5. Will the proposed density of the project be greater than 150 units per acre ?	___	___	___

6. Will the project include or directly cause: (check appropriate items)	
- construction or expansion of water supply facilities (i.e., treatment plant, pumphouse, etc.)	___ ___ ___
- construction or expansion of on-site wastewater treatment plants	___ ___ ___
- construction or expansion of sewage trunk lines greater than 1320 feet in length	___ ___ ___
- construction or expansion of gas or petroleum trunk lines greater than 1320 feet	___ ___ ___
7. Will the project include storage or handling of any hazardous constituents as listed in Attachment 4, Hazardous Constituents? If these constituents are used during the construction phase of the project, an assurance statement must be provided indicating that chemicals will be used in a safe and proper manner, and they will be promptly removed after construction is completed.	___ ___ ___
8. Will the project include bulk storage of petroleum in underground or above ground tanks in excess of 10,000 gallons or permit verification?	___ ___ ___
9. Will the project require a federal or state pollutant discharge elimination permit or modification of an existing permit?	___ ___ ___

This attachment was completed by:

Name: _____

Title: _____

Address: _____

Telephone number: _____

Date: _____

ATTACHMENT 3

SSA PRELIMINARY REVIEW INFORMATION REQUIREMENTS

Where currently available, the information in this Attachment should be provided to the Environmental Protection Agency (see address below) along with the application/final statement; Attachment 2.A, Non-Housing Initial Screen Criteria or Attachment 2.B, Housing Initial Screen Criteria; and any other information which may be pertinent to a Sole Source Aquifer review. Where applicable, indicate the source of your information.

Chief, Environmental Impacts Branch
USEPA Region II
26 Federal Plaza, Room 500
New York, New York 10278
(212) 264-1840

Chief, Environmental Review Section
USEPA Region 2
290 Broadway, 25th floor
New York, NY 10007
212-637-3738

ENCLOSED
YES NO

I. Project/Activity Location

1. Provide the geographic location and total acreage of the project/activity site. Include a site location map which identifies the site in relation to the surrounding area. [Examples of maps which can be used include: 1:24,000 or 1:25,000 U.S. Geological Survey quadrangle sheet, Hagstroms Street Map.]
2. If applicable, identify which groundwater sensitive areas (Special Ground Water Protection Area, Critical Supply Area, Wellhead Protection Area etc.) the project/activity is located within or adjacent to. [This information may be obtained from the County or Regional planning board, the local health department, the State health department or the State environmental agency.]

___ ___

___ ___

II. Nature of Project/Activity

3. Provide a general narrative describing the project/activity including but not limited to: type of facility; type of activities to be conducted; number and type of units; number of residents etc. Provide the general layout of the project/activity site and a site-plan if available.

___ ___

III. Public Water Supply			
4.	Provide a description of plans to provide water supply.	—	—
5.	Provide the location of nearby existing or proposed public water supply wells or wellfields within a one half mile radius (2640 feet) of the project/activity. Provide the name of the supplier(s) of those wells or wellfields. This information should be available from the local health department, State health department or the State environmental agency. If private wells are to be used, then information necessary to obtain a well drilling permit should be provided.	—	—
V. Wastewater and Sewage Disposal			
6.	Provide a description of plans to handle wastewater and sewage disposal. If the project/activity is to be served by existing public sanitary sewers provide the name of the sewer district.	—	—
7.	Provide a description of plans to handle storm water runoff.	—	—
8.	Identify the location, design, size of any on-site recharge basins, dry wells, leaching fields, retention ponds etc.	—	—
VI. Use, Storage, Transport of Hazardous or Toxic Materials (Applies only to non-housing projects/activities)			
9.	Identify any products listed in Attachment 3, Hazardous Constituents, of the Housing and Urban Development-Environmental Protection Agency Memorandum of Understanding which may be used, stored, transported, or released as a result of the construction activity.	—	—
10.	Identify the number and capacity of underground storage tanks at the project/activity site. Identify the products and volume to be stored, and the location on the site.	—	—
11.	Identify the number and capacity of above ground storage tanks at the project/activity site. Identify the products and volume to be stored, and the location on the site.	—	—

Attachment A-12: Wild and Scenic Rivers

Wild and Scenic Rivers Act of 1968, particularly section 7(b) and (c).

Table A12-1: Wild and Scenic Rivers– Passaic County

Not Applicable

Table A12-2: Wild and Scenic Rivers Sources

Agency	Internet Link	Accessed Date	Dataset Date
NPS	https://nps.maps.arcgis.com/home/webmap/viewer.html?webmap=8ecd2c2e783c4dfa9636e1805df0e441 (National Wild and Scenic Rivers of the U.S.)	1/02/2024	8/25/2022

Agencies/Regulations Consulted During Broad Review

- USFWS

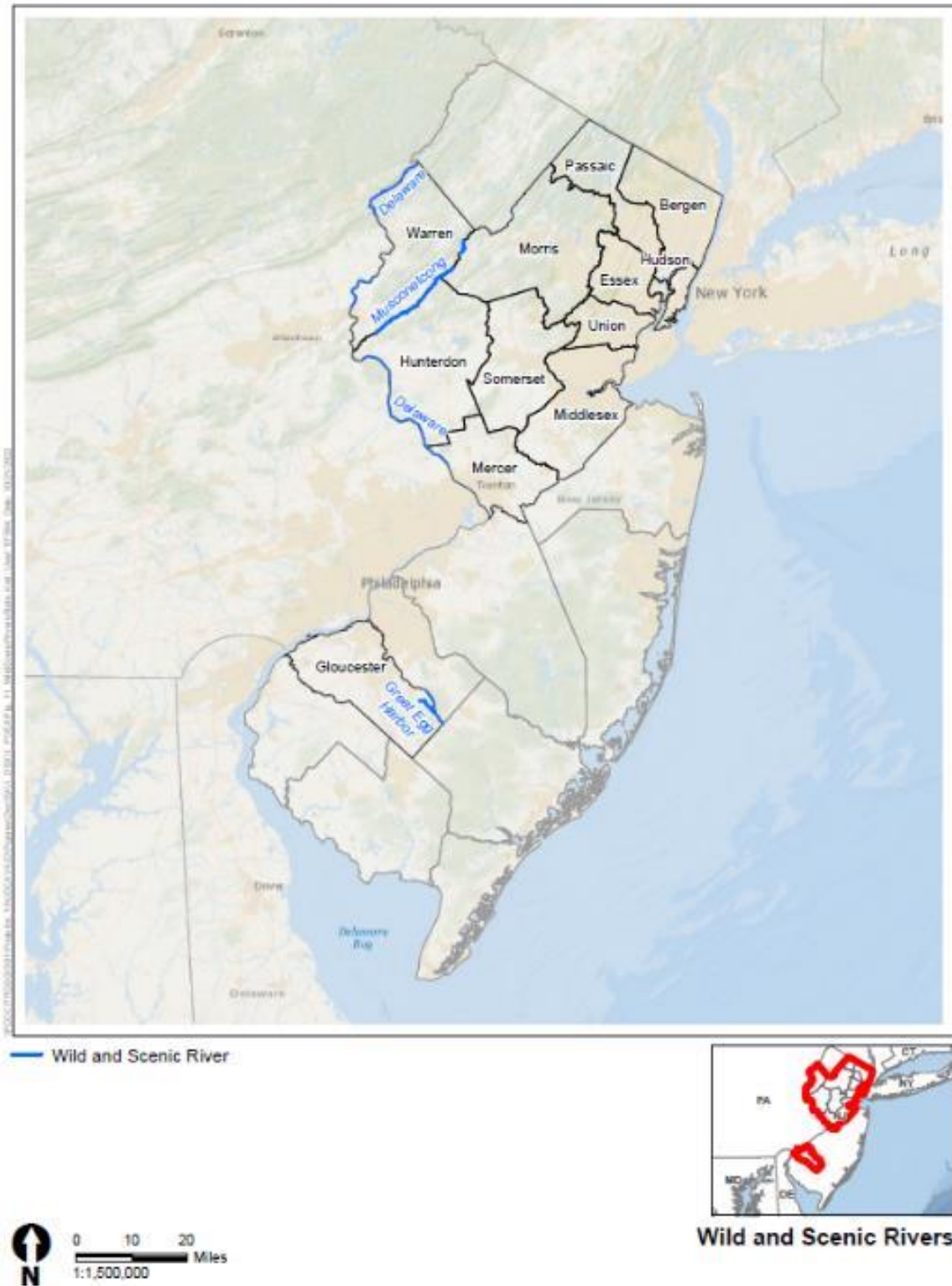
Supporting Documentation

- Figure A12-1: Wild and Scenic Rivers Map – Passaic County

Environmental Finding

Compliance has been achieved in the Tier 1 Broad Review since no areas designated as wild and scenic rivers lie within Passaic County. Evaluation at a site-specific level is not required.

Figure A12-1: Wild and Scenic Rivers Map – Passaic County



Attachment A-13: Environmental Justice

EO 12898.

Table A13-1: Minority and Low-Income Populations – Passaic County

County	Total Population	Total Hispanic Population	Total Hispanic Population %	Total People of Color	Total People of Color % (1)	Households	Low-Income %
Passaic County	513,395	225,894	44	133,483	26	176,203	31

(1) Includes: Black or African American, American Indian and Alaska Native, Asian, Native Hawaiian and Other Pacific Islander, and Two or More Races.

Table A13-2: Environmental Justice Sources

Agency	Internet Link	Accessed Date	Dataset Date
USEPA	https://ejscreen.epa.gov/mapper/	4/02/2024	4/1/2022
HUD	https://www.hudexchange.info/programs/environmental-review/environmental-justice/	1/02/2024	N/A
U.S. Census Bureau	https://www.census.gov/geographies/mapping-files/time-series/geo/tiger-data.html	3/20/2024	2021
U.S. Census Bureau	https://www.census.gov/quickfacts/fact/table/passaiccountynewjersey,US/PST045222	4/02/2024	2023

Agencies/Regulations Consulted During Broad Review

- USEPA
- U.S. Census Bureau

Environmental Finding

Compliance has been achieved in the Tier 1 Broad Review since the Blue Acres program would incentivize LMI residents to relocate from their vulnerable homes via buyouts. Evaluation at a site-specific level is not required.

Attachment A-14: Essential Fish Habitat

Magnuson–Stevens Fishery Conservation and Management Act of 1976 (16 U.C.S. 1801 et seq.)

Table A14-1: Essential Fish Habitat Sources

Agency	Internet Link	Accessed Date	Dataset Date
National Oceanic and Atmospheric Administration	https://www.habitat.noaa.gov/application/efhinventory/index.html (Essential Fish Habitat – Data Inventory)	1/16/2024	3/10/2021

Agencies/Regulations Consulted During Broad Review

- National Oceanic and Atmospheric Administration

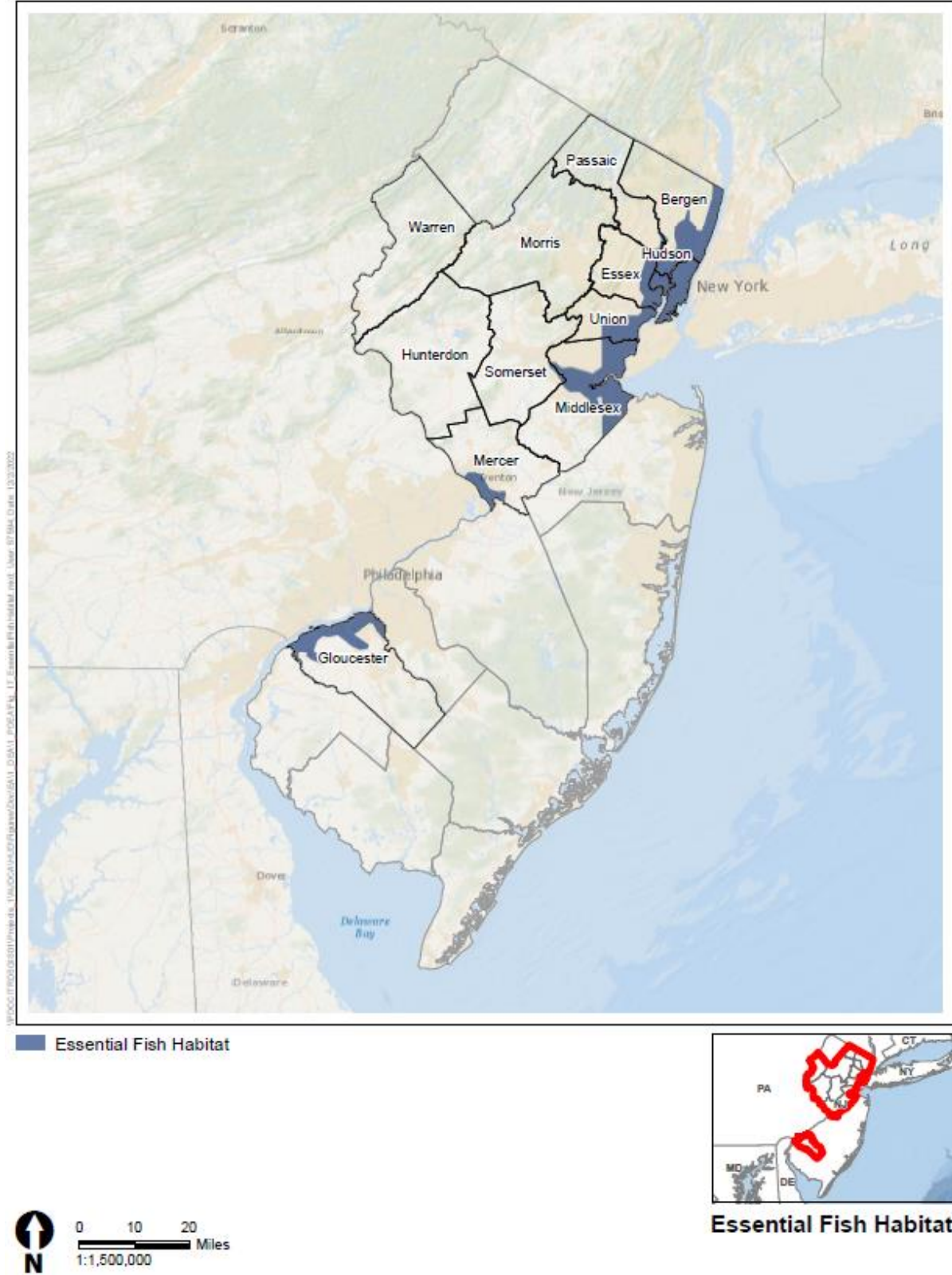
Supporting Documentation

- Figure A14-1: Essential Fish Habitat Map – Passaic County

Environmental Finding

Compliance has been achieved in the Tier 1 Broad Review since the proposed project activities will take place on land (and not in or over essential fish habitat) proposed project activities would not have a significant adverse effect on essential fish habitat. Evaluation at a site-specific level is not required.

Figure A14-1: Essential Fish Habitat Map – Passaic County



APPENDIX B: ENVIRONMENTAL SITE-SPECIFIC REVIEW STRATEGY AND CHECKLIST

Environmental Site-Specific Review Strategy and Checklist

New Jersey Department of Community Affairs (DCA) Blue Acres Program (Version 1.0, June 2024)

(For use following completion of the DCA Tier 1
Environmental Assessments for the Blue Acres program)

Note: Throughout this annotated form, explanatory language is in blue font.

Agency Name / Grant #	DCA	B-21-DF-34-0001
CDBG-DR Program	<input checked="" type="checkbox"/> Blue Acres	
Applicant Name / ID #	(First, Last)	Ex: BA0000000
Project Address and Zip		
County / X,Y Coord		
Pams Pin #/Tax Parcel ID		
Final Notice Publication		
RROF / AUGF Dates		
Date Submitted to DCA		
Date of Structure	(Secretary of Interior (SOI) Qualified Historian Verified)	
Project Description	<p>Introduction for all activities:</p> <p>The following is the site-specific review for activities eligible under this program. Include at least the following paragraph. Revise as appropriate to provide sufficient scope details such as if the existing structure has been or still needs to be demolished, and/or if tree removal is required.</p> <ul style="list-style-type: none"> ▪ The proposed activities includes demolition of the residential structure at the address listed above, along with the resulting debris removal, and property restoration to open space. The proposed activities may involve tree removal within 50 feet of the structure damaged by Tropical Storm Ida. The structure was constructed in (insert year). All activities would be limited to the disturbed area of the previously developed lot. A map showing the location of the proposed activities is attached. Proposed activities would include mitigation (e.g., proper use of personal protective equipment, measures to protect wetlands, other). Discuss in the Project Description how/if the property qualifies for buyout (i.e., properties that serve either as a full-time rental or owner-occupied home are prioritized) and possible relocation assistance. 	
Environmental Finding	<input type="checkbox"/> The proposed activity conditionally complies with environmental requirements for funding. <input type="checkbox"/> The proposed activity does not comply with environmental requirements for funding because (state topic(s) that makes it ineligible) . <input type="checkbox"/> A finding cannot be made: (provide explanation)	

Site Specific Checklist

Compliance Achieved in Broad Review

Compliance has already been achieved for all 12 affected counties for the following environmental topics: 1) Airport Hazards; 2) Coastal Barrier Resources; 3) Clean Air; 4) Coastal Zone Management; 5) Explosive and Flammable Hazard; 6) Farmland Protection; 7) Floodplain Management; 8) Flood Insurance; 9) Noise Abatement and Control; 10) Sole Source Aquifers; 11) Wetlands Protection; 12) Environmental Justice; and 13) Essential Fish Habitat. The remaining sections listed below will require determination of compliance on a county by county basis or at a site-specific review level.

1.0 Contamination and Toxic Substances

(24 CFR Part 58.5(i)(2))

1.1 Findings from Review of Regulatory Databases and Other Sources.

Is the Blue Acres property within 3,000 feet of a Federal Brownfield, Federal Superfund, State Solid and Hazardous Waste Facility, or State Known Contaminated site(s)?

- No. Provide Contamination and Toxic Substances map. **(Continue to the next question)**
- Yes. Provide Contamination and Toxic Substances map and Summary Table.
 - The environmental site(s) of concern within 3,000 feet of the Blue Acres property will have **no discernable effect**. Based on topography, distance, and/or other factors, it **DOES NOT** appear facility hazard(s) poses a threat to the Blue Acres property and that no further action is required. This conclusion is based on the provided Toxic Summary Table results. **(Continue to next question)**
 - The environmental site(s) of concern within 3,000 feet of the Blue Acres property has **potential adverse effect**. Based on topography, distance, and/or other factors, it **DOES** appear facility hazard(s) could pose a threat to the Blue Acres property. This conclusion is based on the provided Toxic Summary Table results.
 - Appropriate mitigation actions **WILL NULLIFY** the condition. Attach report with mitigation requirements. **(Continue to next question)**.
 - Mitigation actions **WILL NOT NULLIFY** the condition. Attach report with this conclusion. **(STOP. Ineligible for funding. Application CANNOT proceed)**.

Is the Blue Acres property within 250 feet of a Air Pollution, Hazardous Waste, Toxic Releases, Toxic Substances Control Act, or Water Discharge facility site(s)?

- No. Provide Contamination and Toxic Substances map. **(Continue to Subsection 1.2)**
- Yes. Provide Contamination and Toxic Substances map and Summary Table.
 - The environmental site(s) of concern within 250 feet of the Blue Acres property will have **no discernable effect**. Based on topography, distance, and/or other factors, it **DOES NOT** appear facility hazard(s) poses a threat to the Blue Acres property and that no further action is required. This conclusion is based on the provided Toxic Summary Table results. **(Continue to Subsection 1.2)**
 - The environmental site(s) of concern within 250 feet of the Blue Acres property has **potential adverse effect**. Based on topography, distance, and/or other factors, it **DOES** appear facility hazard(s) could pose a threat to the Blue Acres property. This conclusion is based on the provided Toxic Summary Table results.
 - Appropriate mitigation actions **WILL NULLIFY** the condition. Attach report with mitigation requirements. **(Continue to Subsection 1.2)**.

- Mitigation actions **WILL NOT NULLIFY** the condition. Attach report with this conclusion. **(STOP. Ineligible for funding. Application CANNOT proceed).**

1.2 Recognized Environmental Conditions (RECs).

Are there any recognized environmental conditions (RECs), such as obvious signs of potential hazardous, toxic, or radioactive materials (excluding lead-based paint, asbestos, mold and non-toxic debris – see Subsection 1.3) observed during the property site visit (performed by the inspector in accordance with a Field Observation Report)?

During the site reconnaissance, the subject property and adjoining properties are visually inspected for RECs, such as:

- UST vent or fill pipes
- Corroded ASTs, drums or containers
- Pits, ponds, lagoons, pools of hazardous substances or petroleum products
- Mounds of rubble, garbage, or solid waste
- Distressed vegetation
- Surface staining
- Faulty septic systems
- Ground water monitoring or injection wells
- Proximity to sensitive receptors (wetlands, floodplains, critical habitats, etc.)
- Structure(s): present and former uses

Note any obstacles to identification of RECs.

- No. (Continue to Subsection 1.3)
- Yes. Provide documentation. (Continue to the following question)

Can mitigation resolve the REC(s) impact?

- Yes. Attach report or agency communication that justifies no further action is required or provide explanation in the Comments section below. (Continue to Subsection 1.3)
- No. Assessment results show that application action site is affected by hazardous, contaminated or toxic materials and no mitigation actions can nullify the condition. **(STOP. Ineligible for funding. Application CANNOT proceed).**

1.3 Lead-Based Paint, Asbestos, and Mold.

Are lead-based paint (LBP), asbestos, mold or non-toxic debris hazards potentially located on the application property? (If inspection report(s) Not Available, assume Yes for LBP on residences built before 1978 and Yes for asbestos on any residence built before 1982).

- No. (Continue to Section 2.0, Threatened and Endangered Species)
- Yes. Specify all that apply: Asbestos Lead-Based Paint Mold Debris
- Are hazard controls or additional site assessments required?
- No. Attach site inspection report or agency communication that justifies no further action is required. (Continue to Section 2.0)
- Yes. Appropriate hazard protocols must be followed during work on the Blue Acres property. Add Site-Specific Condition in Comments section. (Continue to Section 2.0)
- OTHER (state finding).

Comments: [Indicate if the project is in compliance, if there were hazardous facilities within review radii (if so, add reference to hazardous facility compliance table attachment. Indicate if there were any facilities that pose a threat to the project property). For additional guidance on hazardous facilities, see policies and procedures document. Note the date of demolition for the property and if lead-based paint (LBP), asbestos or mold observed. Indicate any property hazards present (e.g., hazardous trees over the house, dead hanging tree limbs, abundance of trash/debris, rotted stairs, and so on). Note any potential RECs (examples listed above). Include any site-specific conditions such as: remediation/testing/disposal of potential RECs, asbestos, LBP, and/or mold.]

1.4

2.0 Threatened and Endangered Species

(16 USC 1531 et seq., 50 CFR Part 402)

Do the proposed project activities have the potential to pose a significant hazard to species of concern; does a critical habitat exist on the project site; and/or are there any species which are listed that may be present in the project area?

- No. **No Effect** determination. No significant hazard to species of concern or their habitats exists. (Continue to Section 3.0, Historic Preservation)
- Yes. Further evaluation is required.

Did a desktop review and/or site visit by a qualified environmental professional identify any potential protected species or their habitat? (Refer to the January 1, 2023 USFWS NJ Field Office letter from Eric Schradung for additional guidance processes and procedures.)

- No. Attach desktop report, memorandum, or USFWS Project Screening Questions. (Continue to Section 3.0).
- Yes. Potential habitat present but **No Effect** determination was made. No significant hazard to species of concern exists. Attach biologist's desktop report, memorandum, or USFWS Project Screening Questions. (Continue to Section 3.0)
- Yes, and **Not Likely to Adversely Affect** determination was made.
- Project was moved to different approved location, USFWS or ENSP consultation was performed, and/or mitigation actions were designed that allow for a **No Effect** final determination. Attach documentation and state conditions required. (Continue to Section 3.0)
- Consultation under Section 7 of the Endangered Species Act or consultation with DEP ENSP was required. Attach documentation and state conditions required when complete. (Continue to Section 3.0)
- Yes, and **Likely to Adversely Affect** determination was made.
- Project was moved to different approved location, USFWS or ENSP consultation was performed, and/or mitigation actions were designed that allow for a **No Effect** final determination. Attach documentation and state conditions required. (Continue to Section 3.0)
- Consultation under Section 7 of the Endangered Species Act or consultation with DEP ENSP was needed and completed. Attach documentation and state conditions required. (Continue to Section 3.0)
- Adverse Effect factors could not be cleared. (**STOP. Ineligible for funding. Application CANNOT proceed**).
- OTHER (state finding).

Comments: (Indicate if the project is in compliance, determination reached, how determination was reached, if the property is located within a critical habitat or if any threatened and/or endangered species are present (identified through the IPaC and ENSP Landscape tool). State if tree clearing will occur, any site-specific conditions, and any best management practices that will be applied.)

3.0 Historic Preservation (36 CFR 800)	
A. Programmatic Agreement Review	
Above Ground Resources <input type="checkbox"/> Project is comprised entirely of an activity listed in the Tier I or Tier II Programmatic Allowances specified in the Programmatic Agreement. <input type="checkbox"/> Activity meets Tier I Programmatic Allowance # _____ <input type="checkbox"/> Activity meets Tier II Programmatic Allowance # _____ (Requires SOI qualified professional) Name of SOI qualified professional: {Name} (Above Ground Review concluded)	Archaeological Resources <input type="checkbox"/> Project is comprised entirely of an activity listed in the Tier I or Tier II Programmatic Allowances specified in the Programmatic Agreement. <input type="checkbox"/> Activity meets Tier I Programmatic Allowance # _____ <input type="checkbox"/> Activity meets Tier II Programmatic Allowance # _____ (Requires SOI qualified professional) Name of SOI qualified professional: {Name} (Archaeology Review concluded)
<p><i>If both Above Ground Resources and Archaeological Resources are checked, the historic preservation review is complete and has a Section 106 finding of No Historic Properties Affected. Continue to Section 4.0, Wild and Scenic Rivers. If neither or only one review topic is completed above the remaining topic(s) must be assessed by completing the following section.</i></p>	
B. Standard Project Review: HPO/Tribal Consultation Performed	
<input type="checkbox"/> No above ground Section 106-defined historic properties or NRHP-listed, NRHP-eligible or local historic districts are in the Area of Potential Effects. No Historic Properties Affected Determination. HPO concurrence on file. (Above Ground Review Concluded) <input type="checkbox"/> Individual historic properties or historic districts are located within the Area of Potential Effect. <input type="checkbox"/> No Adverse Effect Determination (HPO concurrence on file) Are project conditions required? <input type="checkbox"/> No (Above Ground Review Concluded) <input type="checkbox"/> Yes. Attach conditions. (Above Ground Review Concluded)	<input type="checkbox"/> Consultation conducted with HPO (and Native American Tribes, where required) for archaeological resources. <input type="checkbox"/> No Historic Properties Affected Determination (HPO/THPO concurrence or consultation on file). (Archaeological Review Concluded) <input type="checkbox"/> No Adverse Effect Determination (HPO/THPO concurrence on file) Are project conditions required? <input type="checkbox"/> No (Archaeological Review Concluded) <input type="checkbox"/> Yes. Attach conditions. (Archaeological Review Concluded) <input type="checkbox"/> Adverse Effect Determination (HPO/THPO concurrence on file) <input type="checkbox"/> Mitigation not possible. (Stop. Ineligible for funding. Application CANNOT

<input type="checkbox"/> Adverse Effect Determination (HPO concurrence on file) <input type="checkbox"/> Mitigation not possible. (Stop. Ineligible for funding. Application CANNOT proceed) <input type="checkbox"/> Adverse Effect Resolved <input type="checkbox"/> Using measure(s) listed in PA (HPO concurrence on file) <input type="checkbox"/> Separate MOA on file Are project conditions required? <input type="checkbox"/> No (Above Ground Review Concluded) <input type="checkbox"/> Yes. Attach conditions. (Above Ground Review Concluded) <input type="checkbox"/> OTHER (state finding).	proceed) <input type="checkbox"/> Adverse Effect Resolved <input type="checkbox"/> Using measure(s) listed in PA (HPO concurrence on file) <input type="checkbox"/> Separate MOA on file Are project conditions required? <input type="checkbox"/> No (Archaeological Review Concluded) <input type="checkbox"/> Yes. Attach conditions. (Archaeological Review Concluded) <input type="checkbox"/> OTHER (state finding).
<p>Comments: [Indicate the age of the structure, if HPO consultation was required (if exempt note why such as PA allowance), determination of HPO consultation, and any HPO required mitigation measures.]</p>	

<p>4.0 Wild and Scenic Rivers (Sections 7(b), (c))</p>
<p>Seven counties were determined to be in compliance for Wild and Scenic Rivers during the Tier 1 Broad Review. Is the project located within any of the following remaining counties: Gloucester, Hunterdon, Mercer, Morris, and Warren?</p> <input type="checkbox"/> No. (Analysis complete) <input type="checkbox"/> Yes. (Continue to next question)
<p>Is the project located within 1/4 mile of a Wild and Scenic River, Study River, or Nationwide Rivers Inventory River?</p> <input type="checkbox"/> No. Provide map to document finding. (Analysis completed) <input type="checkbox"/> Yes. Through consultation with the managing agency, was it determined that the Blue Acres property would have an adverse effect on a designated river? <input type="checkbox"/> No. Provide evidence of concurrence with the Managing Agency. (Analysis completed) <input type="checkbox"/> Yes. The project will have an adverse effect on the designated river. Were mitigation measures able to be implemented into the project? <input type="checkbox"/> Yes. Explain in detail all mitigation measures that will bring the project into compliance. Document all measures and correspondence with the Managing Agency and implement the measures into the project. (Analysis completed) <input type="checkbox"/> Mitigation measures are not feasible. Attach documentation. Stop. Ineligible for funding. Application CANNOT proceed.
<p>Comments: [Indicate if the Blue Acres property is within ¼ mile of any wild and scenic rivers and whether the property is in compliance.]</p>

Conditions for Approval

The following mitigation measures are required as conditions for approval of the project

1. Acquire all required federal, state, and local permits prior to demolition and comply with all permit conditions.
2. When using heavy equipment, work from hard or firm surfaces to the fullest extent possible, to avoid sinking into soft soils. The Applicant will ensure, to the fullest extent possible, that its contractors minimize soil disturbance when operating heavy equipment on we soils (6 inches or less).
3. If the scope of work of a proposed activity changes, the application for funding must be revised and resubmitted for reevaluation under NEPA.

Clean Air

1. Use water or chemical dust suppressant to control excessive dust in exposed areas.
2. Cover the load compartments of trucks hauling dust-generating materials.
3. Dust emissions either windblown or generated from demolition, debris removal, and restoration to open space activities should be controlled to prevent offsite impacts or material tracked onto the roadways. N.J.A.C. 7:27-5.2.
4. Air pollution including odors that are detectable offsite that are injurious to human health or would result in citizen complaints are prohibited. N.J.A.C. 7:27-5.2.
5. Wash heavy trucks and other proposed project activities (i.e., demolition, debris removal, property restoration to open space) vehicles before site departure.
6. Reduce vehicle speed on non-paved areas and keep paved areas clean.
7. Retrofit older equipment with pollution controls.
8. Establish and follow specified procedures for managing contaminated materials discovered or generated during proposed project activities.
9. Obtain an air pollution control permit to demolish and a certificate to operate for all equipment subject to N.J.A.C. 7:27-8.2(c). Such equipment includes, but is not limited to, the following:
 - a. Commercial fuel combustion equipment rated with a maximum heat input of 1,000,000 British Thermal Units per hour or greater to the burning chamber (N.J.A.C. 7:27-8.2(c)1).
10. Any vehicles involved on the project must adhere to the idling standards (less than 3 minutes) in N.J.A.C. 7:27-14 and 15. Minimize idling and ensure that all on-road vehicles and non-road equipment at the project site use ultra-low sulfur fuel (<15 ppm sulfur) in accordance with the federal Non- Road Diesel Rule (40 CFR Parts 9, 69, 80, 89, 94, 1039, 1051, 1065, 1068).
11. If possible, operate newer on-road diesel vehicles and non-road equipment with tier 4 engines or an exhaust retrofit device.

Contamination and Toxic Substances

1. All proposed project activities must comply with applicable federal, state, and county laws and regulations regarding asbestos, including but not limited to the following:
 - a. National Emission Standard for Asbestos, standard for demolition and renovation, 40 CFR 61.145.
 - b. National Emission Standard for Asbestos, standard for waste disposal for manufacturing, fabricating, demolition, and spraying operations, 40 CFR 61.150.
 - c. New Jersey Superstorm Sandy Demolition Guidance Document for Local Government Assuming Demolition of Private Residences May 1,2013.

- d. FEMA Best Practices for Lower Impact Debris Removal and Demolitions (Version 3.7 – 6/11/13).
 - e. NJAC 7:26-2.12-Generator requirements for disposal of asbestos containing waste materials.
 - f. New Jersey Asbestos Control and Licensing Act, N.J.S.A. 34-5A-32 et seq.
2. Applicant must comply with all laws and regulations concerning the proper handling, removal, and disposal of hazardous materials (e.g., asbestos, lead-based paint) or household waste (e.g., demolition debris, pesticides/herbicides, white goods).
 3. All activities must comply with applicable federal, state, and local laws and regulations regarding lead-based paint, including but not limited to HUD's lead-based paint regulations in 24 CFR 35(b)(h)(j).
 4. Proper precautions must be taken to protect workers and others from exposure to mold and other hazardous materials on/in all residential structures during all proposed project activities (i.e., demolition, debris removal, and property restoration to open space). Activities must comply with OSHA's criteria for personal protective equipment regulation in 29 CFR 1926.95(a).
 5. Comply with all laws, regulations, and industry standards applicable to aboveground and underground storage tanks, including the New Jersey underground storage tank regulations at NJAC 7:14B.
 6. Employ spill mitigation measures immediately upon a spill of hazardous material.
 7. During the temporary project activities, implement applicable site safety measures, such as:
 - a. Ensure workers wear personal protective gear, such as hard hats, proper gloves, and safety glasses or face shields.
 - b. Control site access.

Threatened and Endangered Species

1. While bat surveys are no longer required for northern long-eared bats in buildings, if bats (of any species) happen to be discovered during the process of renovations/demolitions/etc., work should cease and the construction manager should contact Mackenzie Hall, New Jersey Division of Fish and Wildlife, Endangered and Nongame Species Program at 609-292-1244 on how to proceed. All bat species are protected by law in New Jersey and cannot be knowingly harmed or harassed
2. If project clearing of potential migratory bird habitat will occur within 50 feet of the demolition site between March 15 and September 15, then a nest survey must be undertaken by a qualified biologist. If nests are identified, then a minimum 50-foot buffer from the work area is required until the nest is no longer active. If an active migratory bird nest is incidentally disturbed during clearing, then the contractor shall collect and immediately transport the eggs to a wildlife rehabilitator. The DCA shall be notified of this action by the contractor, so the activity is noted in the ERR.

Floodplain Management and Flood Insurance

1. Proposed project activities (i.e., demolition, debris removal, and property restoration to open space) must adhere to best management practices and standards that fully protect and, if necessary, restore floodplains. Flood insurance is not applicable to the Blue Acres program.

Historic Preservation

1. All activities must comply with Section 106 of the National Historic Preservation Act per the implementing regulations 36 CFR Part 800. Compliance with Section 106 is achieved through the procedures set forth in the Programmatic Agreement among the, the New Jersey Historic Preservation Officer, the Advisory Council on Historic Preservation, the Absentee Shawnee Tribe of Indians of Oklahoma, the Delaware Nation, the Delaware Tribe of Indians, the Shawnee Tribe, and the Stockbridge-Munsee Community, as signed onto by the New Jersey Department of Community Affairs.
2. If project activities uncover archaeological deposits, including any Native American pottery, stone tools, bones, or human remains, the project shall be halted, and the applicant shall immediately stop work in the vicinity of the discovery and take reasonable measures to avoid or minimize harm to the finds. All archeological findings will be secured and access to the sensitive area restricted. The applicant will inform DCA and DCA will consult with the DEP Historic Preservation Office (HPO) or Tribal Historic Preservation Office (THPO) and Tribes. Work in sensitive areas cannot resume until consultation is completed and appropriate measures have been taken to ensure that the project is in compliance with the National Historic Preservation Act (NHPA).
3. To the fullest extent possible, contractors will limit excavation to within two (2) feet of the foundation perimeter and will not excavate more than six (6) inches below the depth of the foundation to minimize soil disturbance.
4. When using heavy equipment, work from hard or firm surfaces to the fullest extent possible, to avoid sinking into soft soils. The Applicant will ensure, to the fullest extent possible, that its contractors minimize soil disturbance when operating heavy equipment on wet soils (6 inches or less).

Noise Abatement and Control

1. Outfit all heavy equipment with operating mufflers.
2. If applicable, comply with local noise ordinance.
3. If application site is in a high noise area, then use appropriate eco-friendly demolition standard methods to attenuate.

Wetlands Protection

1. Implement and maintain best management practices for erosion and sedimentation control measures to prevent deposition of sediment and eroded soil in on-site and off-site wetlands and waters and to prevent erosion in onsite and off-site wetlands and waters.
2. Reestablish vegetation on exposed soil as soon as possible after work has been completed.
3. Minimize soil compaction by minimizing project ground disturbing activities in vegetated areas, including lawns.
4. As appropriate, install sediment dams or berms, diversion dikes, hay bales as erosion checks, riprap, mesh or burlap blankets to hold soil during project activities.
5. Determine if demolition activities would disturb more than 5,000 square feet of land. If land disturbance would exceed more than 5,000 square feet, a certificate from the Freehold Soil Conservation District must be obtained.
6. Apply demolition methods incorporating eco-friendly practices to minimize the environmental impact of demolishing a building. This includes reusing and recycling materials, and ensuring that the local environment is not adversely affected.
7. Identify and flag sensitive areas at site prior to start of proposed project activities.

8. Protect fragile and sensitive areas such as wetlands, riparian zones, delicate flora, or land resources against compaction, vegetation loss and unnecessary damage.
9. Protect existing drain inlets from debris, soil, and sedimentation.
10. Do not operate heavy equipment in wetlands.
11. Remove all temporary fills following completion of proposed project activities.

Surface Water

1. No equipment maintenance or fueling of construction equipment shall take place on the job sites.
2. If handling of fuels on site is to occur, take caution to prevent spills of oils and grease that may reach the receiving waters.
3. Follow safe storage and handling procedures in order to prevent the contamination of water from fuel spillage, lubricants and chemicals.
4. Protect streams, wetlands, woods, and other natural areas from any unnecessary project activities or disturbances.
5. Control stream bank and stream bed disturbances to minimize and/or prevent silt movement, nutrient upsurges, plant dislocation, and any physical, chemical, or biological disruption.

Wild and Scenic Rivers

1. Comply with any conditions specified by DEP and the National Park Service (NPS) for protection of the Great Egg Harbor River, Delaware River, and Musconetcong River, designated Wild and Scenic Rivers. (Applicable only to Gloucester, Hunterdon, Mercer, and Warren counties.)

Hazards and Nuisances, Including Site Safety and Noise

1. During the temporary proposed project activities, implement applicable site safety measures, such as:
 - a. Ensure workers wear personal protective gear, such as hard hats, proper gloves, and safety glasses or face shield.
 - b. Control site access.
2. During the temporary proposed project activities, outfit all heavy equipment with operating mufflers.
3. Comply with any applicable local noise ordinance(s).

Site-Specific Environmental Conditions Summary

- Based on the above review, there are no site-specific environmental conditions that are required for the Project to proceed. All general conditions listed in the applicable county's environmental broad review document must be applied, where appropriate.
- Based on this review, all applicable general conditions listed above must be applied, plus the following site-specific environmental conditions are required for the Project to proceed:
 - 1) *[list all applicable site-specific conditions identified above, e.g., flood insurance, elevation, hazardous material remediation, etc.]*

Preparer Name:

Signature

Date:

Required documents

- **Completed and Signed RROF/Certification (HUD 7015.15)**
- **Tier 2: Site Specific Review Form (includes 24 CFR 58.6 Environmental Review)**
- **Supporting Documentation including but not limited to:**
 - **Site Specific Maps documenting Tier 2 findings**
 - **Consultation, concurrence, and communication from applicable agencies (ex: DEP, HPO, etc.)**
 - **Tax cards to verify PAMS PIN, property address, and total acreage (if available on the tax card)**
 - **Maps indicating total acreage, total acreage calculation on the tax card or an SOI Memo showing calculation for total acreage if required when the Programmatic Allowance is used**
 - **Multiple photographs of subject property and adjacent environment taken during site reconnaissance visit(s)**
 - **Multiple photographs of accessible wetlands on or adjacent to the property if wetlands were observed during the site survey (include a detailed description on the Tier 2 form and/or field assessment survey if a site reconnaissance form is provided)**
 - **Multiple photographs of RECs, if RECs were identified (ex: fill pipes, vent pipes, USTs, ASTs, contamination, etc.) and a detailed description**

APPENDIX C: REQUEST FOR RELEASE OF FUNDS AND AUTHORITY TO USE GRANT FUNDS

COMBINED PUBLIC NOTICE

NOTICE OF FINDING OF NO SIGNIFICANT IMPACT AND NOTICE OF INTENT TO REQUEST RELEASE OF FUNDS

June 28, 2024

New Jersey Department of Community Affairs
101 South Broad Street
PO Box 800
Trenton, NJ 08625-0800

This Notice is related to Federal assistance provided in response to the Presidentially declared disaster, Hurricane Ida. This notice shall satisfy two separate but related procedural requirements for activities to be undertaken by the New Jersey Department of Community Affairs (DCA).

REQUEST FOR RELEASE OF FUNDS

On or about June 28, 2024, the DCA will submit a request to the U.S. Department of Housing and Urban Development (HUD) for the release of Federal funds under the Community Development Block Grant (CDBG) Program pursuant to the Disaster Relief Supplemental Appropriations Act of 2022 for major disasters occurring in 2020 and 2021 (Public Law 117-43), approved on September 30, 2021 (the Appropriations Act) for the Blue Acres program. DCA expects to fund the project using approximately \$16,000,000 of CDBG-DR funds across 12 counties. \$14,400,000 will be allocated across seven HUD-Identified *most impacted and distressed* (MID) counties: Bergen, Essex, Hudson, Middlesex, Passaic, Somerset, and Union, and \$1,600,000 will be allocated across five Grantee-Identified MID counties: Gloucester, Hunterdon, Mercer, Morris, and Warren.

PROJECT DESCRIPTION

Tropical Storm Ida Tier 1 Environmental Assessments

Project Title: New Jersey Blue Acres Tiered Environmental Reviews for Tropical Storm Ida

Location: Bergen, Essex, Hudson, Middlesex, Passaic, Somerset, Union, Gloucester, Hunterdon, Mercer, Morris, and Warren Counties in New Jersey

The total estimated project cost is \$16,000,000.

The projects would entail the acquisition of residential properties within a floodway, floodplain, or other disaster risk reduction area to reduce the risk from future flooding. Acquired properties would be cleared of all existing structures and related improvements and the land would be restored as wetlands and/or floodplains to serve a defined open space and climate-resilience purpose.

FINDING OF NO SIGNIFICANT IMPACT

The DCA has determined that this project will have no significant impact on the human environment. Therefore, an Environmental Impact Statement (EIS) under the National Environmental Policy Act of 1969 (NEPA) is not required. Additional project information is contained in the Environmental Review Record (ERR) on file at the DCA, Division of Disaster Recovery and Mitigation, 101 South Broad Street, Trenton, NJ 08625-0800. The record is available for review and may be examined or copied weekdays 9 A.M. to 5 P.M. or can be viewed online at <https://www.nj.gov/dca/ddrm/resources/environmental.shtml>.

PUBLIC COMMENTS

Any individual, group, or agency disagreeing with this determination or wishing to comment on this project may submit written comments to Samuel Viavattine, Deputy Commissioner, New Jersey Department of Community Affairs, 101 South Broad Street, PO Box 800, Trenton, NJ 08625-0800 or online at DDRM.EHPComments@dca.nj.gov and to Tennille Smith Parker, Office of Disaster Recovery, Division Director, HUD, 451 Seventh Street SW, Washington, D.C. 20410. All comments received by June 28, 2024, or fifteen (15) days from the actual date of publication, whichever is later, will be considered by DCA. Comments should specify which Notice they are addressing.

ENVIRONMENTAL CERTIFICATION

DCA certifies to HUD that Samuel Viavattine, in his capacity as Certifying Official consents to accept the jurisdiction of the Federal Courts if an action is brought to enforce responsibilities in relation to the environmental review process and that these responsibilities have been satisfied. HUD's approval of the certification satisfies its responsibilities under the National Environmental Policy Act and related laws and authorities and allows DCA to use CDBG-DR funds.

OBJECTIONS TO RELEASE OF FUNDS

HUD will accept objections to its release of funds and DCA's certification for a period of fifteen (15) days following the anticipated submission date or its actual receipt of the request (whichever is later) only if they are on one of the following bases: (a) the certification was not executed by the Certifying Officer of DCA; (b) DCA has omitted a step or failed to make a decision or finding required by HUD regulations at 24 CFR Part 58; (c) the grant recipient has committed funds or incurred costs or undertaken activities not authorized by 24 CFR Part 58 before approval of a release of funds by HUD; or (d) another Federal agency, acting pursuant to 40 CFR Part 1504, has submitted a written finding that the project is unsatisfactory from the standpoint of environmental quality. Objections must be prepared and submitted in accordance with the required procedures (24 CFR Part 58.76) and shall be addressed to Tennille Smith Parker, DRSI, Division Director, HUD, 451 Seventh Street SW, Washington, D.C. 20410. Potential objectors should contact HUD to verify the actual last day of the objection period.

Samuel Viavattine, Deputy Commissioner

New Jersey Department of Community Affairs

APPENDIX D: PROGRAMMATIC AGREEMENT



**PROGRAMMATIC AGREEMENT
AMONG THE NEW JERSEY DEPARTMENT OF COMMUNITY AFFAIRS,
THE NEW JERSEY HISTORIC PRESERVATION OFFICER,
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION,
THE ABSENTEE SHAWNEE TRIBE OF INDIANS OF OKLAHOMA,
THE DELAWARE NATION,
THE DELAWARE TRIBE OF INDIANS,
THE SHAWNEE TRIBE,
AND THE STOCKBRIDGE-MUNSEE COMMUNITY
REGARDING DISASTER RECOVERY ACTIVITIES IN NEW JERSEY**

WHEREAS, the U.S. Department of Housing and Urban Development (HUD) provides Community Development Block Grant-Disaster Recovery (CDBG-DR) funds to the State of New Jersey for past and future disaster recovery activities, including \$228,346,000 approved on September 30, 2021, in response to Tropical Storm Ida (DR-4614), through notice FR-6326-N-01, made available through the Disaster Relief Supplemental Appropriations Act of 2022 for major disasters occurring in 2020 and 2021 (Public Law 117-43); and

WHEREAS, this Programmatic Agreement (PA or Agreement) is being developed to address Tropical Storm Ida recovery efforts, it is also meant to address future disasters which may receive CDBG-DR funds; and

WHEREAS, HUD has the statutory authority to delegate its environmental compliance responsibilities promulgated at 24 CFR Part 58 to State, tribal, and local governments including obligations under Section 106 of the National Historic Preservation Act of 1966 (NHPA, 54 U.S.C. § 306108) and its implementing regulations 36 CFR Part 800, and Section 110 of the NHPA (54 U.S.C. 306101); and

WHEREAS, the New Jersey Department of Community Affairs (DCA) has assumed the role of Responsible Entity on behalf of HUD, and makes assistance, including CDBG-DR, available to communities, its citizens, Federally Recognized Tribes (Tribes) and other entities; and

WHEREAS, DCA has proposed a series of programs designed in accordance with HUD eligible activities to meet HUD National Objectives including: *Homeowner Assistance and Recovery Program; Smart Move: New Housing Development; Blue Acres; Small Rental Repair Program; Tenant-Based Rental Assistance; Housing Counseling and Legal Aid Assistance; Resilient Communities; Federal Emergency Management Agency (FEMA) Non-Federal Cost Share; Resilient New Jersey; Statewide Housing Mitigation Tool; and Administration; and*

WHEREAS, DCA has determined that implementing the CDBG-DR funded series of programs will result in Undertakings, as defined by 36 C.F.R. § 800.16(y), that may affect historic properties listed in or eligible for the National Register of Historic Places (NRHP), and DCA has consulted with the New Jersey State Historic Preservation Officer (NJHPO) pursuant to Section 106 of the NHPA; and

WHEREAS, DCA recognizes that the Absentee Shawnee Tribe of Indians of Oklahoma, the Delaware Nation, the Delaware Tribe of Indians, the Shawnee Tribe, and the Stockbridge-Munsee Community (Tribes) may have sites of religious and cultural significance, DCA consulted with the Tribes during the development of this agreement, and pursuant to 36 CFR § 800.2(c)(2)(ii)(E) DCA invited the Tribes to enter into this agreement that specifies how DCA and the Tribes will carry out Section 106 responsibilities, including the confidentiality of information.]

WHEREAS, DCA notified the public of disaster recovery programs via posting information on its website, including the launching on February 27, 2023, of the Action Plan for the first three disaster recovery programs for renters and homeowners who were impacted by Tropical Storm Ida (Appendix A), and provided the public with opportunity to comment when environmental documents were prepared and circulated under the National Environmental Policy Act (NEPA); and

WHEREAS, DCA identified New Jersey local governments (Appendix C) and the New Jersey Historic Trust as other consulting parties based on the location of an Undertaking within their jurisdiction, and developed a plan to invite local governments to participate in the process in writing by letter; and

WHEREAS, given the magnitude of New Jersey's recovery effort and the immediate need for governmental assistance, DCA, NJHPO, and ACHP have agreed that consultation and compliance for Undertakings enabled by CDBG-DR funds should be addressed programmatically in order to effectively and expeditiously meet regulatory obligations; and

NOW THEREFORE, DCA, NJHPO, and ACHP as signatories and participating Tribes as invited signatories agree that, upon execution of this PA, the disaster recovery Undertakings funded by the CDBG-DR program in New Jersey shall be implemented in accordance with the following stipulations in order to take into account the effects of these Undertakings on historic properties.

STIPULATIONS

DCA will ensure that the following stipulations are implemented.

I. Responsibilities

A. DCA

1. DCA shall use federal, state, or contractor staff whose qualifications meet the Secretary of the Interior's (SOI) Professional Qualifications Standards 1983 as set forth in the Federal Register at 48 Fed. Reg. 44716-01 (September 29, 1983, as amended) to make determinations of NRHP eligibility and findings of effect. DCA shall consult with NJHPO for guidance on any questions regarding the SOI Professional Qualifications Standards on individuals, as needed.
2. DCA acknowledges that federally recognized Tribes possess special expertise in assessing the NRHP eligibility of properties to which they attach religious and cultural significance. Tribal leaders and, as appropriate, their representatives shall decide who meets qualifications/standards as defined by their Tribes.
3. DCA shall consult with NJHPO and the National Park Service (NPS) on all undertakings involving National Historic Landmarks (NHL) in accordance with 36 CFR § 800.11.
 - a. If DCA is informed or becomes aware that an NHL site has been damaged as the result of a specific declared Stafford Act major disaster or emergency, DCA shall promptly notify the NJHPO, the SOI's NHL Program Manager at the NPS Regional Office in Philadelphia, PA and the HUD Federal Preservation Officer (FPO). DCA will notify the Tribes if the damaged NHL is a precontact site.
4. DCA shall provide notification to consulting parties that have a consultative role in the Section 106 process in accordance with 36 CFR § 800.2(c)(4). This applies to all Undertakings with the exception of those exempt under HUD regulations (24 CFR § 58.34) or are categorically excluded (24 CFR § 50.19) and those exempt from NJHPO review as itemized in Appendix B.
 - a. In addition to the Tribes, consulting parties include the New Jersey Historic Trust (affiliated with the Department of Community Affairs) and Certified Local Governments (Appendix C).
 - b. The consulting parties will receive written notification regarding upcoming Undertakings in their interest areas likely to affect known historic properties or known resources that are unevaluated but are likely to be eligible for inclusion in the NRHP. The preferred methods of notification will be by electronic mail or direct mailings.

- c. Consultation with the consulting parties will occur as early as possible in the planning process. DCA will make every effort to arrange meetings with consulting parties as needed and provide additional project information in a timely manner.

B. NJHPO

1. NJHPO shall review and comment on DCA's resumes of staff meeting SOI Professional Qualification Standards, NRHP eligibility determinations, and DCA's effect findings.
2. NJHPO shall expedite review and consultations subject to this Agreement and will provide comments and recommendations as early as feasible within the specified timeframes required by this Agreement.
3. NJHPO may identify staff or consultants to assist DCA staff with its Section 106 responsibilities, review and identify, in coordination with DCA, specific activities that the NJHPO may perform for specific Undertakings as agreed in writing with DCA.
4. If, as a result of a specific declared Stafford Act major disaster or emergency, NJHPO staff is unable to meet the demands of the situation, NJHPO will consult with DCA at the earliest possible time to seek a solution.
 - a. NJHPO shall participate in initial disaster scoping coordination for a Disaster Declaration.
 - b. When requested during recovery operations, NJHPO staff will be available as resources and for informal consultation through written requests, telephone conversations or electronic media.
5. NJHPO shall consult with DCA if a specific undertaking has the potential to cause adverse effects to a historic property which cannot be appropriately mitigated through the standard treatments identified in Appendix D due to the scale and magnitude of the anticipated project effects, the exceptional significance of the affected historic property, or the association of the affected historic property with the religious and cultural traditions of a defined community. Such circumstances may include substantial objections raised by other consulting parties. When consulting parties agree that the standard treatments are inappropriate, NJHPO shall be reasonably available to consult with DCA and the consulting parties in order to identify appropriate resolutions to avoid, minimize, and/or mitigate such adverse effects in accordance with 36 CFR § 800.6, including the execution of a project specific Memorandum of Agreement (MOA) to resolve the anticipated adverse effect(s).
6. NJHPO shall consult with DCA, as needed or requested by DCA, to identify administrative improvements to improve the performance of this agreement under Section 106.

C. ACHP

1. The ACHP will provide guidance and advisory information and will consult with DCA and others, as appropriate, to resolve disputes or address public comments that may occur during the implementation of this Agreement.
2. The ACHP will provide information on preservation issues of concern, including consultation and policy guidance, within the declared disaster area.

D. Tribal Consultation

1. DCA shall invite affected Tribe(s) to participate in the initial scoping meeting within their geographic area of interest as set forth in Appendices E.1 through E.5.
2. As applicable to the conditions set forth in Appendices E.1 through E.5, requested, staff of participating Tribes will be available as a resource and for consultation through site visits, written requests, telephone conversations or electronic media. In those instances where consultation with Tribes has occurred, a written notice (via e-mail or regular mail) will be sent to the Tribes to confirm any decisions that were reached.
3. When advised of data sensitivity by the affected Tribes, DCA shall ensure that its consultations with other consulting parties shall not include the dissemination of information that might risk harm to an American Indian site or property of religious or cultural significance or that might impede the use of such a site by the affected Tribes in accordance with Section 304 of the NHPA and other applicable laws. Information provided is exempt from public knowledge and disclosure under the Freedom of Information Act (FOIA) by both Section 304 of the NHPA and Section 9 of the Archaeological Resources Protection Act (ARPA) (16 U.S.C. §470aa-470mm).

II. Project Review

A. Exclude from Section 106 Review

1. The signatories have agreed the activities associated with the following programs described in Appendix A have no potential to affect historic properties and may therefore be excluded from further consideration under Section 106 review: *Tenant-Based Rental Assistance; Housing Counseling and Legal Aid Assistance; Resilient New Jersey; Statewide Housing Mitigation Tool; and Administration.*

B. Evaluate Scope of Work

1. The signatories have agreed the activities associated with the following remaining programs described in Appendix A do have the potential to affect historic properties and are subject to further review: *HARP*; *Smart Move: New Housing Development*; *Blue Acres*; *Small Rental Repair Program*; *Resilient Communities*; and *FEMA Non-Federal Cost Share*. DCA shall ensure the scope of work under these programs is analyzed according to the following stages of review to determine whether a historic property may be affected.
2. Scope of Work Conforms to Programmatic Allowances
 - a. If DCA determines the scope of work conforms to one or more of the Tier I or Tier II allowances in Appendix B of this Agreement, DCA will complete the Section 106 review process by documenting this determination in the project file without NJHPO, Tribal or consulting party review or notification.
 - b. **Tier I Allowances only.** If all activities associated with the scope of work entirely conform to Tier I allowances, then the finding may be made by DCA staff regardless of their professional qualifications.
 - c. **Tier I and Tier II Allowances.** If all activities associated with the scope of work conform to Tier I and Tier II allowances, review staff must meet SOI Professional Qualifications Standards in the appropriate discipline: archaeology for ground disturbance and architectural history or historic architecture for buildings and structures. The qualified professional(s) may make a Section 106 finding of “no historic properties affected” consistent with 36 CFR § 800.4(d)(1).

C. Apply Conditions to Minimize Harm

1. If the entire scope of work does not initially conform to the Programmatic Allowances in Appendix B (hereafter, Non-Conforming), DCA may propose alternatives to eliminate or reduce effects or measures that minimize harm, whether or not the affected property may be eligible for the NRHP.
2. **Ground Disturbance.** For projects with Non-Conforming ground disturbance, an SOI qualified archaeologist may conduct research, review NJHPO data, and use professional judgement to condition the project in a manner that ensures the proposed activities substantially conform to the original footprint and/or are performed in previously disturbed soils, including the area where the activity is staged.
 - a. Examples of conditions include re-alignment of utilities to previously disturbed soils or replacing the need for excavation with above-ground utilities.
 - b. If the scope of work is modified such that the entire scope of work conforms to the Programmatic Allowances in Appendix B, the process reverts back to Stipulation II.B.2.

3. **Buildings/Structures.** For projects with Non-Conforming activities on buildings and structures, an SOI qualified architectural historian or historic architect may conduct research, review NJHPO data and condition the project in a manner that minimizes harm to potentially historic features and characteristics.
 - a. If the scope of work is modified such that the entire scope of work conforms to the Programmatic Allowances in Appendix B, the process reverts back to Stipulation II.B.2.
 - b. If the proposed conditions include performing the work in a manner consistent with the SOI *Standards for the Treatment of Historic Properties* (36 CFR Part 68) and applicable guidelines, *SOI Standards for Rehabilitation & Guidelines on Flood Adaptation for Rehabilitating Historic Buildings* dated 2021, or the *NJHPO Elevation Design Guidelines for Historic Properties*, dated December 2019:
 - i. DCA would submit the qualified professional’s analysis specifying how the scope of work was changed and conditioned to the NJHPO and propose a finding of “no adverse effect—with conditions” consistent with 36 CFR § 800.5(b).
 - ii. Concurrently, DCA would submit the analysis to consulting parties for a 15-calendar-day review period and inform the NJHPO if any comments or objections are received.
 - iii. Consulting parties include the New Jersey Historic Trust and Local Governments (Appendix C) in the appropriate jurisdiction.
 - iv. Within a 30-calendar-day review period, if NJHPO concurs with DCA’s finding and all other activities conform to the Programmatic Allowances, the Section 106 process is completed.
 - v. If concurrence is not reached, NJHPO shall provide comments with adequate direction to DCA for completing the Section 106 process.

III. Identify Historic Properties and Assess Effects

- A. If the entire scope of work does not conform to the Programmatic Allowances in Appendix B, and DCA does not propose alternatives to reduce effects or measures that minimize harm, DCA is responsible for evaluating historic significance in accordance with Stipulations III.B. and III.C.1. through III.C.3 and if any part of the property is listed on or eligible for the NRHP, assessing adverse effects in accordance with Stipulation III.C.5 and C.6.
- B. **Tools, Forms, and Process.** DCA’s SOI Qualified Professional(s) are responsible for implementing the following methods:
 1. Utilize the Specialized Tools, Forms, and Process, including the GIS Tools for: *DEP DataMiner*, *Historic Archaeological Grid*, [*Under Content, select Historic Archaeological Site Grid*] and *NJ-Geoweb*.

III.B.2.

2. Consultation with the New Jersey State Museum regarding review of the State's archaeological site files.
3. Determine appropriate consulting parties for each project, including but not limited to communities known to be Certified Local Governments (Appendix C).
4. Understand the provisions related to tribal consultation and follow the detailed instructions regarding consultation with each signatory tribe (Appendix E).
5. Prepare a consultation letter for DCA to submit to NJHPO explaining the undertaking, including maps, photos, plans, and finding of effect, following the documentation standards at 36 CFR § 800.11(d) or § 800.11(e), as explained in Stipulation III.C.

C. Standard Project Review. DCA's SOI Qualified Professional(s) shall perform a Standard Project Review as follows:

1. Establish an Area of Potential Effects (APE)
2. Identify and document all appropriate consulting parties
3. Identify and Evaluate Historic Properties
 - a. Architectural survey and Archaeological survey methodologies will meet NJHPO's relevant survey guidelines entitled *Guidelines for Historic and Architectural Surveys in New Jersey*, *Guidelines for Phase I Archaeological Investigations: Identification of Archaeological Resources*, and *Guidelines for Preparing Cultural Resources Management Archaeological Report Submitted to the Historic Preservation Office* and meet the SOI Standards and Guidelines for Archaeology and Historic Preservation at 48 FR 44716.
4. Findings of No Historic Properties Affected
 - b. DCA shall prepare and submit documentation to NJHPO and to all consulting parties, including tribes as appropriate, following the standards set forth at 36 CFR § 800.11(d). Documentation shall include:
 - i. A description of the undertaking, specifying DCAs involvement as HUD's responsible entity, and its APE, including photographs, maps, drawings, as necessary;
 - ii. A description of the steps taken to identify historic properties, including, as appropriate, efforts to seek information pursuant to § 800.4(b); and
 - iii. The basis for determining that no historic properties are present or affected.

5. Findings of No Adverse Effect

- a. DCA shall prepare and submit documentation to NJHPO and to all consulting parties, including tribes as appropriate, following the standards set forth at 36 CFR § 800.11(e). Documentation shall include:
 - i. A description of the undertaking, specifying DCA's involvement as HUD's responsible entity, and its APE, including photographs, maps, and drawings, as necessary;
 - ii. A description of the steps taken to identify historic properties;
 - iii. A description of the affected historic properties, including information on the characteristics that qualify them for the National Register;
 - iv. A description of the undertaking's effects on historic properties;
 - v. An explanation of why the criteria of adverse effect set forth at 36 CFR § 800.5(a) were found *inapplicable*, including any conditions or future actions to avoid, minimize or mitigate adverse effects; and
 - vi. Copies or summaries of any views provided by consulting parties and the public.

6. Findings of Adverse Effect

- a. DCA shall prepare and submit documentation to NJHPO and to all consulting parties, including tribes as appropriate, following the standards set forth at 36 CFR § 800.11(e). Documentation shall include:
 - i. A description of the undertaking, specifying DCA's involvement as HUD's responsible entity, and its APE, including photographs, maps, and drawings, as necessary;
 - ii. A description of the steps taken to identify historic properties;
 - iii. A description of the affected historic properties, including information on the characteristics that qualify them for the National Register;
 - iv. A description of the undertaking's effects on historic properties;
 - v. An explanation of why the criteria of adverse effect set forth at 36 CFR 800.5(a) were found *applicable*, including any conditions or future actions to avoid, minimize or mitigate adverse effects; and
 - vi. Copies or summaries of any views provided by consulting parties and the public.

IV. Resolve Adverse Effects

A. Standard Measures to Resolve Adverse Effects: If DCA determines that the undertaking will result in adverse effects to historic properties, then measures must be implemented to avoid, minimize, and/or mitigate those effects.

1. Due to the redundant nature of the undertakings funded through the CDBG-DR and the foreseeable nature of potential adverse effects, DCA and NJHPO have consulted to develop standard mitigation measures to address anticipated findings of adverse effects to historic properties (Appendix D).
2. Once DCA has consulted with all consulting parties, NJHPO has agreed upon the most appropriate measures to address adverse effects, and DCA notifies ACHP, the measures shall be formalized in a Letter of Agreement (LOA) drafted by DCA and signed by DCA and NJHPO. Once the LOA has been executed, the mitigation measures shall be implemented according to the terms of the LOA.
3. If any of the consulting parties object to the resolution of adverse effects through the application of one or more of the treatment measures described in Appendix D before the LOA has been executed, DCA shall consult further with the consulting parties to explore options for resolution of the adverse effect(s). If consultation is not successful after a fifteen (15) day consultation period, DCA shall request that the ACHP review the dispute in accordance with Stipulation VII. If no consensus is reached, DCA shall resolve the adverse effect(s) using procedures outlined below in Stipulation IV.B.

B. Agreement Documents for Non-Standard Measures

1. **Memorandum of Agreement (MOA):** If the treatment measures described in Appendix D are determined not feasible or are objected to by any of the consulting parties, DCA in consultation with the other consulting parties, will develop an MOA in accordance with 36 CFR § 800.6(c) to stipulate treatment measures to avoid, minimize, and/or mitigate adverse effects on historic properties. If the ACHP was not previously notified of the adverse effect, DCA will provide the documentation according to the standards outlined in 36 CFR § 800.11(e) and the ACHP will have fifteen (15) days to review the Undertaking and determine if its participation is necessary to complete the consultation process. The MOA may also include feasible treatment measures that serve an equal or greater public benefit in promoting the preservation of historic properties in lieu of more traditional treatment measures.
2. **Programmatic Agreement:** Should the execution of an MOA be inappropriate given the similar nature of effects on historic properties, the inability to determine effects prior to approval of an Undertaking, or where other circumstances warrant, DCA, NJHPO, the Grantee, participating Tribe(s), the ACHP, as appropriate, and any other consulting party

may consult to develop a Programmatic Agreement in accordance with 36 CFR § 800.14(b) to identify programmatic conditions or treatment measures to govern the resolution of potential or anticipated adverse effects from certain complex project situations for an Undertaking or for multiple but similar Undertakings by a single Grantee.

V. Other Considerations

A. Changes to an Approved Scope. When there are proposed changes to an approved SOW for an Undertaking, DCA shall review the changes.

1. If DCA determines the change meets a Programmatic Allowance pursuant to Stipulation II.B.2, DCA shall approve the change.
2. If the change can be modified to meet a Programmatic Allowance or conform to applicable SOI Standards, DCA shall follow the procedures in Stipulation II.C. If there is no objection from a consulting party and NJHPO concurs, DCA shall conclude its Section 106 review responsibilities.
3. If DCA determines that the change does not meet an Allowance, DCA shall initiate consultation pursuant to Stipulation II.C, Standard Project Review.

B. Unanticipated Discovery: Upon notification by a subgrantee of an unexpected discovery DCA will immediately notify NJHPO and require the subgrantee to:

1. Stop construction activities in the vicinity of the discovery.
2. Take all reasonable measures to avoid or minimize harm to the property until DCA has completed consultation with the NJHPO, participating Tribes in accordance with Appendices E.1-E.5, and any other consulting parties.
3. DCA will consult with the consulting parties in accordance with the review process outlined in Stipulation II.C, Project Review, to develop a mutually agreeable action plan with time frames to identify the discovery, take into account the effects of the CDBG-DR funded project, resolve adverse effects if necessary, and ensure compliance with applicable Federal and State statutes.

C. Human Remains: If human remains are discovered, the DCA will contact the local law enforcement office and the county coroner/medical examiner in accordance with applicable New Jersey State statute(s) and protect the remains from any harm. DCA will immediately coordinate with NJHPO, notify Tribes and any other consulting parties that may have an interest in the discovery, and consult to evaluate the discovery for National Register eligibility. DCA shall take into consideration the principles outlined in the ACHP's *Policy Statement Regarding Burial Sites, Human Remains, and Funerary Objects* (2023).

1. In cases where discovered human remains are determined to be Tribal, DCA shall consult with the appropriate Tribal representatives and NJHPO.
2. Any discoveries of human remains on Federal or Tribal lands shall be subject to the Native American Graves Protection and Repatriation Act (NAGPRA) (25 U.S.C. §3001-3013, 18 U.S.C. § 1170); and ARPA, as applicable.
3. DCA will coordinate with the subgrantee regarding any needed modification to the scope of work for the Undertaking necessary to implement recommendations of the consultation and facilitate proceeding with the CDBG-DR funded project.

D. Curation

1. In cases where archaeological survey, testing or data recovery are conducted on private land, any recovered collections remain the property of the landowner and DCA will return the collections to the landowner with the assistance of NJHPO. In such instances, DCA and the Grantee(s), in coordination with the SHPO, and participating Tribe(s), shall encourage landowners to donate the collection(s) to an appropriate public or Tribal entity. In cases where the property owner declines to accept responsibility for the collection(s) and wishes to transfer ownership of the collection(s) to a public or Tribal entity, or in cases of artifacts recovered from public lands, DCA and the Grantee(s) shall ensure curation of the collection(s) accordance with Stipulation V.C.3.
2. When an Undertaking will adversely affect a National Register listed or eligible archaeological site, DCA may treat the adverse effect by providing for the recovery of significant information through archaeological data recovery. DCA shall consult with the NJHPO, participating Tribe(s), and other consulting parties to prepare a research design (data recovery plan), including a specific plan for curation. This plan will incorporate any relevant curation provisions contained in the NJHPO's Guidelines for conducting archaeological studies, ACHP's "Recommended Approach for Consultation on Recovery of Significant Information from Archaeological Sites" published in the Federal Register (64 Federal Register 27085-27087 (May 18, 1999)), or other provisions agreed to by the consulting parties. No excavation should be initiated before DCA's acceptance and approval of the curation plan.
3. As stipulated in the curation plan, artifacts, as well as field and laboratory records sufficient to document the collection, shall be curated at a facility, preferably in-state, that meets the standards of, and in accordance with the provisions of 36 CFR Part 79, "Curation of Federally Owned and Administered Archaeological Collections," and applicable State or Tribal requirements.

E. Undertakings Initiated Before Initiation or Completion of Section 106 Review

1. In accordance with Section 110(k) of the NHPA, DCA, as HUD's responsible entity, shall not grant assistance to a Grantee who, with intent to avoid the requirements of this Agreement or Section 106 of the NHPA, has intentionally significantly and adversely affected a historic property to which the assistance would relate, or having legal power to prevent it, allowed an adverse effect to occur. However, if after consultation with the NJHPO, participating Tribe(s), and ACHP, DCA determines that extraordinary circumstances justify granting assistance despite the adverse effect created or permitted by the Grantee, DCA shall complete consultation for the Undertaking pursuant to the terms of this Agreement.
2. In circumstances where DCA determines a Grantee has initiated an Undertaking without willful intent to avoid the requirements of this Agreement or Section 106 of the NHPA, DCA shall proceed as follows:
 - a. Determine if the Undertaking is of a type for which DCA has no further Section 106 responsibilities, namely:
 - i. An Undertaking described in Stipulation II.A.1; or
 - ii. An immediate rescue and salvage operation in accordance with 36 CFR § 800.12(d); or
 - iii. A Programmatic Allowance as described under Stipulation II.B.2.
 - b. If DCA determines no Section 106 review or consultation with SHPO and participating Tribal Nation(s) would have been required pursuant to Stipulation III.C, Standard Project Review, DCA will document this determination in the project files and consider the Undertaking Section 106 compliant.
 - c. If DCA determines the Undertaking would have required Section 106 review, DCA will coordinate with the SHPO and participating Tribe(s) to determine if consultation is feasible
 - i. If after coordination with the SHPO and appropriate Tribe(s), DCA determines that consultation is feasible, DCA shall review the Undertaking in accordance with Stipulation III.C, Standard Project Review.
 - ii. If after coordination with the SHPO and appropriate Tribe(s), DCA determines that review is infeasible, DCA shall document the outcome to the Section 106 review process, and inform the HUD FPO of the outcome, and the applicable DCA program shall take the outcome into account before making a decision whether to fund the Undertaking. DCA shall provide written notification of its funding decision to the NJHPO, appropriate Tribe(s) and the ACHP.
3. DCA will ensure that all Undertakings considered for after-the-fact review in accordance with this stipulation, are included in the annual report, as described in Stipulation VIII.A.

VI. Public Participation and Objections

- A. Participation:** DCA will maintain an online database containing basic information about upcoming projects and will send out a notice to interested parties in which the proposed project resides with information about the CDBG-DR project, the potential effects to historic properties and the proposed resolution of any adverse effects. Interested parties should contact DCA at the phone number and/or email provided to obtain additional information about an undertaking that they may have an interest in. Depending on the scale, complexity and nature of the undertaking, DCA may undertake additional efforts to engage the public when an undertaking may attract a higher level of interest.
- B. Objection:** Should a member of the public object in writing to the implementation of the Agreement's terms or a proposed undertaking, DCA will notify the NJHPO and take the objection into consideration. DCA will consult with the objecting party, and if requested, the other signatories, for not more than 30 calendar days. In reaching its decision regarding the objection, DCA will consider all comments from these parties. DCA will notify all parties of its proposed resolution of the objection in writing.

VII. Dispute Resolution

- A.** Should any signatory to this Agreement object to any actions proposed or the manner in which the terms of this agreement are implemented, DCA shall consult with such party to resolve the objection.
- B.** If DCA determines that such objection cannot be resolved, then the DCA will:
1. Forward all documentation relevant to the dispute, including the DCA's proposed resolution, to the ACHP. The ACHP shall provide the DCA with its advice on the resolution of the objection within fifteen (15) calendar days of receiving adequate documentation. The ACHP may request an additional 15 days to review the dispute. Prior to reaching a final decision on the dispute, DCA shall prepare a written response that takes into account any timely advice or comments regarding the dispute from the ACHP and/or signatories and provide them with a copy of this written response. DCA will then proceed according to its final decision.
 2. If the ACHP does not provide its advice regarding the dispute within the fifteen (15) calendar day period, or 30-day period if an extension is required, then the DCA may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, DCA shall prepare a written response that takes into account any timely comments regarding the dispute from the signatories to the Agreement and provide them and the ACHP with a copy of such written response. DCA's final decision on the dispute will be provided on a schedule compatible with all internal and external review as may be determined necessary by DCA.

3. The responsibilities of the Agreement signatories to carry out all other actions subject to the terms of this agreement that are not the subject of the dispute remain unchanged.

VIII. Reporting and Monitoring

A. Annual Report: DCA shall provide the signatories with an annual report for the previous fiscal year on October 1st of each year that this Agreement is in effect. This annual report will summarize the actions taken to implement the terms of this Agreement, including:

1. A summary of projects reviewed under Stipulation II.C using Tier I Allowances, Tier II Allowances, Conditions to Minimize Harm.
2. A summary of projects reviewed pursuant to Stipulation III-Identify Historic Properties and Assess Effects.
3. A summary of projects where adverse effects were resolved pursuant to Stipulation IV.
4. Recommendations for amendments that would improve the efficiency and utility of this Agreement.
5. If a signatory requests a meeting within thirty (30) calendar days of receiving the annual report, DCA shall set up an in-person or virtual meeting among the signatories at a time convenient to all signatories.

B. Monitoring: The NJHPO and the ACHP may monitor any activities carried out pursuant to this Agreement, and the ACHP will review any activities if requested. DCA will cooperate with the NJHPO and the ACHP should they request to monitor or to review project files for activities at specific project sites.

IX. Amendment

- A.** If any signatory to the Agreement determines that an amendment to this Agreement must be made, the signatories will consult for no more than thirty (30) calendar days, or for a mutually agreed-upon alternate time period, to seek amendment of the Agreement.
- B.** This Agreement may be amended, exclusive of the appendices, only upon the written consensus of the Signatories. An amendment shall be effective for Undertakings occurring on or affecting historic properties on Tribal lands only when the Tribe has signed the Agreement and its amendment.
- C.** Appendix A (DCA Program Summaries), Appendix B (Programmatic Allowances), Appendix C (New Jersey Local Governments), Appendix D (Treatment Measures), Appendix E (Guidance for Tribal Consultation), Appendix F (Criteria of Collapsed

Building or Structure), Appendix G (Low Impact Debris Removal Stipulations), and Appendix H (Stump Removal Guidance) may be amended at the request of DCA or other signatory party in the following manner:

1. Any signatory may propose an amendment in writing for review by the other signatories. DCA, on its own behalf or on behalf of another signatory, shall notify all signatories to this Agreement of the intent to add to or modify one or more of the Appendices, and shall provide a draft of the updated Appendix or Appendices to all signatories.
2. Signatories have thirty (30) calendar days to consider a proposed amendment. If a simple majority of signatories agree with the proposed addition or modification, the DCA Commissioner will date and sign the amended Appendix or Appendices and provide a copy of the amended Appendix or Appendices to all signatories. Such an amendment shall go into effect on the date DCA transmits the amendment to the other signatories.
3. Amendments shall be codified in new cover pages of the amended agreement identifying new or revised stipulations, with new signature and date lines for all Signatories, and by attaching the previous executed version of the agreement.
4. Revisions to the appendices of this agreement shall not require notification and review by the ACHP. However, DCA shall provide the ACHP with a copy of the finalized version.

X. Termination and Duration

- A. Termination:** If any signatory to this agreement determines that its terms will not or cannot be carried out, that party shall immediately consult with the other signatories to attempt to amend the agreement per Stipulation IX, above. If, within thirty (30) calendar days resolution through amendment cannot be reached, any signatory may terminate the agreement upon written notification to the other signatories.
1. Upon termination, and prior to working on undertakings referenced in this agreement, DCA must either execute a new agreement pursuant to 36 CFR § 800.14(b)(2), or request, take into account, and respond to the comments of the ACHP under 36 CFR § 800.7. DCA shall notify the signatories at to the course of action it will pursue.
- B. Duration:** This Agreement shall remain in effect from the date of execution for a period not to exceed **five (5) years**, unless otherwise extended pursuant to Stipulation IX.A, above.

XI. Execution

- A.** Execution of this Agreement and implementation by DCA evidences that DCA has afforded the ACHP a reasonable opportunity to comment on DCA's administration of all referenced CDBG-DR funded programs pursuant to DCA's authorities described on page 1 of this Agreement, that DCA has taken into account the effects of the CDBG-DR funded programs on historic properties, and that through the execution of the Agreement, the DCA will satisfy its responsibilities under Section 106 of the National Historic Preservation Act and its implementing regulations for the referenced CDBG-DR funded programs.

- B.** This Agreement may be executed in counterparts, with a separate page for each signatory, and DCA will ensure that each party is provided a complete copy, including all appendices. This Agreement will become effective on the date of the last signature.

**PROGRAMMATIC AGREEMENT
AMONG THE NEW JERSEY HISTORIC PRESERVATION OFFICER,
THE NEW JERSEY DEPARTMENT OF COMMUNITY AFFAIRS,
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION,
THE ABSENTEE SHAWNEE TRIBE OF INDIANS OF OKLAHOMA,
THE DELAWARE NATION,
THE DELAWARE TRIBE OF INDIANS,
THE SHAWNEE TRIBE,
AND THE STOCKBRIDGE-MUNSEE COMMUNITY
REGARDING DISASTER RECOVERY ACTIVITIES IN NEW JERSEY**

SIGNATORY

THE NEW JERSEY HISTORIC PRESERVATION OFFICER



Date: _____

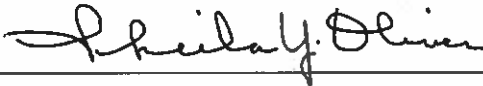


Katherine J. Marcopul
Deputy State Historic Preservation Officer
State of New Jersey, Department of Environmental Protection, Historic Preservation

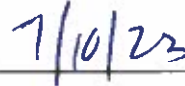
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THE DELAWARE TRIBE OF INDIANS,
THE SHAWNEE TRIBE,
AND THE STOCKBRIDGE-MUNSEE COMMUNITY
REGARDING DISASTER RECOVERY ACTIVITIES IN NEW JERSEY**

SIGNATORY

THE NEW JERSEY DEPARTMENT OF COMMUNITY AFFAIRS



Date: _____

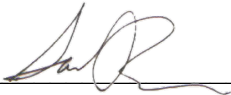


Lieutenant Governor Sheila Y. Oliver
Commissioner

**PROGRAMMATIC AGREEMENT
AMONG THE NEW JERSEY HISTORIC PRESERVATION OFFICER,
THE NEW JERSEY DEPARTMENT OF COMMUNITY AFFAIRS,
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THE DELAWARE TRIBE OF INDIANS,
THE SHAWNEE TRIBE,
AND THE STOCKBRIDGE-MUNSEE COMMUNITY
REGARDING DISASTER RECOVERY ACTIVITIES IN NEW JERSEY**

SIGNATORY

THE ADVISORY COUNCIL ON HISTORIC PRESERVATION



Date: 7.14.2023

Sara C. Bronin
Chair

**PROGRAMMATIC AGREEMENT
AMONG THE NEW JERSEY HISTORIC PRESERVATION OFFICER,
THE NEW JERSEY DEPARTMENT OF COMMUNITY AFFAIRS,
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION,
THE ABSENTEE SHAWNEE TRIBE OF INDIANS OF OKLAHOMA,
THE DELAWARE NATION,
THE DELAWARE TRIBE OF INDIANS,
THE SHAWNEE TRIBE,
AND THE STOCKBRIDGE-MUNSEE COMMUNITY
REGARDING DISASTER RECOVERY ACTIVITIES IN NEW JERSEY**

INVITED SIGNATORY

THE ABSENTEE SHAWNEE TRIBE OF INDIANS OF OKLAHOMA

_____ Date: _____

Devon Frazier
Tribal Historic Preservation Officer

**PROGRAMMATIC AGREEMENT
AMONG THE NEW JERSEY HISTORIC PRESERVATION OFFICER,
THE NEW JERSEY DEPARTMENT OF COMMUNITY AFFAIRS,
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION,
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THE DELAWARE TRIBE OF INDIANS,
THE SHAWNEE TRIBE,
AND THE STOCKBRIDGE-MUNSEE COMMUNITY
REGARDING DISASTER RECOVERY ACTIVITIES IN NEW JERSEY**

INVITED SIGNATORY

THE DELAWARE NATION



Date: 7/6/2023

Katelyn Lucas
Tribal Historic Preservation Officer

**PROGRAMMATIC AGREEMENT
AMONG THE NEW JERSEY HISTORIC PRESERVATION OFFICER,
THE NEW JERSEY DEPARTMENT OF COMMUNITY AFFAIRS,
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION,
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THE DELAWARE TRIBE OF INDIANS,
THE SHAWNEE TRIBE,
AND THE STOCKBRIDGE-MUNSEE COMMUNITY
REGARDING DISASTER RECOVERY ACTIVITIES IN NEW JERSEY**

INVITED SIGNATORY

THE DELAWARE TRIBE OF INDIANS

_____ Date: _____

Larry Heady
Tribal Historic Preservation Officer

-or-

Susan Bachor
Deputy Tribal Historic Preservation Officer

**PROGRAMMATIC AGREEMENT
AMONG THE NEW JERSEY HISTORIC PRESERVATION OFFICER,
THE NEW JERSEY DEPARTMENT OF COMMUNITY AFFAIRS,
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THE DELAWARE TRIBE OF INDIANS,
THE SHAWNEE TRIBE,
AND THE STOCKBRIDGE-MUNSEE COMMUNITY
REGARDING DISASTER RECOVERY ACTIVITIES IN NEW JERSEY**

INVITED SIGNATORY

THE SHAWNEE TRIBE

_____ Date: _____

Ben Barnes
Chief

**PROGRAMMATIC AGREEMENT
AMONG THE NEW JERSEY HISTORIC PRESERVATION OFFICER,
THE NEW JERSEY DEPARTMENT OF COMMUNITY AFFAIRS,
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION,
THE ABSENTEE SHAWNEE TRIBE OF INDIANS OF OKLAHOMA,
THE DELAWARE NATION,
THE DELAWARE TRIBE OF INDIANS,
THE SHAWNEE TRIBE,
AND THE STOCKBRIDGE-MUNSEE COMMUNITY
REGARDING DISASTER RECOVERY ACTIVITIES IN NEW JERSEY**

INVITED SIGNATORY

THE STOCKBRIDGE-MUNSEE COMMUNITY

_____ Date: _____
Shannon Holsey
President

APPENDIX A DCA PROGRAM SUMMARIES

This Appendix may be amended in accordance with Stipulation IX--Amendments. The following programs described in Section 4.8 of DCA’s Action Plan (pages 149-199), accessed on January 31, 2023, are available at https://www.nj.gov/dca/ddrm/pdf_docs/Ida%20Action%20Plan%20FINAL_English_508.pdf.

Part 1: Programs Excluded from Further Section 106 Review

As set forth in Stipulation II.A, the following programs receiving CDBG-DR funding are excluded from further Section 106 Review because they have no potential to affect historic properties.

Tenant-Based Rental Assistance

Program	Budget	HUD-Identified MID Budget	Grantee-Identified MID Budget
Tenant-Based Rental Assistance	\$15,000,000	\$12,000,000	\$3,000,000

4.8.49-Program Description

Through the Tenant-Based Rental Assistance program, the State will supplement rental housing costs for low-income rental families impacted by Tropical Storm Ida, thereby making rental housing more affordable. The State is requesting a regulatory waiver from HUD to allow for providing direct rental assistance to renters (rather than having to provide funding to landlords) for a period of up to 24 months. The program will initially prioritize households with incomes at or below 30% of AMI.

The program provides at-risk disaster survivors with the assistance needed to access stable and affordable housing while they work toward their long-term recovery. This intermediate assistance is critical for helping residents preserve personal savings, retirement, and any other assets needed to meet their permanent recovery plan and long-term financial resilience. These resources also help protect impacted residents from having to take on additional debt, including high-interest and predatory debt that increases the vulnerability of survivors to current and future disasters and household disruptions. In addressing the immediate housing and financial vulnerability of displaced renters, the program mitigates the impact of future storm damage by moving residents to safer housing and preparing them for financial success.

Housing Counseling and Legal Services

Program	Budget	HUD-Identified MID Budget	Grantee-Identified MID Budget
Housing Counseling and Legal Services	\$3,000,000	\$2,400,000	\$600,000

4.8.60-Program Description

DCA will provide grants to subrecipients to deliver critical supportive services that have increased because of the storm. This Housing Counseling and Legal Services program was developed by DCA to provide a wide range of counseling services to both renters and homeowners impacted by Tropical Storm Ida.

The program is a collaboration of HUD-certified, nonprofit, community-based organizations that provide a wide range of counseling services. Counselors provide supportive services, such as foreclosure prevention, relocation services, and debt management, and assist with application intake for CDBG-DR-funded programs. The agencies participating in the program have or will be trained to use the State’s language line and the “I Speak” cards to assist any applicant of limited English proficiency. Housing counselors also may provide information to renters participating in the Tenant Based Rental Assistance program or occupying rental units funded through HARP or the Small Rental Repair Program to help them understand their housing rights, landlord requirements, and the conditions and limitations of their Tenant-Based Rental Assistance. Housing counselors also may provide the fair housing, asset management, affordability, and award terms guidance for landlords participating in HARP and the Small Rental Repair Program.

This program also will fund legal services that help impacted residents transition to more permanent housing.

Resilient New Jersey

Program	Budget	HUD-Identified MID Budget	Grantee-Identified MID Budget
Resilient NJ	\$5,000,000	\$4,000,000	\$1,000,000

4.8.96-Program Description

This program will make direct allocations to units of general local governments, regional teams, and consultant teams to support local and regional resilience planning. The program will build on the existing efforts of Resilient NJ, a comprehensive climate resilience planning, guidance, and technical assistance program set up following

Superstorm Sandy to support local and regional climate resilience planning. The regional resilience planning component of the Resilient NJ program was originally funded as part of HUD’s National Disaster Resilience Competition (NDRC). One goal of the NDRC program was to model replicable programs. Funding Resilient NJ program with Ida funds will expand the program into the Ida-impacted counties and continue to implement the program model established under the NDRC program. The ultimate purpose of this planning effort is to build local engagement structures and capacity and to identify a prioritized action plan of specific, targeted activities that can be implemented as part of recovery, reconstruction, and long-term resilience processes so that communities are stronger, safer, and more resilient to future disasters.

Depending on funding availability, types of activities could include, but are not limited to:

1. Creating plans that address housing development, economic revitalization, public land use and infrastructure.
2. Developing updated local codes and standards to improve resilience.
3. Developing comprehensive guidance utilizing the Resilient NJ Toolkit developed under the existing Resilient NJ program.
4. Obtain technical assistance and subject matter expertise and developing climate resilience plans.
5. Obtain technical assistance and subject matter expertise through the NJ Resilience Accelerator to identify, prioritize, and plan financially sustainable community projects and initiatives that support equitable long-term resilience.
6. Develop community-led Resilience and Adaptation Action Plans.
7. Cohorts of municipalities may collaborate across jurisdictions to break down barriers to resilience.

Statewide Housing Mitigation Strategy Tool

Program	Budget	HUD-Identified MID Budget	Grantee-Identified MID Budget
Statewide Housing Mitigation Strategy Tool	\$1,000,000	\$800,000	\$200,000

4.8.106-Program Description

The State will develop a Statewide Housing Mitigation Strategy Tool to assess the housing stock in disaster-impacted and at-risk areas. This assessment may include such components as taking inventory of housing by type, risk, accessibility, and other components needed to understand community and regional residential vulnerabilities. Special attention will be focused on LMI communities. The State and local governments and partners can use this tool to make informed development and floodplain management decisions and to target resources toward the greatest need.

Administration

Program	Budget	HUD-Identified MID Budget	Grantee-Identified MID Budget
Administration	\$11,417,300	\$9,133,840	\$2,283,460

4.8.113-Program Description

The administrative costs necessary for the general administration of the CDBG-DR grant include, but are not limited to, DCA and partner State agency’s time spent administering programs; DCA compliance and monitoring of the State’s subrecipients, vendors, and other recipients of funding; and other costs specified as eligible administrative expenses in 24 CFR 570.206. Up to 5% of the overall grant and any program income may be used for administration of the grant, inclusive of administrative costs incurred by the State.

Part 2: Programs Subject to Further Section 106 Review

As set forth in Stipulation II.B, the following programs receiving CDBG-DR funding have the potential to affect historic properties, and as a result, the scope or work is subject to further review in accordance with Stipulations II.B, III and IV.

Homeowner Assistance and Recovery Program (HARP)

Program	Budget	HUD-Identified MID Budget	Grantee-Identified MID Budget
Homeowner Assistance and Recovery Program	\$68,928,700	\$58,589,395	\$10,339,305

4.8.1-Program Description

The program provides grants to eligible homeowners for activities necessary to restore their storm-damaged homes, including rehabilitation, reconstruction, elevation, and/or other mitigation activities. These mitigation activities include, but are not limited to, structural and utility retrofits to make the building more resistant to floods, grading and slope stabilization, and drainage improvements. Only costs incurred after an award will be eligible for reimbursement. Reimbursement of pre-award costs is not allowed. Additional funds may be provided to address site-specific accessibility needs to make housing accessible for individuals living with disabilities.

All applicable elevation, construction, and contractor standards will be followed, and details will be provided in the program guidelines.

Homeowners living in the Special Flood Hazard Area (SFHA) or other DEP-designated flood risk areas will be required to obtain and maintain flood insurance. DCA will place a permanent flood insurance covenant on the property to ensure that flood insurance is maintained when ownership transfers.

Homeowners who are required to relocate due to rehabilitation or reconstruction through this program may be eligible for temporary rental assistance.

Homeowners who own duplexes and triplexes, when one of the units is an eligible HARP unit, may receive assistance for the rehabilitation of the rental units, provided they agree to meet program affordability and small rental requirement terms. Assistance for rental units will be provided in line with the requirements described under the Small Rental Repair Program.

In cases where homes have been substantially damaged, the cost to rehabilitate is not reasonable, or the home cannot be rehabilitated in a manner to reasonably accommodate the impacted household, homeowners may be eligible for reconstruction or acquisition at current fair market value and incentivized to relocate.

Smart Move: New Housing Development

Program	Budget	HUD-Identified MID Budget	Grantee-Identified MID Budget
Smart Move: New Housing Development	\$30,000,000	\$20,000,000	\$10,000,000

4.8.11-Program Description

New Housing Development:

The State is piloting a program that subsidizes the new development of quality, energy-efficient, resilient, and affordable housing in lower risk areas within or near disaster-impacted communities that are participating in Blue Acres or other buyout programs that are supported by different funding sources. The program aims to provide safe housing for relocating residents so they may stay in or near their communities after selling their high-risk properties.

DCA will initially competitively select three communities to participate in the pilot. Once the eligible communities have been selected, DCA will procure private for-profit or nonprofit developers to build new housing that will be sold to qualified homebuyers and/or Blue Acres participants. In the initial pilot, DCA will prioritize qualified primary residential occupants who sold their high-risk owner-occupied homes through the Blue Acres Buyout Program. As part of the pilot, the State may, depending on the availability of funding, incorporate alternative resilient and green energy solutions into the development, including, but not limited to, fuel cells or microgrids. New construction will meet HUD’s Green and Resilient Building Standards, which requires that the new building meet an industry-recognized green building standard that has achieved certification and a minimum energy efficiency standard.

The new developments will be built outside the 500-year floodplain and the inland or coastal climate adjusted floodplain, as defined by DEP. The site and housing designs will include additional resilience and energy efficiency construction standards, which will be defined in the program guidelines.

Blue Acres

4.8.23-Program Descriptios

Blue Acres is a voluntary buyout and incentive program that will be administered by DEP. Buyouts are acquisitions of properties located in a floodway, floodplain, or other Disaster Risk Reduction Area that reduce the risk from future flooding. Under Blue Acres, buyout properties will be voluntarily sold to DEP or their designee for current fair market value (post-storm value) and must be converted to and maintained per open space, recreational or

wetlands management, or other disaster risk reduction practices. The program also may provide incentives to eligible homeowners to help them afford the costs related to relocating to a lower risk area. Incentives may not be provided to compensate for a loss.

After properties are acquired, CDBG-DR funds also may be used to conduct demolition and debris removal activities; restore land as wetlands, floodplains, and so forth; and serve a defined climate resilience purpose.

Properties purchased under this program will be owned by the State, units of general local government, or other eligible nonprofits and will be maintained in a manner consistent with risk reduction and State floodplain management goals. Property owners’ participation in the program is entirely voluntary.

The program will be managed by DEP, which has a long and successful history of voluntary acquisition of real estate for open space, recreation, and natural resource restoration. The Green Acres program has been purchasing land for preservation for more than 50 years. For the past two decades, the State, through the Blue Acres program, has been purchasing flood-prone properties and restoring the natural landscape. Recent improvements have been made to Blue Acres, to include proactive, climate resilience planning. This resilience planning will influence the buyout decision making process and inform policy improvements that will encourage greater overall effectiveness.

Small Rental Repair Program

Program	Budget	HUD-Identified MID Budget	Grantee-Identified MID Budget
Small Rental Repair Program	\$20,000,000	\$17,000,000	\$3,000,000

4.8.36-Program Description

This program will provide zero interest forgivable loans to owners of rental properties with one to seven units requiring rehabilitation as a result of damages from Tropical Storm Ida. The program will restore or create additional affordable rental units in disaster-impacted areas. It also will work to alleviate blight in some of the areas that were hit hardest by the storm. Properties must maintain affordability periods in accordance with the standards described in the Program Affordability section below.

The program will provide assistance for activities necessary to restore storm-damaged homes, including rehabilitation, reconstruction, elevation, and/or other mitigation activities. Mitigation activities include, but are not limited to, structural and utility retrofits to make the building more resistant to floods, grading and slope stabilization, and drainage improvements. Assistance also may be provided to make housing accessible for individuals living with disabilities. Substantial rehabilitation, or reconstruction of properties with more than four rental units will include the installation of broadband infrastructure, where feasible. Only costs incurred after an award will be eligible for reimbursement. Reimbursement of pre-award costs is not allowed.

NOTE: Based on feedback provided during the public comment period, the State moved \$27 million from the Small Rental Repair Program to assist more applicants with rental assistance, housing counseling, homeowner repairs, FEMA non-federal cost share funding, and buyouts prior to finalizing the Initial Action Plan. The State also amended the name of this program from “Neighborhood Landlord Program” to the “Small Rental Repair Program,” as it more accurately describes the intent of the program – to repair damaged small rental properties to increase access to affordable housing for impacted renters living in the most impacted and distressed areas of the state.

Resilient Communities Program

Program	Budget	HUD-Identified MID Budget	Grantee-Identified MID Budget
Resilient Communities	\$54,000,000	\$43,200,000	\$10,800,000

4.8.70-Program Description

This competitive program provides funding for infrastructure projects that will help impacted communities become more resilient to current and future natural hazards. The State has modeled this program on FEMA’s Building Resilient Infrastructure in Communities (BRIC) program. This approach will help the State invest in activities within the HUD- and State-identified MIDs and achieve the following goals:

1. Reduce or eliminate the long-term risk of loss of life, injury, damage to and loss of property, and suffering and hardship by lessening the impact of future disasters.
2. Recover from Tropical Storm Ida’s disaster impacts.
3. Protect publicly funded recovery investments in impacted communities.
4. Expand awareness of BRIC within the State and help build the capacity of local governments to prepare competitive BRIC applications such that applications not selected under this program can be submitted for BRIC and/or other FEMA Hazard Mitigation Assistance programs.

Eligible applicants will be responsible for the implementation of approved projects. DCA will review projects for CDBG-DR and program eligibility and will select projects based on scoring and ranking approaches that are in alignment with the BRIC application and selection processes. DCA will monitor approved projects and will provide oversight to ensure their completion. DCA also will provide technical assistance on program requirements and ways to make applications competitive for lower capacity applicants, as needed.

FEMA Non-Federal Cost Share

Program	Budget	HUD-Identified MID Budget	Grantee-Identified MID Budget
FEMA Non-Federal Cost Share	\$4,000,000	\$3,200,000	\$800,000

4.8.84-Program Description

This program will fund the non-federal cost share for State and local facilities eligible under FEMA’s Public Assistance program to help offset the burden of the non-federal share requirements faced by those entities. Through this program, DCA also will incorporate resilience and mitigation measures into the design of CDBG-DR-approved projects, where feasible and cost reasonable. DCA will prioritize projects that provide benefits to LMI persons or households.

--End of Appendix A, DCA Program Summaries--

APPENDIX B PROGRAMMATIC ALLOWANCES

This Appendix may be amended in accordance with Stipulation IX--Amendments.

This list of Programmatic Allowances enumerates CDBG-DR funded activities that are anticipated to have no effect or limited effect on historic properties if implemented as specified in this Appendix and will not require review by the NJHPO or participating Tribes.

The Programmatic Allowances consist of two tiers –Tier I and Tier II. Staff may apply Tier I allowances whether or not they meet professional historic preservation qualification standards, while only staff meeting the applicable SOI Professional Qualifications Standards in accordance with Stipulation I.A.1 of this Agreement may apply Tier II allowances.

When referenced in the allowances, “in-kind” shall mean that it is either the same or a similar material, and the result shall match all physical and visual aspects, including form, color, and workmanship. The in-kind repair provided for in both Tier I and Tier II allowances in Appendix B should be limited to pre-existing architectural features and physical components of buildings and structures that were in existence prior to an event but are not extant after the event and in general should not be utilized when a building or structure has been substantially altered.

When referenced in the Programmatic Allowances, “previously disturbed soils” shall refer to soils that are not likely to possess intact and distinct soil horizons and have the reduced likelihood of possessing historic properties within their original depositional contexts in the area and to the depth to be excavated.

Specifically, disturbed ground is defined for purposes of this document as the modification of natural landscapes or landforms through removal of natural soils through ground-disturbing activities such as cuts, grading and excavation and/or the moving or staging of equipment and/or vehicles on original ground surfaces/intact soils. In the case of the deposition of fill, disturbance is only considered for the depth of the fill layer. Intact soils could exist underneath the fill layer. Note that activities such as agricultural plowing and disking is not considered disturbance. In addition, in some areas, particularly historic urban areas, construction activities associated with early utilities, creation of roadways and or parking lots, may constitute a “disturbed” context but may be of historic significance and will need to be evaluated. Therefore, context is important. Guides to assist in identifying prior disturbed ground may come from the following: historic maps, soil borings, soil reports, utility records, pavement core records, etc.

Soil disturbance can be established through cultural resource surveys, site inspections, or construction drawings that clearly depict the depth of prior ground disturbance. Examples of activities that would create disturbed soil horizons include: the installation of culverts, foundations, and below ground utilities; excavation for footings; and the construction of dams, bridge abutments, and other structures.

The Barrier Islands are considered to have low potential for archaeological sites and generally do not require review by the NJHPO. Consultation is required when DCA personnel meeting or exceeding the SOI Professional Qualifications for archaeology have determined that one or more of the following five situations exist:

- 1) there is a known shipwreck site(s) on or adjacent to the project site;
- 2) there is a known archaeological site(s) on or adjacent to the project site;
- 3) there is known information from local officials or members of the public who have informed DCA of archaeological resources, or the strong potential for those resources, within the project site;
- 4) the footprint of ground disturbance exceeds five (5) acres; and
- 5) the project site has been assessed as possessing a high potential for the presence of significant archaeological deposits as determined by archaeological site sensitivity models developed for the region.

Tier I Allowances

Tier I allowances describe activities that would have negligible effect on historic properties, therefore DCA staff without professional historic preservation qualification standards may analyze the scope of work and determine if all project activities conform to Tier I allowances. In accordance with Stipulation II.B.1, no further Section 106 review is necessary. A finding of “no historic properties affected” is appropriate and should be documented in the administrative record.

I. GROUND DISTURBING ACTIVITIES AND SITE WORK, when proposed activities described below substantially conform to the original footprint and/or are performed in previously disturbed soils, including the area where the activity is staged.

A. Debris and Snow Removal

1. Debris removal and collection, including removal of snow, uprooted trees, limbs and branches from public rights of way, public areas and the transport and disposal of such waste to existing licensed waste facilities or landfills. This does not include partially uprooted trees in archeologically sensitive areas such as cemeteries, battlegrounds, historic landscapes, historic parks, and historic districts, which must be reviewed by persons meeting the Secretary’s Professional Qualifications.
2. Removal of debris from private property provided that buildings are not affected, ground disturbance is minimal, and in-ground elements, such as driveways, walkways or swimming pools are left in place.
3. Chipping and disposal of woody debris by broadcasting within existing rights-of-way.
4. Sediment removal from man-made drainage facilities, including retention/detention basins, ponds, ditches/channels, and canals, in order to restore the facility to its pre-disaster condition. The sediment may be used to repair eroded banks or disposed of at an existing licensed or permitted spoil site. This does not apply to historic canal structures.
5. Dewatering flooded developed areas by pumping.

B. Temporary Structures and Housing

1. Staging, installation and removal of temporary structures for uses such as school classrooms, offices, or shelters for essential public service agencies, such as police, fire, rescue and medical care, as well as temporary housing for disaster personnel and victims, at the following types of locations:
 - a. Single units on private residential sites when all utilities are installed above ground or tie into pre-existing utility lines.
 - b. Existing RV/Mobile Home Parks and campgrounds with pre-existing utility hookups.
 - c. Paved areas, such as parking lots and paved areas at such facilities as conference centers, shopping malls, airports, business parks, military bases when all utilities are installed above ground or tie into pre-existing utility lines.
 - d. Sites that have been previously cleared and prepared for planned construction, such as land being developed for public housing, office buildings, city parks, ball fields, military bases, schools, etc. when all utilities are installed above-ground or tie into pre-existing utility lines.
 - e. Areas previously filled to depths of at least six (6) feet so that subsurface utilities can be installed.

C. Recreation and Landscaping

1. Installation and removal of temporary removable barriers.
2. In-kind repairs or replacement, and minor upgrades/mitigation of bollards and associated protective barriers when in previously disturbed areas.

D. Borrow Material

1. Borrow materials if from a pre-existing stockpile, material reclaimed from maintained roadside ditches (provided the designed length, width or depth is not increased and the original surface of the ground is not impacted) or commercially procured material from a source established and/permitted prior to the event or other prior permitted source. This does not apply to a non-commercial source or a commercial source that was not permitted to operate prior to the event.

II. BUILDINGS AND STRUCTURES

- A. Repair or retrofit of buildings and structures less than 45 years old.
- B. Removal of water, soil, muck, sand, mud or sewage and/or debris by physical or mechanical means.
- C. Installation of exterior security features and early warning devices on existing light poles or other permanent utilities.
- D. Installation of grab bars and other such interior modifications required for compliance with the Americans with Disabilities Act (ADA).
- E. Installation of security bars over windows on non-primary facades and below-grade windows.
- F. Dry vacuuming of remediated areas, pertaining to mold remediation.
- G. Repair of existing wheelchair ramps.

III. TRANSPORTATION FACILITIES, when proposed activities conform to the original footprint and/or performed in previously disturbed soils, including any staging areas.

A. Roads and Roadways

1. Paving and repair of roads to pre-disaster geometric design standards and conditions using in-kind materials. This allowance includes repairs to shoulders medians, clearances, curbs, and side slopes. This allowance does not include improvement to existing roadways and appurtenances, or apply to work within archaeologically sensitive areas, including any area in which a DCA SOI Qualified Archaeologist (Stipulation I.A.1) determines that there may be a potential to yield cultural resources.
2. Repair and replacement of metal and concrete culverts no greater than 42" in diameter with no headwalls or concrete headwalls when culverts are returned to pre-disaster size and location. This allowance does not allow for upgrades, new ground disturbance, staging and/or temporary access roads.
3. Construction of temporary emergency access roads in previously disturbed soils to allow for passage of emergency vehicles.
4. Repairs to road slips and landslides that do not require grading of undisturbed soils on the up-hill side of the slip.
5. Re-establishment of existing armoring and/or the upgrade of existing roadway ditches.
6. In-kind repair or replacement of traffic control devices such as traffic signs and signals, delineators, pavement markings, and traffic surveillance systems.
7. Installation and removal of temporary traffic control devices, including pre-formed concrete barriers and fencings.
8. In-kind repair or replacement of roadway safety elements such as barriers, guardrails, and impact-attenuation devices. Additional guardrails and safety end treatments are allowed when the undertaking is not located on an individual historic property or within a historic district that is eligible or listed on the National Register.

IV. GENERAL ACTIVITIES (Categorically Excluded under 24 CFR § 50.19)

- A. Environmental and other studies, resource identification, and the development of plans and strategics. (Implementation of such plans with federal funds may require consultation. If historic properties may be affected, NJHPO recommends early consultation during planning stages.)
- B. Information and financial advisory services.
- C. Administrative and management expenses. (Consistent with Appendix A, Part I, Administration.)
- D. Public services that will not have a physical impact or result in any physical changes to buildings, structures, sites, or objects, including but not limited to services concerned with employment, crime prevention, child care, health, drug abuse, education, counseling, energy conservation, and welfare or recreational needs. (Consistent with Appendix A, Part I, Housing Counseling and Legal Services program.)
- E. Inspections and testing of properties for hazards or defects. (Action taken pursuant to such inspections with federal funds will require consultation.)

- F. Purchase of insurance (*e.g.*, homeowners or flood insurance; does not include HUD mortgage insurance).
- G. Purchase of tools.
- H. Engineering or design costs. (Construction activities undertaken with federal funds will require consultation. If historic properties may be affected, NJHPO recommends early consultation during design.)
- I. Technical assistance and training. (Consistent with Appendix A, Part I, Resilient New Jersey program.)
- J. Assistance for temporary or permanent improvements that do not alter environmental conditions and are limited to protection, repair, or restoration activities necessary only to control or arrest the effects from disasters or imminent threats to public safety including those resulting from physical deterioration.
- K. Tenant-based rental assistance. (Consistent with Appendix A, Part I, Tenant-Based Rental Assistance program.)
- L. Supportive services including, but not limited to, health care, housing services, permanent housing placement, day care, nutritional services, short-term payments for rent/mortgage/utility costs, and assistance in gaining access to local, state, and federal government benefits and services. (Consistent with Appendix A, Part I, Housing Counseling and Legal Services program.)
- M. Operating costs, including maintenance, security, operation, utilities, furnishings, equipment, supplies, staff training and recruitment, and other incidental costs associated with operating a facility.
- N. Economic development activities, including but not limited to, equipment purchase, inventory financing, interest subsidy, operating expenses, and similar costs not associated with construction or physical expansion of existing facilities. (Consistent with Appendix A, Part I, Resilient New Jersey program.)
- O. Activities to assist homebuyers to purchase existing dwellings or dwelling units under construction, including closing cost and down payment assistance, interest buy downs, and similar activities that result in the transfer of title. (Consistent with Appendix A, Part I, Statewide Housing Mitigation Strategy Tool.)
- P. Housing pre-development costs, including legal, consulting, developer, and other costs related to site options, project financing, administrative costs, and fees for loan commitments, zoning approvals, and other related activities which do not have a physical impact. (Consistent with Appendix A, Part I, Housing Counseling and Legal Services program.)
- Q. HUD's insurance of one-to-four family mortgages under the Direct Endorsement program, the insurance of one-to-four family mortgages under the Lender Insurance program, and HUD's guarantee of loans for one-to-four family dwellings under the Direct Guarantee procedure for the Indian Housing loan guarantee program, without any HUD review or approval before the completion of construction or rehabilitation and the loan closing; and HUD's acceptance for insurance of loans under Title I of the National Housing Act.

- R. HUD's endorsement of one-to-four family mortgage insurance for proposed construction under Improved Area processing.
- S. Activities of the Government National Mortgage Association under Title III of the National Housing Act (12 USC 1716 et seq.).
- T. Activities under the Interstate Land Sales Full Disclosure Act (15 USC 1701 et seq.).
- U. Refinancing of HUD-insured mortgages that will not allow new construction or rehabilitation, nor result in any physical impacts or changes except for routine maintenance.
- V. Approval of the sale of a HUD-held mortgage.
- W. Approval of the foreclosure sale of a property with a HUD-held mortgage; however, appropriate restrictions will be imposed to protect historic properties.
- X. HUD guarantees under the Loan Guarantee Recovery Fund Program (24 CFR Part 573) of loans that refinance existing loans and mortgages, where any new construction or rehabilitation financed by the existing loan or mortgage has been completed prior to the filing of an application under the program, and the refinancing will not allow further construction or rehabilitation, nor result in any physical impacts or changes except for routine maintenance.

Tier II Allowances

Tier II allowances describe activities that may have limited effect on historic properties. Therefore, in accordance with Stipulation II.B.2, only staff meeting the applicable Secretary's Professional Qualifications, as described in Stipulation I, may analyze the scope of work and make a Section 106 finding of "no historic properties affected" or "no adverse effect on historic properties," as appropriate. The qualified professional's finding, including any supporting analysis, should be documented in the administrative record.

- I. **GROUND DISTURBING ACTIVITIES AND SITE WORK**, when proposed activities described below substantially conform to the original footprint and/or are performed in previously disturbed soils, including the area where the activity is staged.
 - A. Footings, Foundations, Retaining Walls, Slopes, and Slope Stabilization Systems
 1. In-kind repair, replacement, and reinforcement of footings, foundations, retaining walls, slopes, and slope stabilization systems (e.g., gabion baskets, crib walls, soldier pile and lag walls) if related ground disturbing activities are within the boundary of previously disturbed soils.
 2. Installation of perimeter drainage (e.g., French drains) when performed in previously disturbed soils.
 3. Excavation work in areas of soils where the work is confined to natural slopes of 15% or greater and there are no known archeological sites and no probability for prehistoric sites such as rock shelters or historic buildings/structural remains.

B. Recreation and Landscaping

1. In-kind repair, in-kind replacement, and minor upgrades to recreational facilities and features (e.g., playgrounds, campgrounds, fire pits, dump stations and utility hook-ups, swimming pools, athletic fields and signage, batting cages, basketball courts, swing sets, pathways, simple wooden/wire stream crossings). Does not include National Register eligible or listed properties.
2. In-kind repair or in-kind replacement and minor upgrades to landscaping elements (e.g., fencing, gates, free standing walls, paving, planters, irrigation systems, lighting elements, signs, flag poles, ramps, steps). Parks that are listed in the National Register that propose minor changes to character defining features within these parks required consultation with NJHPO. Does not include National Register eligible or listed properties.
3. Installation of security barriers (bollards, fencing, gates, planters) in areas previously disturbed.

C. Piers, Docks, Boardwalks, Boat Ramps, Beaches, and Dune Crossovers

1. In-kind repair and replacement and minor upgrades to existing piers, docks, boardwalks, boat ramps and board walking bridges, arm gates (and associated features), and dune crossovers in areas of previously disturbed soils.
2. Beach grading to pre-disaster depths/profiles on engineered beaches (natural beaches are not covered under this allowance) including the importing of sand that complies with the Tier I borrow pit allowance in I.D.1 above.

D. Cemeteries

1. Removal of woody debris, such as branches, limbs and uprooted trees, from cemeteries provided that heavy equipment and other machinery are not operated or staged on areas potentially containing human remains. Uprooted trees and exposed stumps must be removed in accordance with the stump removal policy in Appendix H. If this condition does not adequately protect human remains, then monitoring of the stump removal will be required by an archaeologist who meets the SOI Qualifications.
2. In-kind repair of historic gravestones, monuments, fences, and other historic components.

E. Site Improvements

1. Excavating to gain access to existing underground utilities to repair or replace them, in a manner that does not disturb historic exterior building or landscape materials or features, and where all construction occurs within existing trenches.
2. Repair or in-kind replacement of driveways, parking lots, and walkways, although consideration should be given first to repair rather than replacement of damaged historic materials whenever feasible. Repairs or replacement of any component cannot exceed the current depth.

II. BUILDINGS AND STRUCTURES

A. Interior Work: Floors, Walls, Stairs, Ceilings and Trim

1. In-kind repair and replacement of floors, walls, stairs, ceilings, trim. The allowance does not apply to decorative finishes, including murals, glazed paint, gold leaf, or ornamental plaster and/or any other character defining interior feature of a National Register listed and/or eligible resource that may require highly specialized study and/or skills for the purpose of repair and/or replacement.
2. Interior cleaning of surfaces using a weak solution of household bleach and water, mold remediation, or mold removal. The allowance applies to interior finishes, including plaster and wallboard, provided the cleaning is restricted to damaged areas and does not affect adjacent materials.
3. Non-destructive or concealed testing for hazardous materials (e.g., lead paint, asbestos) or for assessment of hidden damages.
4. Replacement of damaged vinyl or linoleum floor tile or rolls (including floor tile containing asbestos) with contemporary floor tile of the same dimension and thickness, and similar texture or pattern.
5. Use of portable de-humidification systems provided no changes are made to character defining features (specifically for mold remediation).
6. Abatement of lead and asbestos in unfinished basements and historically unfinished upper floors and attics.
7. Painting and surface preparation provided color/finish is matched to pre-existing finish and the coating and preparation is limited to material repaired or replaced or immediately adjacent thereto.
8. The removal of asbestos containing materials in finished interior spaces and replacement with materials of similar appearance.
9. Installation of drywall over existing wall surface, provided no decorative plaster or other decorative features are being covered.
10. In-kind repair of an existing cellar, as long as the depth is not increased.
11. Repair or replacement of cabinets and countertops. Historic "built-in" cabinets must be repaired for this to apply.

B. Utilities and Mechanical, Electrical, and Security Systems

1. In-kind repair or in-kind replacement, or limited upgrading of interior and exterior utility systems, including mechanical (e.g., heating, ventilation, air conditioning), electrical, and plumbing systems (water tanks, freshwater and drainage). This allowance does not provide for the installation of new exposed ductwork.
 - a. Routine maintenance or retrofits to existing mechanical equipment, provided there is no physical impact on the building.
 - b. Replacement of existing mechanical equipment or installation of supplemental equipment, provided that exterior equipment is installed within the same footprint on the same pad, and interior equipment is installed within an existing mechanical closet or unoccupied attic or basement.

- c. HVAC
 - i. HVAC system rehabilitation, replacement, and/or cleaning, including furnaces, pipes, ducts, radiators, or other HVAC units when no structural alteration or exposed new ductwork is involved. This does not apply to historic fixtures, which must be repaired for this allowance to apply.
 - ii. Upgrading existing facility and infrastructure-related pumps and motors, including those for HVAC systems, to variable-speed or premium efficiency standards.
 - iii. Sealing, restoring, or insulating HVAC ducts, provided that the ducts are not visible in occupied spaces of the building and access to the ducts does not require demolition of walls or ceilings in occupied spaces of the building.
 - iv. Adding or replacing existing building controls systems including HVAC control systems and the replacement of building-wide pneumatic controls with digital controls, thermostats, dampers, and other individual sensors like smoke detectors or carbon monoxide detectors (wired or non-wired).
 - d. Electrical
 - i. Electrical wiring, including switches and receptacles. This Allowance does not apply to exposed wiring such as surface mounted wiring, conduits, piping, or to the installation of new systems where they will affect significant interior features.
 - e. Plumbing
 - i. Plumbing rehabilitation/replacement, including pipes and fixtures when no structural alteration is involved. This does not apply to historic fixtures, which must be repaired for this allowance to apply.
 - ii. Restroom improvements for handicapped accessibility provided the work is contained within existing restroom and significant interior features (e.g., historic trim or architectural details) are not altered.
 - iii. Water heater repair or replacement that does not require a visible new supply or venting.
 - iv. Water conservation measures, such as installation of low-flow faucets, toilets, showerheads, urinals, or distribution device controls, in residential properties; and water conservation measures in other building types, provided that plumbing fixtures to be replaced are not historic.
 - v. Upgrading existing facility and infrastructure-related pumps and motors, including those for water/wastewater facilities, to variable-speed or premium efficiency standards.
- 2. Elevation of heating, ventilation, and air conditioning system (HVAC) and mechanical equipment as long as it is placed or located where it is not highly visible from the street and located within an interior space of secondary architectural/historic character.
 - 3. Installation or replacement or installation of interior fire detection, fire suppression, or security alarm systems. The allowance does not apply to surface mounted wiring, conduits, piping, etc., unless previously existing, provided that installation of the

system hardware does not damage or cause the removal of character-defining architectural features and can be easily removed in the future. New fire detection systems with exposed electric conduit are allowed in unfinished basements and historically unfinished upper floors, and attics, chases, or mechanical closets.

4. Installation of building communication and surveillance security systems, such as cameras, closed-circuit television, alarm systems, lighting and public address systems, provided that installation of the system hardware does not damage or cause the removal of character defining architectural features, can be easily removed in the future and is installed so that it has minimal impact on historic character. New wiring will be subsurface to the greatest extent possible or where exposed will be enclosed in conduit that is painted to match the existing surface.
5. Installation of building access security devices, such as card readers, enhanced locks, door alarms, and security scanners (e.g., metal detectors), provided the device does not damage or cause the removal of character-defining architectural features and can be removed in the future without impacts to significant architectural features. New wiring will be sub-surface to the greatest extent possible or where exposed will be enclosed in conduit that is painted to match the existing surface.
6. New exposed ductwork, air handler units and electric conduit in unfinished basements and historically-unfinished upper floors, and attics, chases or mechanical closets.
7. In-kind repair, replacement, or limited upgrading of escalators, elevators, and/or other mechanical conveyance systems.
8. Installation of exterior security features and early warning devices on existing light poles or other permanent utilities. New wiring will be sub-surface to the greatest extent possible or where exposed will be enclosed in conduit that is painted to match the existing surface.
9. Lighting and appliances:
 - a. Installation of compact fluorescent or LED bulbs in existing fixtures.
 - b. Replacement of fluorescent bulbs, ballasts, and/or wiring in existing fixtures.
 - c. Replacement of existing fluorescent fixtures with new fixtures, provided that the fixtures are not historic. ~~original to the building~~
 - d. Installation of motion/occupancy sensors for lighting control provided the device does not damage or cause the removal of character-defining architectural features and can be removed in the future without impacts to significant architectural features.
 - e. Replacement of existing lighting in street lighting fixtures with high efficiency lighting.
 - f. Replacement of existing appliances.

C. Windows and Doors

In order to ensure the proposed windows/doors meet the Standards, detailed dimensioned drawings of both the existing and any proposed replacement windows/doors, showing them in relationship to the wall assembly must be reviewed by a DCA SOI qualified Architectural Historian.

1. In-kind repair or replacement of windows and window frames, doors and door frames, shutters, storm shutters, and associated hardware. Replacement windows/doors must match the appearance, size, design, materials, proportions, and profiles of the existing windows/doors.
 - a. Repair or in-kind replacement of windows (i.e., new windows will duplicate the material, dimensions, design, detailing, and operation of the extant or known historic windows), as follows (*this does not apply to the replacement of existing archaic, decorative, or architectural/structural glass*):
 - i. Repair, scrape, paint, and re-glaze existing windows.
 - ii. Repair or in-kind replacement of window sash, glass, and/or hardware, including jam tracks. Consideration should be given first to identifying ways to repair rather than replace damaged historic materials.
 - iii. Repair or in-kind replacement of damaged and non-operable transoms. Consideration should be given first to repair rather than replacement of damaged historic materials.
 - b. Repair or repainting of existing storm windows.
2. In-kind replacement of window glazing. Clear plate, double, laminated, or triple insulating glazing can be used, provided it does not result in altering the existing window material, tint, form, muntin profiles, or number of divided lights. This allowance does not apply to the replacement of existing intact archaic or decorative glass.
3. Replacement of exterior and interior, utilitarian, non-character-defining metal doors and frames leading into non character-defining spaces with bullet, fire, and/or blast resistant doors and frames. Utilitarian or modern doors may be replaced with doors that closely matches the existing door in regard to profile, elevation, and details.
4. Installation or application of safety and/or security window film on window panes provided that it does not result in altering the existing tint or appearance of the pane. This allowance does not apply to the application of film on existing intact or decorative glass.
5. Installation of storm windows and doors provided that they conform to the shape and size of the historic windows and doors. The meeting rail of storm windows must coincide with that of the existing sash. Color should match trim; mill finish aluminum is not acceptable.
6. Installing interior storm windows or doors, or exterior storm or wood screen doors, on residential buildings, in a manner that does not harm or obscure historic windows or trim.

D. Exterior Walls, Cornices, Porches, and Foundations

1. In-kind repainting of surfaces, provided that destructive surface preparation treatments are not used, such as water blasting, sandblasting, power sanding and chemical cleaning.

- a. Painting previously painted exterior surfaces, provided destructive surface preparation treatments, including but not limited to water-blasting, sandblasting and chemical removal, are not used.
 - b. Scraping, extremely low-pressure (less than 100 psi) washing, and/or repainting of exterior cladding. This does not apply to destructive surface preparation treatments, such as water blasting, sand or other particle blasting, power sanding, or chemical cleaning.
 - c. Conducting lead-based paint abatement or interim controls pursuant to 24 CFR § 35.115(a)(13), if carried out by a qualified contractor using current best practices and methods that are consistent with the preservation techniques in *Preservation Brief #37: Appropriate Methods for Reducing Lead-Paint Hazards in Historic Housing*. (Any removal of historic building materials or encapsulation with vinyl siding or other materials is not included in this exemption[allowance].)
2. In-kind repair, and where necessary, in-kind replacement of walls, porches, foundations, columns, cornices, siding, balustrades, stairs, dormers, brackets, trim, lighting, and their ancillary components or in-kind replacement of severely deteriorated or missing or lost features, as long as the replacement pieces match the original in detail and material. Any ground disturbance will be limited to previously disturbed soils.
- a. Repair or limited, in-kind replacement of existing siding, soffits, and fascia. Limited replacement shall not exceed 25% of the overall exterior area, and new material shall match existing in material, profile, and other characteristics.
 - b. Repair or in-kind replacement (i.e., the new features will duplicate the extant material, dimensions, and detailing) of the following features (consideration should be given first to identifying ways to repair rather than replace damaged historic materials):
 - i. Porches - railings, post/columns, brackets, cornices, steps, flooring, ceilings, and other decorative treatments.
 - ii. Exterior architectural details and features.
 - c. Repair (not replacement) of porch ceilings, steps, floors, or railings.
3. In-kind repair and where necessary in-kind replacement of signs or awnings.
- a. Substantial repair or in-kind replacement of signs or awnings. This does not apply to historic sign—painted, neon, or otherwise.
4. Installation of temporary stabilization bracing or shoring, provided such work does not result in additional damage.
5. Anchoring of walls to floor systems, provided the anchors are embedded and concealed from exterior view.
6. In-kind repair of concrete and masonry walls, columns, parapets, chimneys, or cornices or limited in-kind replacement of damaged components including comparable brick, and mortar that matches the color, strength, content, rake, and joint width.

- a. Limited repair of masonry, including chimneys, where mortar matches the existing in color, texture, strength, joint width, and joint profile and methods are consistent with the preservation techniques in *Preservation Brief #2: Repointing Mortar Joints in Historic Masonry Buildings*. Limited repair shall not exceed 10% of the overall exterior wall area.
 - b. Repair or reconstruction of concrete/masonry walls, parapets, chimneys, or cornices, provided any new masonry or mortar matches the color, strength, composition, rake, and joint width of existing walls, and no power tools are used on historic materials. (Work on historic masonry must follow the guidance provided in *Preservation Brief #2: Repointing Mortar Joints in Historic Masonry Buildings*, currently found online at <http://www.nps.gov/history/hps/tps/briefs/brief02.htm>.)
7. Bracing and reinforcing of walls, chimneys and fireplaces, provided the bracing and reinforcing are either concealed from exterior view or reversible in the future.
 8. Strengthening of foundations and the addition of foundation bolts, provided that visible new work is in-kind, including mortar that matches the color, content, strength, rake, and joint width where occurring.
 9. Repairs to and in-kind replacement of elements of curtain wall assemblies or exterior cladding that is hung on the building structure, usually from floor to floor, and when the color, size reflectivity, materials, and visual patterns are unaltered.
 10. Wheelchair ramps
 - a. Repair of existing wheelchair ramps.
 - b. Installing a new wheelchair ramp on the side or rear entrance of a home, when not visible from any public right-of-way.
 - c. Installing a new wheelchair ramp on the front of a home, or other entrance visible from a public right-of-way, is not included in this allowance, and requires consultation with NJHPO.
- E. Roofing
1. Installation of scaffolding, polyethylene sheeting, or tarps, provided such work will not result in additional damage or irreversible alterations to character defining features.
 2. Temporary repairs or if needed installation of roofing and associated components, provided such work will not result in additional damage or irreversible alterations to character defining features.
 3. In-kind repair, and where necessary, in-kind replacement, or strengthening of roofing, rafters, fascia, soffits, gutters, verge boards, leader boxes, downspouts, or other damaged roof system components.
 4. Repairs to a flat roof cladding, including changes in roofing materials, where the repairs are not highly visible from the ground level.

5. In-kind repair and where necessary in-kind replacement of lightning rods, and snow guards.
6. Installation of continuous ridge vents covered with ridge shingles or hoards, or roof jacks/vents, bath and kitchen fan vents, gable vents, soffit and frieze board vents, and combustion appliance flues, if not located on a primary roof elevation or visible from the public right-of-way.
7. Installation of reflective roof coatings, with materials that closely match the historic materials and form, or with materials that restore the original feature based on historic evidence, and in a manner that does not alter the roofline.
8. Installation of new roofing or reflective roof coatings on a flat-roofed building with a parapet, such that the roofing material is not visible from any public right-of-way.
9. Replacement of asbestos tile roofing with composition shingle/asphalt shingle roofing matching the shape and pattern of the asbestos tile.

F. Weatherproofing and Insulation

1. Caulking and weather-stripping to complement the color of adjacent surfaces or sealant materials.
 - a. Weatherstripping around windows and doors, installing thresholds, and other air infiltration control measures that do not harm or obscure historic windows, doors, or trim.
2. In-kind repair or replacement of insulation systems, provided that existing interior plaster, woodwork, exterior siding, or exterior architectural detail is not altered.
 - a. Attic insulation with proper ventilation, provided that insulation is fiberglass batt or loose fill only (not spray foam).
 - b. Under-floor insulation in basements or crawl spaces, provided that insulation is fiberglass batt or loose fill only (not spray foam), and ventilation of crawl spaces.
 - c. Exterior blown-in wall insulation (not spray foam) where holes are not drilled through exterior wall material or decorative plasterwork on the interior, and result in no permanent visible alteration to the structure.
 - d. Water heater tank and pipe insulation.
 - e. Radiant barriers in unoccupied attic spaces.
 - f. Installation of insulation in wall spaces provided an appropriate interior vapor barrier or vapor barrier paint is used and historic exterior clapboards are removed and reinstalled carefully. This does not apply to the installation of urea formaldehyde foam insulation or any other thermal wall insulation containing water.

G. Weatherproofing and Insulation

1. Caulking and weather-stripping to complement the color of adjacent surfaces or sealant materials.
2. In-kind repair or replacement of insulation systems, provided that existing interior plaster, woodwork, exterior siding, or exterior architectural detail is not altered.

H. Structural Retrofits

1. The installation of the following retrofits/upgrades, provided that such upgrades are not visible on the exterior: attic bracing, cross bracing on pier and post foundations; fasteners; collar ties; gussets; tie downs; strapping and anchoring of mechanical, electrical, and plumbing equipment; concealed anchoring of furniture; installation of plywood diaphragms beneath first floor joists, above top floor ceiling rafters, and on roofs; and automatic gas shut off valves. In masonry structures, bolts will be required to be installed through the mortar and not the stone or brick, as applicable.
2. Earthquake bracing used on refrigerators and against-the-wall shelving in schools and other public facilities. Bracing will match the existing wall color and/or furniture color to the greatest extent possible. This allowance does not apply if the bracing is attached to character-defining interior features, such as wood trim and paneling, decorative plaster, etc.
3. Activities related to flood proofing and minor upgrades on secondary facades. The addition of new elements (such as storm panels or flood panels) to exterior doors (or windows) or the installation of metal grating at basement window wells on secondary building elevations. A secondary elevation is one that does not face a public thoroughfare, mews or court and that does not possess character defining architectural features.

I. Safe Rooms

1. Installation of individual safe rooms within the property limits of a residence where the installation would occur within the existing building or structure or in previously disturbed soils.

J. Elevation, Demolition, and Reconstruction

1. Activities related to the elevation, demolition and/or reconstruction of buildings or structures less than forty-five (45) years of age so long as the proposed activities substantially conform to the original footprint and/or are performed in previously disturbed soils including any staging area, and the buildings or structures are not located within or adjacent to a National Register listed or eligible historic district.
2. When the impacts of the disaster event cause damage or destruction to the building or structure resulting in catastrophic impacts to historic integrity as outlined in the Criteria of Collapsed Buildings or Structures in Appendix F of this agreement.

K. Building Contents

1. Repair or replacement of building contents including furniture, movable partitions, computers, cabinetry, supplies and equipment and other moveable items which are not character defining features of a historic property.

L. Buildings that have been determined Not Eligible for Listing in the National Register within the Past 10 Years

1. Repair or retrofit of buildings that have been determined Not Eligible for Listing in the National Register within the past 10 years.

III. TRANSPORTATION FACILITIES, when proposed activities substantially conform to the original footprint and/or performed in previously disturbed soils, including the area where the activity is staged.

A. Roads and Roadways

1. Repair of roads to pre-disaster geometric design standards and conditions using in-kind materials, shoulders, medians, clearances, curbs, and side slopes. This allowance permits minor improvement to meet current code and standards or hazard mitigation measures, such as those designed to harden exposed surfaces, including the application of gravel armoring to side slopes and ditches except where in close proximity to known archeological sites or within the view shed of historic districts that are listed or eligible for listing on the National Register.
2. Repair of roads to pre-disaster geometric design standards and conditions using in-kind materials, shoulders, medians, clearances, curbs, and side slopes. This allowance permits minor improvement to meet current codes and standards or hazard mitigation measures, such as those designed to harden exposed surfaces, including the application of gravel armoring to side slopes and ditches except where in close proximity to known archeological sites or within the view shed of historic districts that are listed or eligible for listing on the National Register.
3. In-kind repair to historic paving materials for roads and walkways.
4. In-kind repair or in-kind replacement, or minor upgrade of culvert systems and arches beneath roads or within associated drainage systems, including provision of headwalls, riprap and any modest increase in capacity for the purposes of hazard mitigation or to meet current codes and standards, provided that the work substantially conforms to the existing footprint. For stone or brick culverts or arches beneath roadways, this allowance only applies to in-kind repair.
5. In-kind repair or, where necessary, in-kind replacement of road lighting systems, including period lighting fixture styles.
6. In-kind repair or, where necessary, in-kind replacement of road appurtenances such as curbs, berms, fences, parking lots, storm drains, catch basins, fire hydrants, sidewalks, parking meters, and similar types of features.
7. Installation of speed bumps and/or enhanced curbs. This allowance does not apply to any work in historic districts listed or eligible for listing in the National Register.
8. Stabilization of hazardous slopes within transportation rights-of-way. Stabilization methods include the installation of retaining walls and systems such as gabion baskets, crib walls, and soldier pile and lag walls. Work will not exceed the limits of the previously disturbed rights-of-way and will not take place within the APE of any historic property listed or eligible for listing in the National Register. This allowance does not apply to any work in historic districts listed or eligible for listing in the National Register.
9. Routine road maintenance and resurfacing where work is confined to the existing right-of-way and previously maintained surfaces, ditches, culverts, and cut and fill slopes where there are no known historic properties, or historic properties would not be affected because the proposed work is clearly within a disturbed context.

B. Bridges

- a. Installation of a temporary (Bailey-type) bridge over an existing structure or at a previously disturbed location, such as a former bridge location, to allow passage of emergency vehicles.
- b. In-kind repair, and where necessary, in-kind replacement of bridge components (*e.g.*, abutments, wing walls, piers, decks, and fenders) in previously disturbed soils.
- c. This allowance does not apply to any work on bridges listed or eligible for listing in the National Register.

IV. UTILITIES, COMMUNICATIONS SYSTEMS AND TOWERS, when proposed activities substantially conform to the original footprint and/or performed in previously disturbed soils, including the area where the activity is staged.

A. General

1. In-kind repair or replacement, or minor upgrading, small scale realignment, and elevation of utilities and associated features and structures within previously disturbed soils of rights-of-way or utility corridors.
2. Installation of new utilities and associated features within existing rights-of-way or utility corridors except when in close proximity to known archeological sites or within view sheds of historic districts eligible or listed on the National Register.
3. Directional boring of new/replacement service line and related appurtenances involving boring or slit trenches within previously disturbed soils of rights-of-way or utility corridors.
4. In-kind repair or replacement, or minor upgrade of water towers provided activities take place within previously disturbed soils. Ground-level facilities may be added or expanded in previously disturbed areas. This allowance does not apply to masonry water towers.
5. Temporary storage of supplies and equipment (poles, cable spools, pedestals, work vehicles, etc.) where no ground disturbance will occur; this does not include construction of temporary access routes.
6. Repair or in-kind replacement of metal utilitarian structures to house or protect utilities, such as pump houses and electrical transformer houses, as well as related elements, such as oil tanks and exposed pipelines, except when located within a historic district.

B. Generators and Utilities

1. In-kind repair or replacement, or minor upgrades elevation, and/or installation of generators, HVAC systems, and similar equipment provided activities occur within previously disturbed soils and any roof mounted equipment is not visible from the ground level.

2. Underground cable replacements of any length when the replacement cable is placed within three (3) feet of the same trench as an existing or failed cable except when in close proximity (three hundred [300] feet) to a known archeological site.
3. Substantially in-kind repair or replacement of antenna towers.
4. Replacement of power poles in pre-existing locations, including increase in the pole diameter. Relocation or construction of new poles are allowed in (1) urban or suburban settings between the edge of roadway and the sidewalk, (2) rural settings along roadway shoulders, and (3) in off-road alignment settings in the existing utility corridor except when in close proximity to a known archaeological site or within the view shed of historic districts listed or eligible for listing on the National Register.
5. New construction of a single pole overhead line is permissible when the auguring, pole placement, and line placement is conducted from within the previously disturbed public or private rights-of-way, or when the lines will not pass within or through any areas known or suspected to contain human remains, archeological resources, or any other historic properties except when in close proximity to a known archaeological site or within the view shed of historic districts listed or eligible for listing on the National Register.
6. Replacement, relocation or installation of solar panels on the roofs of buildings where the panels cannot be seen from street level.
7. Directional boring for replacement/new service lines and related appurtenances, where ground disturbance would involve no greater than ten (10) square foot excavation units for directional boring equipment to be placed. These units would be placed in areas for directional drill to begin and end or where needed to complete boring.

C. Communication Equipment/Systems and Towers

1. Acquisition, installation, or operation of communication and security equipment/systems that use existing distribution systems, facilities, or existing infrastructure right-of-way.
2. The collocation of communication and security equipment on existing towers and buildings/structures less than forty-five (45) years of age, provided that the work does not increase existing tower height or footprint by more than 10% and occurs within previously disturbed soils.
3. Enhancement, repair or replacement of existing communication towers and antenna structures provided the work does not increase existing tower height or footprint by more than 10% and occurs within previously disturbed soils.
4. Installation of new temporary (not to exceed twelve (12) months) communications towers and antenna structures provided that the work occurs does not require modification of buildings/structures older than forty-five (45) years of age and occurs within previously disturbed soils.
5. Construction of new communication towers, less than two-hundred (200) feet tall, in previously developed urban complexes when the work does not require modification of buildings/structures older than forty-five (45) years of age, occurs within previously disturbed soils and is not within five-hundred (500) feet of the boundaries of a historic property.

- V. **WATER RESOURCE MANAGEMENT AND CONTROLS**, when proposed activities substantially conform to the original footprint and/or performed in previously disturbed soils, including the area where the activity is staged
- A. Canal Systems
 - 1. In-kind repairs, when necessary, or in-kind replacement to canal systems and associated elements with the understanding that when the undertaking includes the D&R and Morris Canals, the applicant complies with the New Jersey Register of Historic Places Act N.J.A.C.7.4, effective September 2, 2008, which requires consultation with the appropriate agencies.
 - B. Breakwaters, Seawalls, Bulkheads, Revetments, and Berms
 - 1. In-kind repair, replacement, or minor mitigation in either previously disturbed soils or within the current footprint of breakwaters, seawalls, bulkheads, berms, jetties, sand dunes, and revetments, provided there are no known shipwrecks within the APE. This permits for material changes to bulkheads provided it is not located within or view shed of historic properties listed in or eligible for listing on the National Register.
 - C. Dams, Levees, and Floodwalls
 - 1. In-kind repair of dams, levees, floodwalls and related features, including spillways, tide gates, and fuse plugs, provided the work occurs in previously disturbed soils.
 - D. Fish Hatcheries
 - 1. In-kind repair or replacement, or minor upgrades of fish hatcheries and fish ladders.
 - E. Waste-Water Treatment Lagoon Systems
 - 1. In-kind repair or replacement, or minor upgrades of waste-water treatment lagoon systems.
 - F. Outfall Systems
 - 1. In-kind repair, replacement, or minor upgrades to outfall pipes along beaches or inland waterways.
 - G. Water or Wastewater Lines
 - 1. Point repair to an existing water or wastewater line where construction occurs in the original trench.
 - 2. Replacement of existing water or wastewater lines where all construction occurs within the original trench.
 - 3. Replacement of existing water or wastewater lines in a new trench paralleling the existing line if the following conditions are met:
 - a. The replacement occurs beneath city streets or adjacent drainage rights-of-way (as in item IV.A.);

- b. The replacement does not occur within a National Register historic district or locally designated historic district;
 - c. The replacement does not occur beneath streets paved with historic paving materials; and
 - d. The replacement does not occur adjacent to roads in rural areas of the county (where abandoned cemeteries or unrecorded archeological sites might be impacted by a new trench).
4. Minor alterations or additions to existing water or wastewater treatment plants or other facilities that are less than 45 years old. (Excavation of new treatment ponds or enlargement of existing ponds are not considered minor alterations and are subject to review).
 5. Installation of generators at existing water/wastewater or shelter facilities.
 6. Addition or replacement of equipment within the same location and footprint (Examples include but not limited to; Computer monitoring equipment, bar screens, clarifiers, chlorination equipment, SCADA equipment etc.)

VI. OTHER PROGRAM ACTIVITIES

A. Elevation, Demolition, and Reconstruction

NOTE: Any elevation, demolition, and/or reconstruction occurring within or adjacent to a historic district listed in or eligible for listing in the National Register shall be reviewed in accordance with Stipulation III.C, Standard Project Review, of this Agreement.

1. Activities related to the elevation, demolition, or reconstruction of buildings or structures provided proposed activities substantially conform to the original footprint, follow the Low Impact Debris Removal Stipulations in Appendix G and/or are performed in previously disturbed soils (including staging areas) as identified by an SOI-qualified archaeologist, **AND meets items 2, 3, 4, or 5:**
2. The proposed undertaking is located within a designated “green zone,” defined as an area that has been formally determined to contain no above ground historic properties in accordance with 36 CFR §800.4 (d)(1) and is not located within or adjacent to a historic district listed in or eligible for listing in the National Register; **OR**
3. The building/structure subject to elevation, demolition or reconstruction is under 45 years of age and is not located within or adjacent to a historic district listed in or eligible for listing in the National Register; **OR**
4. The building/structure subject to elevation, demolition or reconstruction was formally determined not eligible for listing in the National Register within the past ten (10) years and is not located within or adjacent to a historic district listed in or eligible for listing in the National Register. **OR**

5. For properties that are not eligible for or listed on the National Register and not within or adjacent to a historic district listed in or eligible for listing in the National Register, elevation design for a building or structure is reviewed by an SOI qualified architectural historian or historic architect and is found consistent with the two volumes of guidance provided by the NJHPO in December 2019 (or subsequent publications) entitled:
 - a. *Flood Mitigation Guide for Historic Properties*, available at:
https://www.nj.gov/dep/hpo/images/_MULT_DG_32_v1_ID14076r.pdf
 - b. *Elevation Design Guidelines for Historic Properties*, available at:
https://www.nj.gov/dep/hpo/images/_MULT_DG_32_v2_ID14078r.pdf

--End of Appendix B, Allowances--

APPENDIX C NEW JERSEY LOCAL GOVERNMENTS

This Appendix may be amended in accordance with Stipulation IX--Amendments.

Part 1: Local Governments in New Jersey

Wherever a project will occur in their jurisdiction, the local government will be invited to participate as a Section 106 consulting party. The following complete list of local governments in New Jersey is based on the data accessed on 3/21/2023, and available at: Open Data Portal at <https://njdca-odp.dynamics365portals.us/#/>.

<i>Municipality</i>	<i>County</i>		
Absecon city	Atlantic	Bogota borough	Bergen
Atlantic City (CLG)	Atlantic	Carlstadt borough	Bergen
Brigantine city	Atlantic	Cliffside Park borough	Bergen
Buena borough	Atlantic	Closter borough (CLG)	Bergen
Buena Vista township	Atlantic	Cresskill borough	Bergen
Corbin City city	Atlantic	Demarest borough	Bergen
Egg Harbor City city	Atlantic	Dumont borough	Bergen
Egg Harbor township	Atlantic	Elmwood Park borough	Bergen
Estell Manor city	Atlantic	East Rutherford borough	Bergen
Folsom borough	Atlantic	Edgewater borough	Bergen
Galloway township	Atlantic	Emerson borough	Bergen
Hamilton township (CLG)	Atlantic	Englewood city	Bergen
Hammonton town	Atlantic	Englewood Cliffs borough	Bergen
Linwood city	Atlantic	Fair Lawn borough	Bergen
Longport borough	Atlantic	Fairview borough	Bergen
Margate City city	Atlantic	Fort Lee borough	Bergen
Mullica township	Atlantic	Franklin Lakes borough	Bergen
Northfield city	Atlantic	Garfield city	Bergen
Pleasantville city	Atlantic	Glen Rock borough	Bergen
Port Republic city	Atlantic	Hackensack city	Bergen
Somers Point city (CLG)	Atlantic	Harrington Park borough	Bergen
Ventnor City city	Atlantic	Hasbrouck Heights borough	Bergen
Weymouth township	Atlantic	Haworth borough	Bergen
Allendale borough	Bergen	Hillsdale borough	Bergen
Alpine borough	Bergen	Ho-Ho-Kus borough	Bergen
Bergenfield borough	Bergen	Leonia borough	Bergen
		Little Ferry borough	Bergen
		Lodi borough	Bergen

Lyndhurst township	Bergen
Mahwah township (CLG)	Bergen
Maywood borough	Bergen
Midland Park borough	Bergen
Montvale borough	Bergen
Moonachie borough	Bergen
New Milford borough	Bergen
North Arlington borough	Bergen
Northvale borough	Bergen
Norwood borough	Bergen
Oakland borough	Bergen
Old Tappan borough	Bergen
Oradell borough	Bergen
Palisades Park borough	Bergen
Paramus borough	Bergen
Park Ridge borough	Bergen
Ramsey borough	Bergen
Ridgefield borough	Bergen
Ridgefield Park village	Bergen
Ridgewood village	Bergen
River Edge borough (CLG)	Bergen
River Vale township	Bergen
Rochelle Park township	Bergen
Rockleigh borough	Bergen
Rutherford borough	Bergen
Saddle Brook township	Bergen
Saddle River borough	Bergen
South Hackensack township	Bergen
Teaneck township (CLG)	Bergen
Tenafly borough	Bergen
Teterboro borough	Bergen
Upper Saddle River borough	Bergen
Waldwick borough	Bergen
Wallington borough	Bergen
Washington township	Bergen
Westwood borough	Bergen
Woodcliff Lake borough	Bergen
Wood-Ridge borough	Bergen
Wyckoff township	Bergen
Bass River township	Burlington
Beverly city	Burlington

Bordentown city	Burlington
Bordentown township	Burlington
Burlington city (CLG)	Burlington
Burlington township	Burlington
Chesterfield township	Burlington
Cinnaminson township	Burlington
Delanco township	Burlington
Delran township	Burlington
Eastampton township	Burlington
Edgewater Park township	Burlington
Evesham township	Burlington
Fieldsboro borough	Burlington
Florence township	Burlington
Hainesport township	Burlington
Lumberton township	Burlington
Mansfield township	Burlington
Maple Shade township	Burlington
Medford township	Burlington
Medford Lakes borough	Burlington
Moorestown township	Burlington
Mount Holly township	Burlington
Mount Laurel township	Burlington
New Hanover township	Burlington
North Hanover township	Burlington
Palmyra borough	Burlington
Pemberton borough	Burlington
Pemberton township	Burlington
Riverside township	Burlington
Riverton borough	Burlington
Shamong township	Burlington
Southampton township	Burlington
Springfield township	Burlington
Tabernacle township	Burlington
Washington township	Burlington
Westampton township	Burlington
Willingboro township	Burlington
Woodland township	Burlington
Wrightstown borough	Burlington
Audubon borough	Camden
Audubon Park borough	Camden
Barrington borough	Camden

Bellmawr borough	Camden
Berlin borough (CLG)	Camden
Berlin township	Camden
Brooklawn borough	Camden
Camden city (CLG)	Camden
Cherry Hill township	Camden
Chesilhurst borough	Camden
Clementon borough	Camden
Collingswood borough (CLG)	Camden
Gibbsboro borough	Camden
Gloucester City city	Camden
Gloucester township	Camden
Haddon township	Camden
Haddonfield borough (CLG)	Camden
Haddon Heights borough (CLG)	Camden
Hi-Nella borough	Camden
Laurel Springs borough	Camden
Lawnside borough	Camden
Lindenwold borough	Camden
Magnolia borough	Camden
Merchantville borough	Camden
Mount Ephraim borough	Camden
Oaklyn borough	Camden
Pennsauken township	Camden
Pine Hill borough	Camden
Runnemede borough	Camden
Somerdale borough	Camden
Stratford borough	Camden
Tavistock borough	Camden
Voorhees township	Camden
Waterford township	Camden
Winslow township	Camden
Woodlynne borough	Camden
Avalon borough	Cape May
Cape May city (CLG)	Cape May
Cape May Point borough	Cape May
Dennis township	Cape May
Lower township	Cape May
Middle township	Cape May
North Wildwood city	Cape May
Ocean City city (CLG)	Cape May

Sea Isle City city	Cape May
Stone Harbor borough	Cape May
Upper township	Cape May
West Cape May borough	Cape May
West Wildwood borough	Cape May
Wildwood city	Cape May
Wildwood Crest borough	Cape May
Woodbine borough	Cape May
Bridgeton city	Cumberland
Commercial township	Cumberland
Deerfield township	Cumberland
Downe township	Cumberland
Fairfield township	Cumberland
Greenwich township	Cumberland
Hopewell township	Cumberland
Lawrence township	Cumberland
Maurice River township	Cumberland
Millville city	Cumberland
Shiloh borough	Cumberland
Stow Creek township	Cumberland
Upper Deerfield township	Cumberland
Vineland city	Cumberland
Belleville township	Essex
Bloomfield township	Essex
Caldwell borough	Essex
Cedar Grove township	Essex
East Orange city	Essex
Essex Fells borough	Essex
Fairfield township	Essex
Glen Ridge borough (CLG)	Essex
Irvington township	Essex
Livingston township	Essex
Maplewood township (CLG)	Essex
Millburn township (CLG)	Essex
Montclair township (CLG)	Essex
Newark city	Essex
North Caldwell borough	Essex
Nutley township	Essex
City of Orange township	Essex
Roseland borough	Essex
South Orange Village township	Essex

Verona township (CLG)	Essex
West Caldwell township	Essex
West Orange township (CLG)	Essex
Clayton borough	Gloucester
Deptford township	Gloucester
East Greenwich township	Gloucester
Elk township	Gloucester
Franklin township	Gloucester
Glassboro borough	Gloucester
Greenwich township	Gloucester
Harrison township (CLG)	Gloucester
Logan township	Gloucester
Mantua township	Gloucester
Monroe township	Gloucester
National Park borough	Gloucester
Newfield borough	Gloucester
Paulsboro borough	Gloucester
Pitman borough	Gloucester
South Harrison township	Gloucester
Swedesboro borough (CLG)	Gloucester
Washington township	Gloucester
Wenonah borough	Gloucester
West Deptford township	Gloucester
Westville borough	Gloucester
Woodbury city	Gloucester
Woodbury Heights borough	Gloucester
Woolwich township	Gloucester
Bayonne city	Hudson
East Newark borough	Hudson
Guttenberg town	Hudson
Harrison town	Hudson
Hoboken city	Hudson
Jersey City city	Hudson
Kearny town	Hudson
North Bergen township	Hudson
Secaucus town	Hudson
Union City city	Hudson
Weehawken township	Hudson
West New York town	Hudson
Alexandria township	Hunterdon
Bethlehem township	Hunterdon

Bloomsbury borough	Hunterdon
Califon borough	Hunterdon
Clinton town	Hunterdon
Clinton township	Hunterdon
Delaware township	Hunterdon
East Amwell township	Hunterdon
Flemington borough	Hunterdon
Franklin township	Hunterdon
Frenchtown borough	Hunterdon
Glen Gardner borough	Hunterdon
Hampton borough	Hunterdon
High Bridge borough	Hunterdon
Holland township	Hunterdon
Kingwood township	Hunterdon
Lambertville city	Hunterdon
Lebanon borough	Hunterdon
Lebanon township	Hunterdon
Milford borough	Hunterdon
Raritan township	Hunterdon
Readington township	Hunterdon
Stockton borough	Hunterdon
Tewksbury township (CLG)	Hunterdon
Union township	Hunterdon
West Amwell township	Hunterdon
East Windsor township	Mercer
Ewing township (CLG)	Mercer
Hamilton township (CLG)	Mercer
Hightstown borough	Mercer
Hopewell borough	Mercer
Hopewell township (CLG)	Mercer
Lawrence township	Mercer
Pennington borough	Mercer
Trenton city	Mercer
Robbinsville township	Mercer
West Windsor township	Mercer
Princeton borough	Mercer
Carteret borough	Middlesex
Cranbury township (CLG)	Middlesex
Dunellen borough	Middlesex
East Brunswick township	Middlesex
Edison township	Middlesex

Helmetta borough	Middlesex
Highland Park borough	Middlesex
Jamesburg borough	Middlesex
Old Bridge township	Middlesex
Metuchen borough	Middlesex
Middlesex borough	Middlesex
Milltown borough	Middlesex
Monroe township	Middlesex
New Brunswick city	Middlesex
North Brunswick township	Middlesex
Perth Amboy city	Middlesex
Piscataway township	Middlesex
Plainsboro township	Middlesex
Sayreville borough	Middlesex
South Amboy city	Middlesex
South Brunswick township (CLG)	Middlesex
South Plainfield borough	Middlesex
South River borough	Middlesex
Spotswood borough	Middlesex
Woodbridge township	Middlesex
Allenhurst borough	Monmouth
Allentown borough	Monmouth
Asbury Park city	Monmouth
Atlantic Highlands borough	Monmouth
Avon-by-the-Sea borough	Monmouth
Belmar borough	Monmouth
Bradley Beach borough	Monmouth
Brielle borough	Monmouth
Colts Neck township	Monmouth
Deal borough	Monmouth
Eatontown borough	Monmouth
Englishtown borough	Monmouth
Fair Haven borough	Monmouth
Farmingdale borough	Monmouth
Freehold borough	Monmouth
Freehold township (CLG)	Monmouth
Highlands borough	Monmouth
Holmdel township	Monmouth
Howell township	Monmouth
Interlaken borough	Monmouth
Keansburg borough	Monmouth

Keyport borough	Monmouth
Little Silver borough	Monmouth
Loch Arbour village	Monmouth
Long Branch city	Monmouth
Manalapan township	Monmouth
Manasquan borough	Monmouth
Marlboro township	Monmouth
Matawan borough	Monmouth
Aberdeen township	Monmouth
Middletown township (CLG)	Monmouth
Millstone township	Monmouth
Monmouth Beach borough	Monmouth
Neptune township	Monmouth
Neptune City borough	Monmouth
Tinton Falls borough	Monmouth
Ocean township	Monmouth
Oceanport borough	Monmouth
Hazlet township	Monmouth
Red Bank borough	Monmouth
Roosevelt borough	Monmouth
Rumson borough	Monmouth
Sea Bright borough	Monmouth
Sea Girt borough	Monmouth
Shrewsbury borough	Monmouth
Shrewsbury township	Monmouth
Lake Como borough	Monmouth
Spring Lake borough	Monmouth
Spring Lake Heights borough	Monmouth
Union Beach borough	Monmouth
Upper Freehold township	Monmouth
Wall township	Monmouth
West Long Branch borough	Monmouth
Boonton town	Morris
Boonton township	Morris
Butler borough	Morris
Chatham borough	Morris
Chatham township	Morris
Chester borough	Morris
Chester township	Morris
Denville township	Morris
Dover town	Morris

C-Part 1
(continued)

East Hanover township	Morris
Florham Park borough	Morris
Hanover township	Morris
Harding township	Morris
Jefferson township	Morris
Kinnelon borough	Morris
Lincoln Park borough	Morris
Madison borough	Morris
Mendham borough	Morris
Mendham township	Morris
Mine Hill township	Morris
Montville township (CLG)	Morris
Morris township	Morris
Morris Plains borough	Morris
Morristown town	Morris
Mountain Lakes borough	Morris
Mount Arlington borough	Morris
Mount Olive township	Morris
Netcong borough	Morris
Parsippany-Troy Hills township	Morris
Long Hill township	Morris
Pequannock township	Morris
Randolph township	Morris
Riverdale borough	Morris
Rockaway borough	Morris
Rockaway township	Morris
Roxbury township	Morris
Victory Gardens borough	Morris
Washington township (CLG)	Morris
Wharton borough	Morris
Barneгат Light borough	Ocean
Bay Head borough	Ocean
Beach Haven borough (CLG)	Ocean
Beachwood borough	Ocean
Berkeley township	Ocean
Brick township	Ocean
Toms River township	Ocean
Eagleswood township	Ocean
Harvey Cedars borough	Ocean
Island Heights borough	Ocean
Jackson township	Ocean

Lacey township	Ocean
Lakehurst borough	Ocean
Lakewood township	Ocean
Lavallette borough	Ocean
Little Egg Harbor township	Ocean
Long Beach township	Ocean
Manchester township	Ocean
Mantoloking borough	Ocean
Ocean township	Ocean
Ocean Gate borough	Ocean
Pine Beach borough	Ocean
Plumsted township	Ocean
Point Pleasant borough	Ocean
Point Pleasant Beach borough	Ocean
Seaside Heights borough	Ocean
Seaside Park borough	Ocean
Ship Bottom borough	Ocean
South Toms River borough	Ocean
Stafford township	Ocean
Surf City borough	Ocean
Tuckerton borough	Ocean
Barneгат township	Ocean
Bloomingtondale borough	Passaic
Clifton city	Passaic
Haledon borough	Passaic
Hawthorne borough	Passaic
Little Falls township	Passaic
North Haledon borough	Passaic
Passaic city	Passaic
Paterson city (CLG)	Passaic
Pompton Lakes borough (CLG)	Passaic
Prospect Park borough	Passaic
Ringwood borough	Passaic
Totowa borough	Passaic
Wanaque borough	Passaic
Wayne township	Passaic
West Milford township (CLG)	Passaic
Woodland Park borough	Passaic
Alloway township	Salem
Elmer borough	Salem
Elsinboro township	Salem

Lower Alloways Creek township	Salem
Mannington township	Salem
Oldmans township	Salem
Penns Grove borough	Salem
Pennsville township	Salem
Pilesgrove township	Salem
Pittsgrove township	Salem
Quinton township	Salem
Salem city (CLG)	Salem
Carneys Point township	Salem
Upper Pittsgrove township	Salem
Woodstown borough	Salem
Bedminster township	Somerset
Bernards township	Somerset
Bernardsville borough	Somerset
Bound Brook borough	Somerset
Branchburg township	Somerset
Bridgewater township	Somerset
Far Hills borough	Somerset
Franklin township	Somerset
Green Brook township	Somerset
Hillsborough township	Somerset
Manville borough	Somerset
Millstone borough	Somerset
Montgomery township	Somerset
North Plainfield borough (CLG)	Somerset
Peapack and Gladstone borough	Somerset
Raritan borough	Somerset
Rocky Hill borough	Somerset
Somerville borough	Somerset
South Bound Brook borough	Somerset
Warren township	Somerset
Watchung borough	Somerset
Andover borough	Sussex
Andover township	Sussex
Branchville borough	Sussex
Byram township	Sussex
Frankford township	Sussex
Franklin borough	Sussex
Fredon township	Sussex
Green township	Sussex

Hamburg borough (CLG)	Sussex
Hampton township	Sussex
Hardyston township	Sussex
Hopatcong borough	Sussex
Lafayette township	Sussex
Montague township	Sussex
Newton town (CLG)	Sussex
Ogdensburg borough	Sussex
Sandyston township	Sussex
Sparta township	Sussex
Stanhope borough	Sussex
Stillwater township	Sussex
Sussex borough	Sussex
Vernon township	Sussex
Walpack township	Sussex
Wantage township	Sussex
Berkeley Heights township	Union
Clark township	Union
Cranford township	Union
Elizabeth city	Union
Fanwood borough (CLG)	Union
Garwood borough	Union
Hillside township	Union
Kenilworth borough	Union
Linden city	Union
Mountainside borough	Union
New Providence borough	Union
Plainfield city (CLG)	Union
Rahway city	Union
Roselle borough	Union
Roselle Park borough	Union
Scotch Plains township	Union
Springfield township	Union
Summit city	Union
Union township	Union
Westfield town	Union
Winfield township	Union
Allamuchy township	Warren
Alpha borough	Warren
Belvidere town	Warren
Blairstown township	Warren

Franklin township (CLG)	Warren
Frelinghuysen township	Warren
Greenwich township	Warren
Hackettstown town	Warren
Hardwick township	Warren
Harmony township	Warren
Hope township	Warren
Independence township	Warren
Knowlton township	Warren
Liberty township	Warren

Lopatcong township	Warren
Mansfield township	Warren
Oxford township	Warren
Phillipsburg town	Warren
Pohatcong township	Warren
Washington borough	Warren
Washington township	Warren
White township	Warren

Part 2: Certified Local Government List

Source: National Park Service, accessed 02/03/2023, available at https://grantsdev.cr.nps.gov/CLG_Review/search.cfm

Certified Local Governments (CLG) are municipalities that have demonstrated, through a certification process, a commitment to local preservation and saving the past for future generations. The CLG program was federally mandated as part of an amendment to the NHPA and is administered by the National Park Service.

New Jersey CLG	Contact Information
Atlantic City	Adetoro Aboderin CFO City of Atlantic City City Hall Ste 506 Atlantic City, New Jersey 08401 (609) 347-5400 aaboderin@cityofatlanticcity.org
Beach Haven Borough	Donna Marie CLG Contact Beach Haven Borough 300 Engleside Ave Beach Haven, New Jersey 08008 609-492-0111 dmh@beachhaven-nj.gov
Berlin	Lois Sahina Borough Clerk Borough of Berlin 59 South White Horse Pike Berlin, New Jersey 08009 856-767-7777 historicalcommission@berlinnj.org www.berlinnj.org

Burlington	Ms. Cindy Cravaro Secretary Historic Preservation Commission City of Burlington City Hall 525 High Street Burlington, New Jersey 08016 609-386-0200 ccrivaro@burlingtonnj.us
Camden	Mr. Edward Williams Director Department of Development and Planning 520 Market Street, Suite 1300 PO Box 95120 Camden, New Jersey 08101 856-757-7600 edwillia@ci.camden.nj.us
Cape May	Ms. Karen Keenan Secretary Historic Preservation Commission City of Cape May 643 Washington Street Cape May, New Jersey 08204 kkeenan@capemaycity.com
City of Salem	Jim Smith CLG Liaison City of Salem Historical Preservation 17 New Market Street Salem, New Jersey 08079 jsmith@cityofsalemnj.gov
Closter Borough	Mr. Tim Adriance Chairman Closter Historic Preservation Commission 295 Old Closter Dock Road Closter, New Jersey 07624 210-784-0600 x545 histpres@closternj.us
Collingswood	Mr. Keith Haberern Chair Collingswood Historic Commission 678 Haddon Avenue Collingswood, New Jersey 08108 psu81@netzero.net

Cranbury Township	Mr. Thomas Walsh Cranbury Twp Historic Preservation Comm. Township of Cranbury 23-A North Main Street Cranbury, New Jersey 08512 609-654-3129 twalsh@cranbury-nj.com
Ewing Township	Ms. Linda Evans-Brown Chair Township of Ewing Historic Preservation Commission 2 Jake Garzio Drive Ewing, New Jersey 08628 ethpcbrown@gmail.com
Fanwood Borough	Joan Skubish Fanwood Historic Preservation Commission 75 North Martine Avenue Fanwood, New Jersey 07023 908-322-8236 jskubish@fanwoodnj.org
Franklin	Vincent Dominach Staff Contact Township of Franklin 475 DeMott Lane Municipal Building Somerset, New Jersey 08873 732-873-2500 65illiam.dominach@franklinnj.org https://www.franklintwpnj.org/
Freehold	Mr. Joseph Luongo Freehold Preservation Commission One Municipal Plaza Freehold, New Jersey 07728
Glen Ridge	Ms. Margaret Hickey Secretary Municipal Building Borough of Glen Ridge 825 Bloomfield Ave Glen Ridge, New Jersey 07028-0066 973-748-8444 margaret@chhistoricalarchitects.com
Haddon Heights	Mr. Christopher Morgan CLG Contact Haddon Heights Historic Commission Municipal Building 625 Station Avenue Haddon Heights, New Jersey 08035 cmorgan@haddonhts.com

Haddonfield	Mr. Marc Rusc CLG Contact Historic Preservation Commission Borough of Haddonfield 242 Kings Highway East Haddonfield, New Jersey 08033 856-429-4700 x209 hpc@haddonfield-nj.gov
Hamburg Borough	Mr. Thomas Graham Hamburg Historic Preservation Commission 16 Wallkill Avenue Hamburg, New Jersey 07419 973-827-0466 planning@hamburgnj.org
Hamilton	Mr. Ronald McArthur Chairman Hamilton Historic Preservation Comm. 6101 13 th Street Mays Landing, New Jersey 08330 609-625-4762 rmcarthur@townshipofhamilton.com
Harrison Township	Ms. Sue Champion CLG Contact Harrison Historic Commission 114 Bridgeton Pike Mullica Hill, New Jersey 08062 schampion@harrizontwp.us
Hopewell Township	Mr. Maximillian Hayden III CLG Contact Historic Preservation Commission Township of Hopewell Hopewell Township Municipal Complex 201 Washington Crossing – Pennington Rd. Titusville, New Jersey 08560 609-737-0612 hthpc@hopewelltp.org
Lawrenceville	Mr. Andrew Link CLG Contact Lawrenceville Historic Commission 2207 Lawrence Rd. Lawrenceville, New Jersey 08648 609-844-7087 alink@lawrencetwp.com
Mahwah Township	Ms. Anne Powley Mahwah HPC 475 Corporate Drive Mahwah, New Jersey 07430 201-529-5757 annepowley@optonline.net

Maplewood Township	Ms. Virginia Kurshan Chair Historic Preservation Commission 574 Valley Street Maplewood, New Jersey 07040 973-762-1441 commission@historicmaplewood.com
Middletown Township	Mr. Matt Coombs Chair Middletown Historic Commission 1 Kings Highway Middletown, New Jersey 07748 732-615-2015 mcoombs@middletownnj.org http://www.middletownnj.org/content/landmarks.html
Millburn	Alexander McDonald Mayor Historic Preservation Commission 375 Millburn Avenue Millburn, New Jersey 07041 973-564-7000 AmcDonald@millburntp.org
Montclair	Mr. Graham Petto Assistant Secretary Montclair Historic Preservation Comm. 205 Claremont Avenue, Second Floor Montclair, New Jersey 07042 973-509-4955 gpetto@montclairnjusa.org
Montville	Patt Gamsby Chair Montville Hist. Pres. Review Commission 195 Changebridge Road Montville, New Jersey 07045 pgamsby@montvillenj.org
Newton	Katherine Citterbart Secretary Newton Historic Preservation Commission 39 Trinity Street Newton, New Jersey 07860 973-383-3521 kcitterbart@newtontownhall.com
North Plainfield	Ms. Katherine Miller CLG Contact North Plainfield Historic Commission 263 Somerset Street North Plainfield, New Jersey 07060 kmiller@npsmail.org

Ocean City	Ms. Jessica Fenton CLG Contact Historic Preservation Commission Municipal Building 115 E 12 th St Ocean City, New Jersey 08226 jfenton@ocnj.us
Paterson	Mr. Gianfranco Archimede CLG Contact Historic Preservation Commission Department of Community Development 125 Ellison Street, 2 nd floor Paterson, New Jersey 07505-1355 973-321-1220 garchimede@patersonnj.gov
Plainfield	Mr. William Nierstedt CLG Contact Division of Planning and Community Dev. 515 Watchung Ave. Historic Preservation Commission Plainfield, New Jersey 07060 908-753-3580 68illiam.nierstedt@plainfieldnj.gov
Pompton Lakes	Ms. Laura Jennings Chair Pompton Lakes Historic Commission 25 Lenox Avenue Pompton Lakes, New Jersey 07442 historic@pomptonlakes-nj.gov
River Edge	Ms. Sarah Teresa Bartelloni River Edge Historic Preservation Comm. 705 Kindermack Road River Edge, New Jersey 07661 201-261-1208
Somers Point City (Atlantic County)	Ms. Donna J. Mohr Somers Point City City Hall, 1 West New Jersey Avenue Somers Point, New Jersey 08244 donnajmohr@comcast.net
South Brunswick	Mr. John M. Daly Chair South Brunswick Township Historic Preservation Commission Municipal Building 540 Ridge Road Monmouth Junction, New Jersey 08852 johnmdaly@graphcorr.com

Swedesboro Borough	Mr. Sam Casella CLG Contact Swedesboro Hist. Pres. Advisory Comm. 1500 Kings Highway Swedesboro, New Jersey 08085
Teaneck	Ms. Maggie Gonzales Chairman Teaneck Historic Preservation Commission 818 Teaneckk Road Teaneck, New Jersey 07666 201-837-1490 hpc@teanecknj.gov
Tewksbury	Mr. Michael Scheier Land Use Administrator – CLG Contact Tewksbury Township Historic Preservation 169 Old Turnpike Road Califon, New Jersey 07830 908-439-0022 x731
Verona	Mr. Glenn Houthuysen Chair, Verona Historic Preservation Commission Verona Town Hall 600 Bloomfield Avenue Verona, New Jersey 07044 973-239-3220 vhpc@veronanj.org
Washington Township	Gregg Forsbrey CLG Contact Washington Township Historical Comm. 43 Schooleys Mountain Road Long Valley, New Jersey 07853 908-852-7313 gforsbrey@wtmorris.net
West Milford	Mr. Steven Boshart Chair West Milford Historic Commission 1480 Union Valley Road West Milford, New Jersey 07480 973-728-2710 adminassist@westmilford.org
West Orange	Mr. Brian Feeney Chair Township of West Orange Municipal Building 66 Main Street West Orange, New Jersey 07052 973-325-4110 gary.siegel@comcast.net

Part 3: Letter to invite local governments in New Jersey

Wherever a project will occur within their jurisdiction, DCA will invite the local government to participate in Section 106 consultation, in written form, typically utilizing the following letter as a template.



State of New Jersey
DEPARTMENT OF COMMUNITY AFFAIRS
SANDY RECOVERY DIVISION
101 SOUTH BROAD STREET
PO Box 823
TRENTON, NJ 08625-0823

Phil Murphey
Governor

Sheila Y. Oliver
Lt. Governor

Sheila Y. Oliver
Commissioner

[Date]

[Name of City]

[Name of Mayor]

[Address]

[Name of City, New Jersey zipcode]

[Name of Undertaking]

Invitation to Consult as a Consulting Party under Section 106 of the National Historic Preservation Act

Dear Mayor [Name of Mayor],

In an effort to address [description of disaster and undertaking].

Under HUD regulation 24 CFR 58.4, the New Jersey Department of Community Affairs (NJDCA) has assumed HUD's environmental review responsibilities for the project, including tribal consultation related to historic properties. Historic properties include archaeological sites, burial grounds, sacred landscapes or features, ceremonial areas, traditional cultural places and landscapes, plant and animal communities, and buildings and structures with significant tribal association. NJDCA, HUD's Responsible Entity, is initiating consultation under Section 106 of the National Historic Preservation Act with the [Name of City] for the proposed undertaking in accordance with 36 CFR Part 800.

NJDEP has initiated the Section 106 process with the New Jersey Historic Preservation Office (NJHPO) and established the project's Areas of Potential Effects (APEs) for both archaeological and historic architectural resources. On [date], the NJHPO accepted the project initiation documentation as well as the list of consulting and interested parties.

We respectfully request your participation as a consulted party regarding the Proposed Project and seek your input on any cultural resources that you may be aware of or have concerns about for which you have jurisdiction and that fall within the project boundaries. To meet project timeframes, if you would like to be a consulted party on this project, please let us know of your interest within 30 days.

If you have any questions, comments, or concerns about the Proposed Project as it relates to cultural resources, please contact [DCA contact].

Thank you for your consideration and cooperation.

Sincerely,

Sheila Y. Oliver
Commissioner

Enclosures: Project Location
Alternative maps

cc: Additional contacts, NJDCA

--End of Appendix C, New Jersey Local Governments--

APPENDIX D

TREATMENT MEASURES

This Appendix may be amended in accordance with Stipulation IX--Amendments.

The following Treatment Measures are suggested for the resolution of Adverse Effects: If Undertakings result or will result in adverse effects, DCA, the NJHPO, and participating Tribes(s), may develop a treatment measure plan that includes one or more of the following Treatment Measures, depending on the nature of historic properties affected and the severity of adverse effects.

A. Recordation Package

1. Digital Photography Package: Prior to project implementation, the DCA shall oversee the successful delivery of a Digital Photography Package prepared by staff or contractors that meet the Secretary's Professional Qualifications for Architectural History, History, Architecture, or Historic Architecture, as appropriate. The Digital Photography Package will meet the standards cited in the National Park Service's National Register of Historic Places Photographic Policy March 2010 or subsequent revisions (<http://www.nps.gov/nr/publications/bulletins/photopolicy/index.htm>).
 - a. The Digital Photography Package shall include a comprehensive collection of photographs of both interior and exterior views showing representative spaces and details of significant architectural features and typical building materials. Exterior photographs shall include full oblique and contextual images of each elevation. Exterior views shall be keyed to a site plan while interior views shall be keyed to a floor plan of the building/structure. The photographs shall be indexed according to the date photographed, site number, site name, site address, direction, frame number, subject matter and photographer's name recorded on the reverse side in pencil.
 - b. The Digital Photography Package shall include printed color copies of the digital photographs (on appropriate paper, per NPS Photographic Policy), a CD/DVD of the digital photographs, a completed state architectural inventory form, and a written site history of the historic property.
 - c. The DCA shall submit the Digital Photography Package to the NJHPO and participating Tribes for review and approval. Once approved by the NJHPO and participating Tribes, the designated responsible party shall submit full copies of the approved Digital Photography Package to NJHPO and/or other designated repository for permanent retention.

2. 35 mm Black and White Film Photography Package: Prior to project implementation, the DCA shall oversee the successful delivery of a 35 mm Black and White Film Photography Package prepared by staff or contractors that meet the Secretary's Professional Qualifications for Architectural History, History, Architecture, or Historic Architecture, as appropriate.
 - a. The 35 mm Black and White Film Photography Package shall include a comprehensive collection of photographs of both interior and exterior views showing representative spaces and details of significant architectural features and typical building materials. Exterior photographs shall include full oblique and contextual images of each elevation. Exterior views shall be keyed to a site plan while interior views shall be keyed to a floor plan of the building/structure. The photographs shall be indexed according to the date photographed, site number, site name, site address, direction, frame number, subject matter and photographer's name recorded on the reverse side in pencil.
 - b. The 35 mm Black and White Film Photography Package shall include one (1) full set of 35mm film black and white photographs printed on acid free paper, the corresponding 35mm film negatives in acid free sleeves, a completed state architectural inventory form, and a written site history of the historic property.
 - c. The designated responsible party shall submit the 35 mm Black and White Film Photography Package to the NJHPO and participating Tribes for review and approval. Once approved by the NJHPO and participating Tribes, the designated responsible party shall submit full copies of the approved 35 mm Black and White Film Photography Package to NJHPO and/or other designated repository for permanent retention.
3. Large Format Film Photography Package: Prior to project implementation, the designated responsible party shall oversee the successful delivery of a Large Format Film Photography Package prepared by staff or contractors that meet the Secretary's Professional Qualifications for Architectural History, History, Architecture, or Historic Architecture, as appropriate.
 - a. The Large Format Film Photography Package shall include a comprehensive collection of photographs of both interior and exterior views showing representative spaces and details of significant architectural features and typical building materials. Exterior photographs shall include full oblique and contextual images of each elevation. Exterior views shall be keyed to a site plan while interior views shall be keyed to a floor plan of the building/structure. The photographs shall be indexed according to the date photographed, site number, site name, site address, direction, frame number, subject matter and photographer's name recorded on the reverse side in pencil.

- b. The Large Format Film Photography Package shall include one (1) full set of 4 x 5 m: 5 x 7-inch photographs printed on acid free paper, the corresponding 4 x 5 or 5 x 7-inch negatives in acid free sleeves, a completed state architectural inventory form, and a written site history of the historic property.
- c. The DCA shall submit the Large Format Film Photography Package to the NJHPO and participating Tribes for review and approval. Once approved by the NJHPO and affected Tribes, the designated responsible party shall submit full copies of the approved Large Format Film Photography Package to NJHPO and/or other designated repository for permanent retention.

B. Design Review by NJHPO and participating Tribes

DCA, the Grantee, and subgrantee shall work with the NJHPO and participating Tribes to develop a historically compatible design. Plans and specifications will, to the greatest extent feasible, preserve the basic character of a building. Primary emphasis shall be given to the major street elevations that are visible. Significant contributing features (*e.g.*, trim, windows, doors, porches) will be repaired or replaced with either in-kind materials or materials that come as close as possible to the original materials in basic appearance. Aesthetic camouflaging treatments such as use of veneers, paints, texture compounds and other surface treatments and/or use of sympathetic infill panels and landscaping features will be employed to the greatest extent feasible. Final construction drawings used in the bidding process will be submitted to the NJHPO and participating Tribes for review and comment prior to the award of a construction contract and the initiation of construction activities.

C. Tribal Treatment Plan

DCA shall work with the participating Tribes to develop a plan for the protection and treatment of, including but not limited to, Native American remains, funerary objects, cultural and religious landscapes, ceremonial items, traditional gathering areas and cultural items, for known sites and in the event that any are discovered in conjunction with the Undertaking, including archaeological studies, excavation, geotechnical investigations, grading, and all ground-disturbing activity. The plan will also formalize procedures for Tribal monitoring during archaeological studies, grading, and ground disturbing activities for the Undertaking. No photography of Native American human remains or funerary objects other than those used for identification purposes as required by local, state, and federal laws will be allowed.

D. Public Interpretation

DCA, the Grantee, and the subgrantee will work with the NJHPO and participating Tribes to design an educational interpretive plan. The plan may include signs, displays, educational pamphlets, websites, workshops and other similar mechanisms to educate the public on historic properties within the local community, state, or region. Once an interpretive plan has

been agreed to by the parties, NJHPO, participating Tribes, and the designated responsible party will continue to consult throughout implementation of the plan until all agreed upon actions have been completed by the designated responsible party.

E. Historical Context Statements and Narratives

Prior to project implementation, DCA, the Grantee, and the subgrantee will work with the NJHPO and participating Tribes to determine the topic and framework of a historic context statement or narrative the designated responsible party shall be responsible for completing. The statement or narrative may focus on an individual property, a historic district, a set of related properties, or relevant themes as identified in the statewide preservation plan. Once the topic of the historic context statement or narrative has been agreed to, the project may move to the construction phase and the designated responsible party shall continue to coordinate with the NJHPO and participating Tribes through the drafting of the document and delivery of a final product. The NJHPO and participating Tribes shall have final approval over the end product. The designated responsible party will use staff or contractors that meet the Secretary's Professional Qualifications for the appropriate discipline.

F. Oral History Documentation

Prior to project implementation, DCA, the Grantee, and the subgrantee will work with the NJHPO and participating Tribes to identify oral history documentation needs and agree upon a topic and list of interview candidates. Once the parameters of the oral history project have been agreed upon, the project may move to the construction phase and the designated responsible party shall continue to coordinate with the NJHPO and participating Tribes through the data collection, drafting of the document, and delivery of a final product. The NJHPO and participating Tribes shall have final approval over the end product. The designated responsible party will use staff or contractors that meet the Secretary's Professional Qualifications for the appropriate discipline.

G. Historic Property Inventory

Prior to project implementation, DCA, the Grantee, and the subgrantee will work with the NJHPO and participating Tribes to establish the appropriate level of effort to accomplish a historic property inventory or synthesis of archeological data. Efforts may be directed toward the resurvey of previously designated historic properties and/or districts which have undergone change or lack sufficient documentation, or the survey of new historic properties and/or districts that lack formal designation. Once the boundaries of the survey area have been agreed upon, the project may move to the construction phase and the designated responsible party shall continue to coordinate with the NJHPO and participating Tribes through the data collection process. The designated responsible party will use NJHPO and participating Tribes standards and forms as appropriate. The designated responsible party will prepare a draft inventory report, according to NJHPO and participating Tribes templates

and guidelines, and work with the NJHPO and participating Tribes until a final property inventory is approved. The designated responsible party will use staff or contractors that meet the Secretary's Professional Qualifications for the appropriate discipline.

H. National Register and National Historic Landmark Nominations

Prior to project implementation, DCA, the Grantee, and the subgrantee will work with the NJHPO, and participating Tribes to identify the individual properties that would benefit from a completed National Register or National Historic Landmark nomination form. Once the parties have agreed to a property, the project may move to the construction phase and the designated responsible party shall continue to coordinate with the NJHPO and participating Tribes through the drafting of the nomination form. The NJHPO and participating Tribes will provide adequate guidance to the designated responsible party during the preparation of the nomination form and shall formally submit the final nomination to the Keeper for inclusion in the National Register. The designated responsible party will use staff or contractors that meet the Secretary's Professional Qualifications for the appropriate discipline.

I. Geo-References of Historic Maps and Aerial Photographs

Prior to project implementation, DCA, the Grantee, and the subgrantee will work with the NJHPO and participating Tribes to identify the historic maps and/or aerial photographs for scanning and geo-referencing. Once a list of maps and/or aerial photographs have been agreed upon, the project may move to the construction phase and the designated responsible party shall continue to coordinate with the NJHPO and participating Tribes through the scanning and geo-referencing process and shall submit drafts of paper maps and electronic files to them for review. The NJHPO and participating Tribes shall have final approval on the quality of the documentation provided by the designated responsible party. The final deliverable shall include a paper copy of each scanned image, a geo-referenced copy of each scanned image, and the metadata relating to both the original creation of the paper maps and the digitization process.

J. Data Recovery Plan

Prior to project implementation, DCA will implement a data recovery plan developed in consultation with the Grantee, the subgrantee, NJHPO, and participating Tribes to recover National Register archaeological properties listed in, or eligible for listing in the National Register, which will be adversely affected by ground disturbing activities that are part of the Undertaking. The data recovery plan will be consistent with the Secretary of the Interior's Guidelines for Archaeological Documentation (http://www.nps.gov/history/local-law/arch_stnds_7.htm). In addition, the final report will adhere to the New Jersey Historic Preservation Office's Guidelines for Preparing Cultural Resources Management Archaeological Reports, July 2000 (<http://www.nj.gov/dep/hpo/1identify/culreso.pdf>). This treatment measure would not apply to the excavation of burials or burial objects.

K. Marketing Plan for Relocation

Prior to project implementation, DCA, the Grantee and the subgrantee will make a good faith and reasonable effort to identify a party or parties willing to purchase and relocate the historic structure(s). A good faith and reasonable effort should include publicizing and advertising the property in newspapers, magazines, and/or websites of record for a specific period of time. The purchaser must be willing to relocate the property outside of the Special Flood Hazard Area (100-year floodplain) and must use a professional house mover that follows the recommendations in *Moving Historic Buildings* by John Obed Curtis (1975, Reprinted 1991 by W. Patram for the International Association of Structural Movers) or other similar updated brochure. This marketing plan will be used in conjunction with Treatment Measure A--Recordation Package. If the good faith and reasonable effort does not result in the identification of a party or parties willing to relocate the property, the property may be demolished following the completion of the recordation package. Timeframes and specifics regarding this marketing plan will be developed in the consultation package to NJHPO.

L. Salvage

Prior to project implementation, the subgrantee and/or consulting parties, in coordination with NJHPO, DCA will identify selective architectural elements that may be salvageable. The elements will be removed at the subgrantee's expense. The salvaged elements may be re-used in new construction (if new construction is part of the proposed Undertaking) or in displays for educational purposes. As an alternative, the Grantee and subgrantee, in consultation with NJHPO, will attempt to identify a private or public not-for-profit local or regional historic preservation organization interested in receiving a donation of the architectural features. The organization may sell the architectural features to the general public for the specific purpose of raising funds to support future historic preservation activities in the region. Any income derived by the subgrantee from the sale of architectural features would be considered project income to be deducted from proceeds of the grant. Additionally, the activities shall not occur at or below grade in order to avoid affecting unevaluated archaeological resources. Timeframes and specifics regarding the architectural salvage will be developed in the consultation package to NJHPO.

--End of Appendix D, Treatment Measures--

APPENDIX E

PROTOCOLS FOR TRIBAL CONSULTATION

This Appendix may be amended in accordance with Stipulation IX--Amendments.

DCA agrees to follow the protocols in Appendix E for consultation with the five Federally recognized tribes invited to participate in the Agreement.

APPENDIX E.1

STIPULATIONS RELATIVE TO CONSULTATION WITH THE ABSENTEE SHAWNEE TRIBE OF INDIANS OF OKLAHOMA

WHEREAS, DCA has determined that implementation of its Programs will result in Undertakings that may have an effect on properties of traditional religious and cultural significance to the Absentee Shawnee Tribe of Indians of Oklahoma (Tribe) that are listed in or eligible for the National Register of Historic Places (historic properties), and has consulted with the Tribe pursuant to 36 C.F.R. § 800.14(b)(3) ("Developing programmatic agreements") and 36 C.F.R. § 800.3(f)(2) ("Involving Indian Tribes") of the regulations implementing Section 106 of the NHPA; and

WHEREAS, the Tribe has identified an area of geographic concern with respect to historic properties of religious and cultural significance as being within Camden, Gloucester, Salem, and Warren Counties in New Jersey; and

WHEREAS, the Tribe has established a THPO, pursuant to Section 101(d)(2) of the NHPA; and

WHEREAS, the Tribe has identified those types of CDGB-DR-funded projects to which it wishes to become a consulting party;

NOW, THEREFORE, DCA will consult with the Tribe under the following circumstances:

1. DCA will initially notify the Tribe whenever the State of New Jersey receives a disaster declaration for the identified area of geographic concern as listed above. Protocols for further consultation, if needed, will be established between DCA and the Tribe at that time.
2. DCA will inform the Tribe of any Alternate or Improved Project involving extensive land disturbance in Camden, Gloucester, Salem, and Warren Counties.
3. DCA will request Tribal consultation whenever a CDGB-DR-funded Undertaking has the potential to affect any pre-Contact, Native American archaeological habitation site listed in or eligible for listing in the National Register of Historic Places in Camden, Gloucester, Salem, and Warren Counties.
4. DCA will request that the Tribe become a Consulting Party in determining the treatment and disposition of any Native American grave or human remains that are inadvertently discovered as a result of a CDGB-DR-funded Undertaking within Camden, Gloucester, Salem, and Warren Counties in New Jersey.

APPENDIX E.2

STIPULATIONS RELATIVE TO CONSULTATION WITH THE DELAWARE NATION

WHEREAS, DCA has determined that implementation of its Programs will result in Undertakings that may have an effect on properties of traditional religious and cultural significance to the Delaware Nation (Tribe) that are listed in or eligible for the National Register of Historic Places (historic properties), and has consulted with the Tribe pursuant to 36 C.F.R. § 800.14(b)(3) ("Developing programmatic agreements") and 36 C.F.R. § 800.3(f)(2) ("Involving Indian Tribes") of the regulations implementing Section 106 of the NHPA; and

WHEREAS, the Tribe has identified an area of geographic concern with respect to historic properties of religious and cultural significance as being all counties within the entire State of New Jersey; and

WHEREAS, the Tribe has established a THPO, pursuant to Section 101(d)(2) of the NHPA; and

WHEREAS, the Tribe has identified those types of CDGB-DR-funded projects to which it wishes to become a consulting party;

NOW, THEREFORE, DCA will consult with the Tribe under the following circumstances:

1. DCA will initially notify the Tribe whenever the State of New Jersey receives a disaster declaration for the identified area of geographic concern as listed above. Protocols for further consultation, if needed, will be established between DCA and the Tribe at that time.
2. DCA will inform the Tribe of any Alternate or Improved Project involving extensive land disturbance in all counties within the State of New Jersey.
3. DCA will request Tribal consultation whenever a CDGB-DR-funded Undertaking has the potential to affect a large, pre-Contact, Native American archaeological habitation site in all counties within the State of New Jersey.
4. DCA will request that the Tribe become a Consulting Party in determining the treatment and disposition of any Native American grave or human remains that are inadvertently discovered as a result of a CDGB-DR-funded Undertaking in all counties within the State of New Jersey.

APPENDIX E.3

STIPULATIONS RELATIVE TO CONSULTATION WITH THE DELAWARE TRIBE OF INDIANS

WHEREAS, DCA has determined that implementation of its Programs will result in Undertakings that may have an effect on properties of traditional religious and cultural significance to the Delaware Tribe of Indians (Tribe) that are listed in or eligible for the National Register of Historic Places (historic properties), and has consulted with the Tribe pursuant to 36 C.F.R. § 800.14(b)(3) ("Developing programmatic agreements") and 36 C.F.R. § 800.3(f)(2) ("Involving Indian Tribes") of the regulations implementing Section 106 of the NHPA; and

WHEREAS, the Tribe has identified an area of geographic concern with respect to historic properties of religious and cultural significance as being all counties within the entire State of New Jersey; and

WHEREAS, the Tribe has established a THPO, pursuant to Section 101(d)(2) of the NHPA; and

WHEREAS, the Tribe has identified those types of DCA-funded projects to which it wishes to become a consulting party;

NOW, THEREFORE, DCA will consult with the Tribe under the following circumstances:

1. DCA will initially notify the Tribe whenever the State of New Jersey receives a disaster declaration for the identified area of geographic concern as listed above. Protocols for further consultation, if needed, will be established between DCA and the Tribe at that time.
2. DCA will inform the Tribe of any Alternate or Improved Project involving extensive land disturbance in all counties within the State of New Jersey.
3. DCA will request Tribal consultation whenever a CDGB-DR-funded Undertaking has the potential to affect a large, pre-Contact, Native American archaeological habitation site in all counties within the State of New Jersey.
4. DCA will request that the Tribe become a Consulting Party in determining the treatment and disposition of any Native American grave or human remains that are inadvertently discovered as a result of a CDGB-DR-funded Undertaking in all counties within the State of New Jersey.

APPENDIX E.4

STIPULATIONS RELATIVE TO CONSULTATION WITH THE SHAWNEE TRIBE

WHEREAS, DCA has determined that implementation of its Programs will result in Undertakings that may have an effect on properties of traditional religious and cultural significance to the Shawnee Tribe (Tribe) that are listed in or eligible for the National Register of Historic Places (historic properties), and has consulted with the Tribe pursuant to 36 C.F.R. § 800.14(b)(3) ("Developing programmatic agreements") and 36 C.F.R. § 800.3(f)(2) ("Involving Indian Tribes") of the regulations implementing Section 106 of the NHPA; and

WHEREAS, the Tribe has identified an area of geographic concern with respect to historic properties of religious and cultural significance as being within Burlington, Camden, Hunterdon, Mercer, Sussex, and Warren Counties; and

WHEREAS, the Tribe has established a THPO pursuant to Section 101(d)(2) of the NHPA; and

WHEREAS, the Tribe has identified those types of CDGB-DR-funded projects to which it wishes to become a consulting party;

NOW, THEREFORE, DCA will consult with the Tribe under the following circumstances:

1. DCA will initially notify the Tribe whenever the State of New Jersey receives a disaster declaration for the identified area of geographic concern as listed above. Protocols for further consultation, if needed, will be established between DCA and the Tribe at that time.
2. DCA will inform the Tribe of any Alternate or Improved Project that have ground disturbance in Burlington, Camden, Hunterdon, Mercer, Sussex, and Warren Counties. Projects involving ground disturbance include, but are not limited to, those in the Homeowner Assistance and Recover Program (HARP) and Smart Move: New Housing Development programs.
3. DCA will request Tribal consultation whenever a CDGB-DR-funded Undertaking has the potential to affect a pre-Contact, Native American archaeological habitation site in Burlington, Camden, Hunterdon, Mercer, Sussex, and Warren Counties.
4. DCA will request that the Tribe become a Consulting Party in determining the treatment and disposition of any Native American grave or human remains and funerary objects that are inadvertently discovered as a result of a CDGB-DR-funded Undertaking in Burlington, Camden, Hunterdon, Mercer, Sussex, and Warren Counties.

APPENDIX E.5

STIPULATIONS RELATIVE TO CONSULTATION WITH THE STOCKBRIDGE-MUNSEE COMMUNITY

WHEREAS, DCA has determined that implementation of its Programs will result in Undertakings that may have an effect on properties of traditional religious and cultural significance to the Stockbridge-Munsee Community (Tribe) that are listed in or eligible for the National Register of Historic Places (historic properties), and has consulted with the Tribe pursuant to 36 C.F.R. § 800.14(b)(3) ("Developing programmatic agreements") and 36 C.F.R. § 800.3(f)(2) ("Involving Indian Tribes") of the regulations implementing Section 106 of the NHPA; and

WHEREAS, the Tribe has identified an area of geographic concern with respect to historic properties of religious and cultural significance as being within Bergen, Burlington, Essex, Hudson, Middlesex, Monmouth, Ocean, Passaic, Somerset, Sussex, Union and Warren Counties in New Jersey; and

WHEREAS, the Tribe has established a THPO (or not), pursuant to Section 101(d)(2) of the NHPA; and

WHEREAS, the Tribe has identified those types of CDGB-DR-funded projects to which it wishes to become a consulting party;

NOW, THEREFORE, DCA will consult with the Tribe under the following circumstances:

1. DCA will initially notify the Tribe whenever the State of New Jersey receives a disaster declaration for the identified area of geographic concern as listed above. Protocols for further consultation, if needed, will be established between DCA and the Tribe at that time.
2. DCA will inform the Tribe of any Alternate or Improved Project involving extensive land disturbance in Bergen, Burlington, Essex, Hudson, Middlesex, Monmouth, Ocean, Passaic, Somerset, Sussex, Union and Warren Counties.
3. DCA will request Tribal consultation whenever a CDGB-DR-funded Undertaking has the potential to affect a large, pre-Contact, Native American archaeological habitation site in Burlington, Sussex, and Warren Counties.
4. DCA will request that the Tribe become a Consulting Party in determining the treatment and disposition of any Native American grave or human remains that are inadvertently discovered as a result of a CDGB-DR-funded Undertaking in Bergen, Burlington, Essex, Hudson, Middlesex, Monmouth, Ocean, Passaic, Somerset, Sussex, Union and Warren Counties.

Appendix E.6

Tribal Notification and Consultation

Tribal Notification Extensive Land Disturbance: In accordance with DCA CDGB-DR PA Appendix E, NJDCA will notify the Tribe(s) when a project scope involves land disturbance in the area of geographic concern identified in the appendices. The notification process (see Coordination Procedures) should begin as soon as NJDCA staff or its Contractor (DCA staff/contractor) recognizes the project scope involves land disturbance in an area of geographic concern as identified in the appendices. Draft Notification Template Letter “A” is used to facilitate DCA staff/contractor’s preparation of a draft letter for NJDCA’s use to notify the Tribe(s).

Tribal Consultation—Potential to Affect Tribal Site: In accordance with DCA CDBG-DR PA appendix E, NJDCA will request Tribal consultation whenever a project scope has the potential to affect a pre-Contact, Native American archaeological habitation site in the area of geographic concern. The request for Tribal consultation should begin as soon as:

1. A records or literature search indicates a habitation site is within or is near the Area of Potential Effects.
2. The Contractor’s professional judgment indicates a habitation site may be affected.
3. NJHPO notifies the DCA staff/contractor a habitation site may be affected or that Tribal consultation should be requested.
4. An archaeological survey encounters a habitation site.

Draft Consultation Template Letter “B” explains how to facilitate the DCA staff’s/contractor’s preparation of a draft invitation letter for NJDCA’s use to request Tribal consultation. One letter following the format of Template Letter “B” should be used for dual notification-consultation in those rare cases when DCA staff/contractor learns a habitation site may be affected by extensive land disturbance.

The need for requesting consultation varies among the Tribes with respect to the size of the habitation site and its National Register status, as follows.

For the *Absentee Shawnee Tribe of Indians of Oklahoma*, NJDCA will request Tribal consultation whenever an Undertaking has the potential to affect any pre-Contact, Native American archaeological habitation site listed in or eligible for listing in the National Register of Historic Places in Camden, Gloucester, Salem, and Warren Counties.

For the *Delaware Nation*, NJDCA will request Tribal consultation whenever an Undertaking has the potential to affect a large, pre-Contact, Native American archaeological habitation site in all counties within the State of New Jersey.

For the *Delaware Tribe of Indians*, NJDCA will request Tribal consultation whenever an Undertaking has the potential to affect a large, pre-Contact, Native American archaeological habitation site in all counties within the State of New Jersey.

For the *Shawnee Tribe*, NJDCA will request Tribal consultation whenever an Undertaking has the potential to affect a pre-Contact, Native American archaeological site in Burlington, Camden, Hunterdon, Mercer, Sussex, and Warren Counties.

For the *Stockbridge-Munsee Community*, NJDCA will request Tribal consultation whenever an Undertaking has the potential to affect a large, pre-Contact, Native American archaeological habitation site in 28 Burlington, Sussex, and Warren Counties.

Request the Tribe become a Consulting Party—Discovery of Graves or Human Remains: NJDCA will request that Tribe(s) become a Consulting Party in determining the treatment and disposition of any Native American grave, human remains, or funerary objects that are inadvertently discovered in the Tribes' area of geographic concern.

Tribal Notification Procedures:

Step 1-Assessment and Draft Notification and/or Consultation Letter:

DCA Staff/Contractors - When, within 5 days of acceptance of an application for environmental review for a CEST and EA, the DCA Staff/Contractor determines conditions are met for notification, the DCA Staff/Contractor shall prepare a draft tribal notification and/or consultation letter and corresponding draft e-mail using the appropriate attached template "A" or "B" (on NJDCA letterhead) and e-mails the drafts to DCA tribal liaison(s) and NJERRQUESTIONS@DEPI.COM at DEP for review. DEP will either comment on the drafts or submit them to NJDCA for processing and will copy the Staff/Contractor. The letter should include a simple return yes/no mechanism for the Tribe to respond to DCA.

The draft e-mail should include a note reminding NJDCA to "request a delivery receipt" and "request a read receipt" with the letter attached. The e-mail should include a simple return yes/no mechanism for the Tribe to respond to the DCA Staff/Contractor if they want to continue consultation on the specific project or not.

In addition, the DCA Staff/Contractor will include the names of the Tribes being notified in the "public consultation" box of NJHPO Form 2, so that NJHPO is aware consultation is being initiated.

Step 2-Sending the Notification and/or Consultation Letter:

DEP - Within the next business day, the letter is sent to DCA for approval and signature and entered into consultation tracking. By the 2nd business day, the letter is mailed and e-mailed to the Tribes' government leader and copied to the THPO/tribal cultural preservation director.

Step 3-Follow up:

DEP - When the Tribe replies, the date and nature of the reply will be entered into the consultation tracking system. If no reply is received by DCA from the tribal government or the THPO/tribal cultural preservation director within 7 days, DCA will notify all parties that no reply or a reply has been received.

Contractors - When notified by DCA that no reply has been received after 7 days, the Contractor will follow up with the THPO/tribal cultural preservation director by telephone and/or e-mail and copy DCA. The contractor will not contact the tribal government directly. If there is no response from the tribal parties within 14 days, the contractor will make a 2nd follow up telephone call and make it clear that if no comments are communicated within 30 days from the date on the notification letter, it will be presumed the Tribe does not want to consult. If there is no answer or return call from the Tribal parties, the contractor will send them an e-mail communication about the 30day comment period and copy DCA.

DCA - If DCA confirms that the Contractor has not received a reply within 30 days of the date of the notification or consultation letter, then it will be presumed the Tribe does not want to consult further, and this information will be entered into the tracking system. DCA will notify all parties that no comments have been received.

Step 4-Submission of Documentation:

Contractors - Unless Tribe(s) have chosen not to consult further, the Contractor will submit supporting documentation of their studies and findings to the Tribe(s) at the same time they submit that documentation to the NJHPO. The supporting documentation shall be prepared in accordance with 36 CFR § 800.11(d) and applicable documentation standards.

Step 5: Finalization:

Contractors - The final outcome of tribal consultation depends on the Section 106 finding the Contractor makes on behalf of DCA and HUD, whether the Tribe(s) have requested consultation, and the terms and conditions in the PA as follows:

Finding of No Historic Properties Affected: Unless the NJHPO or participating Tribe(s) object within 15 calendar days from receiving the finding and supporting documentation, the consultation period is ended and the finding is final. If the NJHPO or participating Tribe(s) object, the contractor and DCA can work together to resolve the disagreement, and if the objection is resolved, the project may move forward with the resolution.

Finding of No Adverse Effect on Historic Properties: Unless the NJHPO or participating Tribe(s) object within 15 calendar days from receiving the finding and supporting documentation, the consultation period is ended, Section 106 review is ended, and the finding is final. If the NJHPO or participating Tribe(s) object, the contractor and DCA can work together to resolve the disagreement, and if the objection is resolved, the project may move forward with the resolution.

Potential Adverse Effect on Historic Properties: The contractor will make recommendations on how the scope of work for the project should be revised by the applicant to avoid or minimize adverse effects for archaeological properties, in consultation with NJDCA, the Tribe(s) and NJHPO. If the scope of work is modified to address the adverse effect, the contractor will provide supporting documentation, and DCA will notify the NJHPO and Tribe(s). Unless the NJHPO or participating Tribe(s) object within 15 calendar days from receiving the modified scope of work and supporting documentation, the consultation period is ended, Section 106 review is ended, and a finding of “no adverse effect” is final.

Draft Transmittal Memo Template “C” is provided for the Contractor’s use when providing the Tribe(s) with supporting documentation for a finding of “No Historic Properties Affected” or “No Adverse Effect on Historic Properties.”

DCA - If there is an objection that cannot be resolved by the Contractor or a revised scope of work, DCA will work with the Tribe(s) and NJHPO to attempt to resolve the objection. If there is a finding of “adverse effect,” DCA will work with the tribe(s) and NJHPO to resolve the adverse effect by following the procedures in PA Stipulation IV.

Tribal Notification Templates are provided on the following pages.

Tribal Notification/Consultation Templates

Draft Notification Template Letter “A”

[NJ DCA Letterhead]

(THPO) Name, Title Name of Tribal Nation Address
City, State Zip

DATE

Re:

e NHPA Notification

HUD Program: Add Info Grantee: Add Info
Sub-Grantee: Add Info
Undertaking: Complete Address/Application ID #

Dear THPO’s Name:

The [name of HUD Grantee] is considering funding the project listed above with Community Development Block Grant – Disaster Recovery (CDBG-DR) funding funds from the U.S. Department of Housing and Urban Development (HUD). Under HUD regulation 24 CFR 58.4, the New Jersey Department of Community Affairs (NJDCA) has assumed HUD’s environmental review responsibilities for the project, including tribal consultation related to historic properties. Historic properties include archaeological sites, burial grounds, sacred landscapes or features, ceremonial areas, traditional cultural places and landscapes, plant and animal communities, and buildings and structures with significant tribal association.

NJDCA, HUD’s Responsible Entity, is notifying you under Section 106 of the National Historic Preservation Act with [Tribal Nation] for the proposed undertaking in accordance with 36 CFR Part 800 and the *Programmatic Agreement among the New Jersey Department of Community Affairs, the New Jersey Historic Preservation Officer, the Advisory Council on Historic Preservation, the Absentee Shawnee Tribe of Indians of Oklahoma, the Delaware Nation, the Delaware Tribe of Indians, the Shawnee Tribe, and the Stockbridge-Munsee Community Regarding Disaster Recovery Activities in New Jersey* (the PA).

NJDCA is notifying the Tribal Nation because the Undertaking may involve land disturbance in County. The project consists of [insert brief project description]. Enclosed is a map that shows the project Area of Potential Effects (APE). Preliminary investigations indicate [summarize any relevant info about previous land disturbance or known pre-Contact sites within or near the APE].

If you have comments on the APE or any initial concerns with impacts of the project on properties with religious and cultural significance to your Tribe, please note them in your response. An NJDCA authorized representative may be following up with you in approximately 10 days to make sure you received this letter and to discuss whether you plan to consult further on this project.

HUD's process for tribal consultation under Section 106 is described in a Notice available at <https://www.onecpd.info/resource/2448/notice-cpd-12-006-tribal-consultation-under-24-cfr-part-58/>.

If you do not wish to consult on this project, please inform us as early as possible so that we may continue with our federal Section 106 consultation process. For your convenience, you may return this letter to us, with the appropriate box checked below. We value your assistance and look forward to consulting further if there are historic properties of religious and cultural significance to your tribe that may be affected by this project. Should you have any questions or need additional information regarding this Undertaking, please contact **NJDCA Contractor Name, Title at Phone Number or e-mail.**

Sincerely,

[Name]

Commissioner

Continuing Consultation Confirmation

We wish to consult further on this Undertaking (Y/N). Yes No

Signed: _____ Date: _____

cc: **[Name and title of Tribal Government Leader]**
[Name and title of Tribal Nation secondary tribal contact, if any]
[Name and title], NJHPO
[Name and title], NJDCA
[Name, company], consultant to NJDCA
[Name, company], NJDCA Contractor

Encl.: INCLUDE AS NEEDED: Project Vicinity Map, Project Location Map, Project APE Map
Photographs/Drawings, Relevant info from preliminary investigations

[Sample e-mail message]

To: [Name], THPO/Cultural Preservation Director

To: secondary tribal representative, if any

cc: Tribal Government Leader

cc: [Name], NJHPO, [e-mail]

cc: [Name], NJ DCA, [e-mail]

cc: [Name, company], consultant to NJ DCA, [e-mail]

cc: [Name, company], NJ DCA contractor contact, [e-mail]

Subject: Hurricane Sandy, Section 106 notification, Complete Address/Application ID #

Message:

The New Jersey Department of Community Affairs, as HUD's responsible entity, is notifying the Tribal Nation that the subject undertaking involves "extensive land disturbance" and meets the condition for notification specified by your tribe in the Section 106 Programmatic Agreement for Hurricane Sandy in New Jersey. Please review the attached letter, which is being sent to you in hard copy via regular mail.

If you have any initial concerns with impacts of the project on religious and cultural properties, can you please note them in your response? Our representative may be following up with you in approximately 10 days to make sure you received this e-mail and attached letter, and to assess your interest in consultation.

If you do not wish to consult on this project, can you please inform us as soon as possible by replying to all parties on this message? Thank you very much.

Sincerely,

[Name]

Commissioner

Set replies to the cc: list above.

Please attach the letter on DCA letterhead with PDF attachments, if any

NJDCA should "request a delivery receipt" and "request a read receipt" when sending the e-mail.

Draft Consultation Template Letter “B”

[NJ DCA Letterhead]

(Tribal Government Leader) [Name, Title, Name of Tribal Nation
Address
City, State Zip]

DATE

Re:

HUD Program: Add Info
Grantee: Add Info
Sub-Grantee: Add Info
Undertaking: Complete Address/Application ID #

Dear Title Tribal Leader’s Last Name:

The [name of HUD Grantee] is considering funding the project listed above with Community Development Block Grant – Disaster Recovery (CDBG-DR) funding funds from the U.S. Department of Housing and Urban Development (HUD). Under HUD regulation 24 CFR 58.4, the New Jersey Department of Community Affairs (NJ DCA) has assumed HUD’s environmental review responsibilities for the project, including tribal consultation related to historic properties. Historic properties include archaeological sites, burial grounds, sacred landscapes or features, ceremonial areas, traditional cultural places and landscapes, plant and animal communities, and buildings and structures with significant tribal association.

NJDCA, HUD’s Responsible Entity, is initiating consultation under Section 106 of the National Historic Preservation Act with [Tribal Nation] for the proposed undertaking in accordance with 36 CFR Part 800 and the *Programmatic Agreement among the New Jersey Department of Community Affairs, the New Jersey Historic Preservation Officer, the Advisory Council on Historic Preservation, the Absentee Shawnee Tribe of Indians of Oklahoma, the Delaware Nation, the Delaware Tribe of Indians, the Shawnee Tribe, and the Stockbridge-Munsee Community Regarding Disaster Recovery Activities in New Jersey* (the PA).

NJ DCA is notifying the Tribal Nation because the Undertaking has the potential to affect a , pre-Contact, Native American archaeological habitation site in County. The project consists of [insert brief project description]. Enclosed is a map that shows the project area of potential effects (APE).

Preliminary investigations indicate [summarize any substantive information about the location, extent and nature of the habitation site, and if possible, select a finding of no historic properties affected, no adverse effect, potential effect, or adverse effect].

We would like to consult with you to help identify historic properties in the APE that may have religious and cultural significance to your tribe, and if such properties exist, to help assess how the project might avoid, minimize or mitigate potential adverse effects.

To meet project timeframes, if you would like to be a consulting party on this project, please let us know of your interest within 30 days If you have comments on the APE or any initial concerns with impacts of the project on religious or cultural properties, please note them in your response An NJDCA

authorized representative may be following up with **name of THPO**, your **Tribal Historic Preservation Officer/Cultural Preservation Director and any secondary contact** in approximately 10 days to make sure you received this letter and to discuss whether you plan to consult further on this project.

HUD's process for tribal consultation under Section 106 is described in a Notice available at <https://www.onecpd.info/resource/2448/notice-cpd-12-006-tribal-consultation-under-24-cfr-part-58/>.

If you do not wish to consult on this project, please inform us as early as possible so that we may continue with our federal Section 106 consultation process. For your convenience, you may return this letter to us, with the appropriate box checked below. We value your assistance and look forward to consulting further if there are historic properties of religious and cultural significance to your tribe that may be affected by this project. Should you have any questions or need additional information regarding this Undertaking, please contact **NJ DCA Contractor Name, Title at Phone Number or e-mail**.

Sincerely,

[Name] Commissioner

Continuing Consultation Confirmation

We wish to consult further on this Undertaking (Y/N). Yes No

Signed: Date:

cc: **[Name], THPO, Tribal Nation**
[Name, title], secondary tribal contact, if any
[Name], NJHPO
[Name, title], NJ DCA
[Name, title], consultant to NJ DCA
[Name, title], NJ DCA Contractor

Encl.: INCLUDE AS NEEDED: Project Vicinity Map, Project Location Map, Project APE Map
Photographs/Drawings, Relevant info from preliminary investigations

[Sample e-mail message]

To: [Name, title] Tribal Government Leader

To: [Name/title] THPO/Cultural Preservation Director

To: [Name/Title], secondary tribal representative, if any

cc: [Name], NJHPO, [e-mail]

cc: [Name], NJ DCA, [e-mail]

cc: [Name, company], consultant to NJ DCA, [e-mail]

cc: [Name, company], NJ DCA contractor, [e-mail]

Subject: Hurricane Sandy, Section 106 consultation, Complete Address/Application ID #

Message:

The New Jersey Department of Community Affairs, as HUD's responsible entity, is notifying the Tribal Nation that the subject undertaking may meet the conditions for consultation specified by your tribe in the Section 106 Programmatic Agreement for Disaster Recovery Activities in New Jersey. Please review the attached letter, which is being sent to you in hard copy via regular mail.

To meet project timeframes, if you would like to be a consulting party on this project, can you please let us know of your interest within 30 days? If you have any initial concerns with impacts of the project on religious or cultural properties, can you please note them in your response? Our representative may be following up with you in approximately 10 days to make sure you received this e-mail and attached letter, and to assess your interest in consultation.

If you do not wish to consult on this project, can you please inform us as soon as possible by replying to all parties on this message? Thank you very much.

Sincerely,

[Name], NJ DCA Commissioner

Set replies to the cc: list above

Please attach the letter on DCA letterhead with PDF attachments, if any

NJ DCA should "request a delivery receipt" and "request a read receipt" when sending the e-mail

Draft Transmittal Memo Template “C”

(THIS MEMO TO BE USED BY NJ DCA CONTRACTORS WHEN TRANSMITTING FINDINGS OF NO HISTORIC PROPERTIES OR NO ADVERSE EFFECT TO THE TRIBES, AFTER CONSULTATION HAS ALREADY BEEN INITIATED.)

Date:

To: [Name], <Tribal Historic Preservation Officer ><Tribal Nation>

From: [Name, company], <NJ DCA CONTRACTOR>, NJDEP Sandy Recovery Project

Subject: App ID, Address:

Determination of Eligibility and Finding of Effect

On [Date of Initial Communication], NJ DCA, HUD’s Responsible Entity, [notified] [invited consultation with] [Tribal Nation] regarding the proposed undertaking located at [address.] A copy of that letter is attached for your reference. [Refer and incorporate any communication received in response to the notification/initiation.]

On behalf of NJDCA, [NJ DCA Contractor] conducted an assessment of this property. In accordance with Stipulations II.C.2 and III.C of the Programmatic Agreement among the New Jersey Department of Community Affairs, the New Jersey Historic Preservation Officer, the Advisory Council on Historic Preservation, the Absentee Shawnee Tribe of Indians of Oklahoma, the Delaware Nation, the Delaware Tribe of Indians, the Shawnee Tribe, and the Stockbridge-Munsee Community Regarding Disaster Recovery Activities in New Jersey, we now wish to share the results of that assessment.

- I have enclosed a form that describes the property and concludes that it is not eligible for listing in the National Register of Historic Places. The finding is No Historic Properties Affected.

OR

- I have enclosed a form that describes the property and concludes that it is eligible or potentially eligible for listing in the National Register of Historic Places. Based on the proposed scope of work, NJDCA has concluded that the historic property will not be adversely affected. The finding is No Adverse Effect.

If you object to this finding, kindly communicate with me [email address] or [telephone number] by [15 days from date of memo.] Please feel free to contact me with any questions or for additional information. Copies of these documents have also been provided to NJHPO under separate cover.

cc: [Name, title], NJDCA
[Name, title], NJHPO
[Name, company], consultant to NJ DCA

APPENDIX F

CRITERIA OF COLLAPSED BUILDING OR STRUCTURE

This Appendix may be amended in accordance with Stipulation IX--Amendments.

Ineligible Criteria:

DCA and NJHPO agree for the purpose of Section 106 compliance, any structure that meets one or more of the numbered criteria below is determined to lack integrity and is considered ineligible for listing in the National Register of Historic Places:

1. The structure is collapsed forming a pile of debris and rubble (it can't be determined what part of the structure is being viewed) (example image 1 below);
2. The structure has been displaced from its original block/lot parcel at the time of the declared disaster;
3. The structure has been structurally compromised by fire damage (example image 3 below);
4. The roof structure and/or one or more floors of the structure have come to rest near or on the ground or the floor below, otherwise known as "pancaking" (example images 2, 6 below);
5. The structure is substantially wracked or canted (more than 15 degrees) and considered structurally unstable. Wracked or canted is defined as "moved by forces in multiple dimensions which have distorted what was a rectangular shape into a parallelogram, twisted not merely shifted or tilted" (example image 4 below);
6. Half or more of the structure has split/sheared from the original structure (example image 9 below);
7. The structure demonstrates 3 of the 5 following characteristics listed below (porches should not be considered):
 - a. Minimally racked or canted.
 - b. Roof line has been compromised and/or roof is collapsed or missing (example image 6 below).
 - c. Missing one or more full elevations (example image 7 below).
 - d. Shifted 25% or more off of its foundation (example image 8 below).
 - e. 20% or more of the structure has split/sheared from the original structure (example image 9 below).



Image #1: The above example photo illustrates rubble.



Image #2: The above example photo illustrates pancaking.



Image #3: The above example image represents damage as the result of a fire.



Image #4: The above example photo illustrates a building that is canted or wracked.



Image #5: The above example photo illustrates a building where the roof has collapsed.



Image #6: The above example photo illustrates a building that is missing one or more complete elevations.



Image #7: The above example photo illustrates a building that is off of its foundation.



Image #8: The above example photo illustrates a building that is split/sheared.

--End of Appendix F, Criteria of Collapsed Buildings or Structure —

APPENDIX G

LOW IMPACT DEBRIS REMOVAL STIPULATIONS

This Appendix may be amended in accordance with Stipulation IX--Amendments.

Low Impact Debris Removal Stipulations (LIDRS) to protect archaeological resources.

Desktop Review:

Prior to any soil disturbing activities all properties will be reviewed using known historic properties and archaeologically sensitive areas. Any identified archaeological sites on or adjacent to the property will have a buffer created by an SOI qualified archaeologist to avoid impacting the known site.

1. General Approach to Minimize Impact to Soil:

- a. When using heavy equipment, work from hard or firm surfaces to the fullest extent possible, to avoid sinking into soft soils.
- b. The sub-recipient will ensure, to the fullest extent possible, that its contractors minimize soil disturbance when operating heavy equipment on wet soils (6 inches or less).
- c. Excavation and burial of debris on site is not permitted, except where noted below.

2. Activity Specific Guidelines:

a. *Woody Debris Removal (including Rootballs):*

- The sub-recipient will ensure, to the fullest extent possible, that the removal of uprooted trees, limbs, and branches from public rights of way, public areas and the transport and disposal of such waste to existing licensed waste facilities or landfills. This includes the temporary establishment and expansion of non-hazardous debris staging, reduction, and disposal areas at licensed transfer stations, or existing hard-topped or graveled surfaces (e.g., parking lots, roads, athletic courts) but not the creation of new or temporary access roads.
- Removal of debris from private property provided that buildings are not affected, ground disturbance is minimal and in-ground elements, such as driveways, walkways or swimming pools are left in place.
- Chipping and disposal of woody debris by broadcasting within existing rights-of-way.
- Removal of uprooted trees and woody debris from the following areas **DOES** require additional historic review. (Cemeteries, Battlegrounds, Historic landscapes, Historic parks, Undisturbed ground, and Historic districts (but not along public rights-of-way)).

b. *Filling Voids:*

- Any voids which require filling because they are a "health and safety issue" will be filled with fill from an approved, established source.

c. Surface Grading and Site Clean-Up:

- The sub-recipient will ensure, to the fullest extent possible, that its contractors will limit site grading to within the first six (6) inches of the existing surface elevation (e.g., sidewalk level, driveway level, slab level, etc.).

d. Demolition Foundation Removal:

- The sub-recipient will ensure, to the fullest extent possible, that the contractors will limit excavation to within two (2) feet of the foundation perimeter and will not excavate more than six (6) inches below the depth of the foundation to minimize soil disturbance.

e. Slab/Driveway/Sidewalk Removal:

- The sub-recipient will ensure, to the fullest extent possible, that the contractors will limit excavation to within one (1) foot of the slab/driveway/sidewalk perimeter and will not excavate more than six (6) inches below the depth of the asphalt/concrete to minimize soil disturbance.

f. Oil Tank Location/Removal:

- The sub-recipient will ensure, to the fullest extent possible, that approved methods will be used in locating an underground oil tank. Approved methods include using a magnetometer, probe, or GPR system. Trenches are not permitted.
- The sub-recipient will inform, to the fullest extent possible, landowners of best practice guidelines for oil tank removal and they are made aware of the NJDEP spill hotline and state regulations for contamination remediation. Best practices for tank removal would be to use smaller machines with approximately two (2) foot wide buckets for excavation to reduce potential soil disturbance.

g. Septic Tanks

- The sub-recipient will ensure, to the fullest extent possible, that fill required in the decommissioning of septic tanks is from an approved, established source.

h. Remnant Structural Features or Utilities

- If the building or structure has been destroyed by the event and there are remaining Structural Features or Utilities that Require Removal, then:
- Utility lines will be disconnected and capped. In cases where there are no shut-off valves, limited excavation within the utility rights-of-way will be required to cap these service lines.
- Shearing off of at the ground-surface is strongly encouraged so that further soil disturbance is minimized.

3. Treatment of Unanticipated Discoveries:

a. Archaeological Materials/Human Remains

- If debris removal activities disturb archaeological artifacts (e.g. old bricks, ceramic pieces, historic bottle glass or cans, coins, beads, stones in the form of tools [arrow heads], pieces of crude clay pottery, etc.), archaeological features (e.g. grave markers, house foundations, cisterns, etc.) or human remains, the sub-recipient will ensure to the fullest extent possible that the Contractor immediately stops work in the vicinity of the discovery and take all reasonable measures to avoid or minimize harm to the finds. In such cases, the sub-recipient will immediately inform the New Jersey State Historic Preservation Office (NJHPO) and DCA (also the local law enforcement, county corner/medical examiner and county OEM representative for human remains, in accordance with applicable NJHPO and state guidelines) of the discovery for further guidance. The sub-recipient will ensure that the Contractor does not proceed with work in the areas of concern until DCA staff has completed consultation with the NJHPO and other interested parties, as necessary.
- To ensure that all applicable State and local laws are adhered to, and permission from all appropriate parties is obtained to remove remains, the Applicant must also determine appropriate legal measures under New Jersey Cemetery law (N.J.S.A. 45:27-23.c).

4. Responsibilities

- DCA reserves the right to conduct unannounced field inspections and observe debris removal activities to verify compliance with LIDRS. Failure to comply with these stipulations may jeopardize the sub-recipient's receipt of federal funding.
- DCA and the NJHPO have agreed that the sub-recipient is responsible for ensuring that their demolition contractor adheres to these work restrictions known as Best Practices for Lower Impact Debris Removal and Demolitions for CDBG-DR Program eligible activities.

--End of Appendix G, Low Impact Debris Removal Stipulations--

APPENDIX H

STUMP REMOVAL GUIDANCE

This Appendix may be amended in accordance with Stipulation IX--Amendments.

Removal of stumps will be accomplished by grinding it in place or attaching a chain to the stump and a piece of heavy equipment which will then pull the unexposed portion of the stump from the ground. If either of these methods is not practicable, then the bucket of the machine will be used to grab and pull the stump out. Additional excavation in the surrounding soil will be avoided whenever possible and minimized when it is necessary. Void spaces will be backfilled with fill soil and any original loose native soil from the root ball when possible.

Locations for proposed stump removal that are proposed to occur in areas with known archaeological sites will undergo further evaluation and consultation with NJHPO and/or participating Tribes. If the project location is determined to be archaeologically sensitive through consultation, either an SOI qualified archaeologist or an archeologist under the direction of an SOI qualified archaeologist will be present during the removal of root balls within or adjacent to previously recorded archaeological sites or when there may be unexpected discoveries. If any potential archaeological resources are discovered, work will immediately cease, and the Subrecipient or contractor will notify DCA.

--End of Appendix H, Stump Removal Guidance--