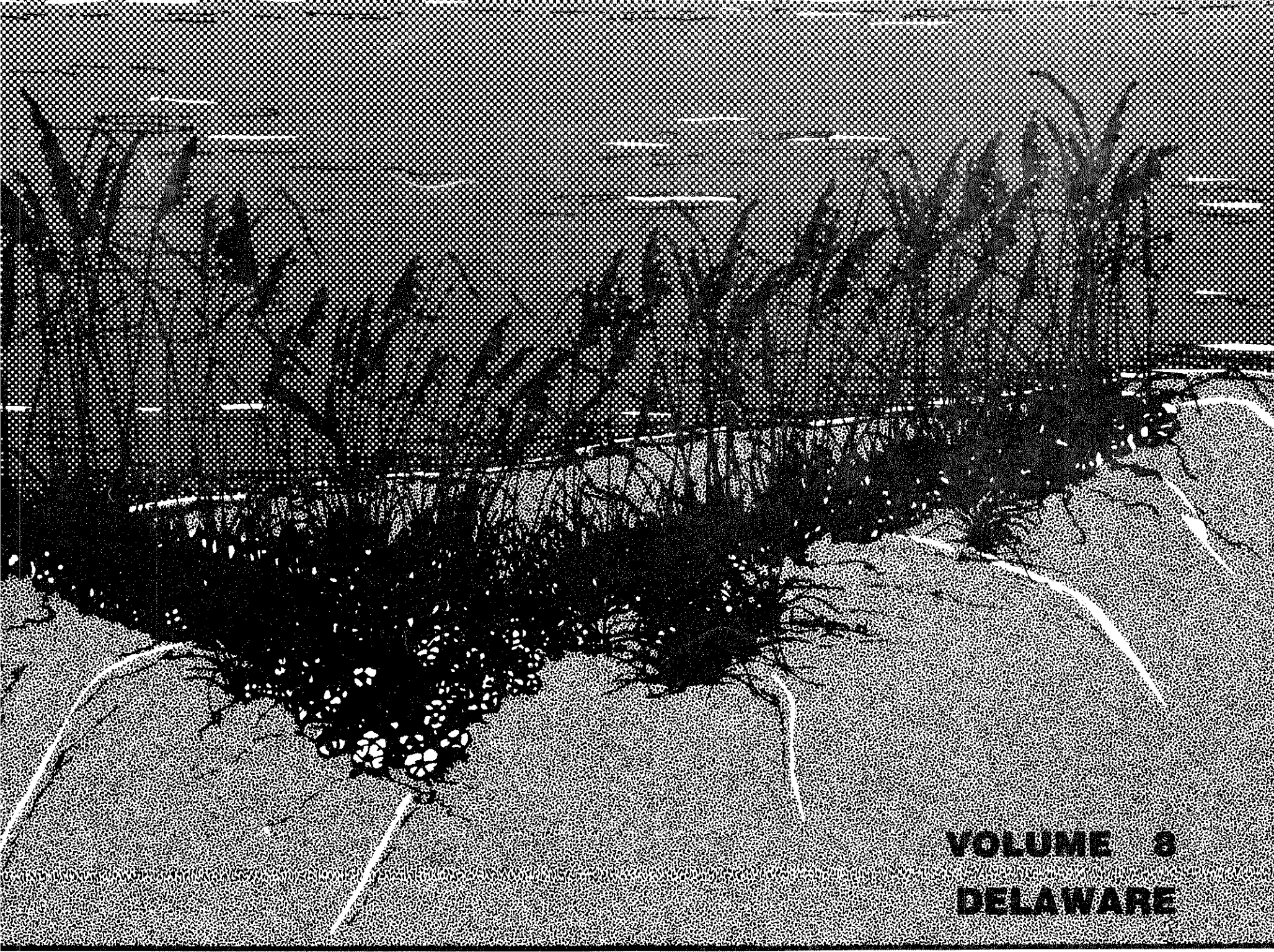


REPORT TO CONGRESS: COASTAL BARRIER RESOURCES SYSTEM

Recommendations for Additions to or Deletions from
the Coastal Barrier Resources System



**VOLUME 8
DELAWARE**

U.S. Department of the Interior



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Recommendations for Additions to or Deletions from
the Coastal Barrier Resources System

DELAWARE

Mapped, edited, and published by the Coastal Barriers Study Group

United States Department of the Interior
William P. Horn, Assistant Secretary for Fish and Wildlife and Parks

1988

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DELAWARE

INTRODUCTION

The Coastal Barrier Resources Act (CBRA) of 1982 (Public Law 97-348) established the Coastal Barrier Resources System (CBRS), a system of undeveloped coastal barriers along the Atlantic and Gulf of Mexico coasts. This atlas of coastal barriers in Delaware has been prepared in accordance with Section 10 of CBRA (16 U.S.C. 3509), which states:

Sec. 10. Reports to Congress.

(a) In General.--Before the close of the 3-year period beginning on the date of the enactment of this Act, the Secretary shall prepare and submit to the Committees a report regarding the System.

(b) Consultation in Preparing Report.--The Secretary shall prepare the report required under subsection (a) in consultation with the Governors of the States in which System units are located and with the coastal zone management agencies of the States in which System units are located and after providing opportunity for, and considering, public comment.

(c) Report Content.--The report required under subsection (a) shall contain--

(1) recommendations for the conservation of fish, wildlife, and other natural resources of the System based on an evaluation and comparison of all management alternatives, and combinations thereof, such as State and local actions (including management plans approved under the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.)), Federal actions (including acquisition for administration as part of the National Wildlife Refuge System), and initiatives by private organizations and individuals;

(2) recommendations for additions to, or deletions from, the Coastal Barrier Resources System, and for modifications to the boundaries of System units;

(3) a summary of the comments received from the Governors of the States, State coastal zone management agencies, other government officials, and the public regarding the System; and

(4) an analysis of the effects, if any, that general revenue sharing grants made under section 102 of the State and Local Fiscal Assistance Amendments of 1972 (31 U.S.C. 1221) have had on undeveloped coastal barriers.

Under the direction of the Assistant Secretary for Fish and Wildlife and Parks, this report has been prepared by the Coastal Barriers Study Group, a task force of professionals representing the National Park Service, U.S. Fish and Wildlife Service, U.S. Geological Survey, and other Departmental offices.

This volume of the report contains delineations of the existing CBRS units in Delaware and delineations of additions to and modifications of the CBRS in this State which the Department of the Interior recommends to the Congress for its consideration.

BACKGROUND

The State of Delaware has a total land area of 1,982 square miles and both oceanfront and estuarine shorelines. The 24.5-mile Atlantic shoreline stretches from Fenwick Island to Cape Henlopen. The 65- to 70-mile estuarine shoreline in Delaware Bay includes the coastal area north of Cape Henlopen to the Pennsylvania State line.

The Atlantic coast of Delaware includes wave-dominated barrier islands, spits, and headlands, with broad sandy beaches and well-developed dune systems. Most of these areas are publicly owned and heavily used for public recreation. In general, development consists of private homes owned by out-of-State people, although high-rise structures are present near Fenwick Island and Bethany and at Rehoboth Beach.

The Delaware Bay Coast is a transitional shoreline with ocean influence predominant around Lewes and riverine influence more prevalent north of Wilmington. Large marsh areas with associated narrow beaches and low dune ridges are common from Lewes to Smyrna/Woodland Beach. These areas are not heavily developed and much of the land is in Federal or State ownership. Large waterfowl populations are generally found in these marshy areas in the fall.

From the Chesapeake and Delaware Canal northward, the coastline is used primarily by industry. Texaco Oil Company's refinery in Delaware City is the only oil refinery in the State. The capacity of this oil refinery exceeds State demands, making Delaware a net exporter of petroleum products. The Delmarva Power and Light Company operates three electrical generating facilities in the Delaware coastal zone at Edgemoor, Delaware City, and Indian River.

The port of Wilmington is the State's most important port operation, and it functions principally as a general cargo facility. In Fiscal Year 1977, the port handled 2.4 million tons of cargo (vehicles, oil, basic ores), about one-half of which was crude oil and three-fifths some form of fuel.

The largest sources of employment and income in Delaware are chemical concerns, automotive industries, manufacturing, financial services such as insurance and real estate, agriculture, mining, and tourism. In 1983, tourists spent over \$480 million in Delaware.

The State has an abundant natural resource base that includes birds, fish, and fur-bearing animals. Coastal and freshwater wetlands provide habitat for mallards, black ducks, least terns, blue-winged teals, gadwalls, wood ducks, and snow and Canada geese. Fall migrations of waterfowl along the Atlantic flyway bring thousands of waterbirds to Delaware's coastal areas, including a large wintering concentration of Canada geese (about 125,000). Saltwater and brackish water environments contain abundant populations of weakfish, flounder, bluefish, striped bass, sea bass, perch, commercial and sport sturgeon, spot, drum, Atlantic croaker, shad, crabs, and clams.

COASTAL RESOURCE MANAGEMENT

Delaware Coastal Resource Management

Historically, the primary impetus for coastal conservation in Delaware has been natural disasters. Hurricanes Connie and Diane in 1955, which claimed 100 lives and caused damages in excess of \$100 million nationwide, supplied the initiative for a comprehensive water resources survey of the Delaware River Basin. This study signaled the beginning of a unified policy-level concern for the State's coastal resources. This concern was reemphasized in a 1969 study that focused on loss of bay-wetlands, dredging, pollution

of bays and ground water, and increasing uncontrolled growth in recreational areas.

During the 1970's, four State laws were passed that are the basis of Delaware's Coastal Management Program. All are administered by the Department of Natural Resources and Environmental Control. In 1979, Delaware's Coastal Management Program was approved by the Federal Office of Coastal Zone Management.

Coastal Zone Act, 1971 (Title 7, Chapter 70, Delaware Code). This Act prohibits heavy industrial usage and bulk product transfer facilities along the coastal strip. This prohibition covers the construction of new petroleum refineries in the coastal zone, but not the expansion of existing refinery facilities. Because of its importance to the State, the Port of Wilmington is excluded from the offshore bulk product transfer facility prohibition in this Act. The expansion of the Port of Wilmington along the Delaware River is supported by the Coastal Management Program to meet national and regional trans-shipment needs.

Beach Preservation Act (Title 7, Chapter 68, Delaware Code). This Act ensures protection, enhancement, and preservation of public and private beaches of the State. It makes acts of beach destruction punishable as crimes and establishes building setback lines on the landward side of primary dunes.

Wetlands Act (Title 7, Chapter 66, Delaware Code). This Act established a permit system for many activities in both saline and freshwater wetlands. Dredging, draining, filling, bulkheading, excavation, drilling, and construction are all regulated. Power plants, both coal-fueled and nuclear-powered, are permitted if compatible with State environmental laws. Wetlands may not be utilized for construction of new power-generating plants; however, with State approval, transmission facilities and associated activities are allowed.

Underwater Lands Act (Title 7, Chapter 61, Delaware Code). This Act Established a permit system to regulate development of the State's submerged lands (lands below mean high water).

EXISTING CBRS UNITS

A brief description of the existing CBRS units in Delaware follows. Each unit is

CBRS UNITS IN DELAWARE ESTABLISHED BY CONGRESS, 1982

Unit Name	Unit ID Code	County	Shoreline Length (miles)	Total Area (acres)	Fastland Area (acres)
Broadkill Beach Complex	H00	Kent Sussex	16.3	1,371.5	374.9
North Bethany Beach	H01	Sussex	0.8	193.2	142.4
Totals:			17.1	1,564.7	517.3

identified by its ID code and name (established by Congress in 1982) and the county in which it is located.

H00-Broadkill Beach Complex (Kent and Sussex). This unit has a narrow beach strand with associated wetlands. Primehook National Wildlife Refuge protects extensive wetlands behind the southern portion of this unit. Located on the southwest shore of Delaware Bay, this unit is about 16.3 miles long and relatively undeveloped. The community developments at South Bowers, Big Stone Beach, Slaughter Beach, Primehook Beach, and Broadkill Beach are excluded from the complex.

H01-North Bethany Beach (Sussex). This unit includes a 0.8-mile oceanfront barrier beach-dune complex, associated back-barrier wetlands and aquatic habitats, and drained marshlands. The residential communities of Cotton Patch Hills and Bayberry Dunes are north and south of this unit, respectively. Part of this unit has been developed since 1982.

RECOMMENDED ADDITIONS AND MODIFICATIONS

The Department of the Interior recommends that all undeveloped, unprotected coastal barriers and associated aquatic habitat identified in Delaware be added to the Coastal Barrier Resources System. The DOI also recommends that otherwise protected, undeveloped coastal barriers be excluded from the CBRS. A part of existing CBRS unit H00, Broadkill Beach Complex, is protected by Delaware Wild Lands, Inc., a private, nonprofit conservation organization; therefore, DOI recommends this area be deleted

from the CBRS. However, if any otherwise protected, undeveloped coastal barrier is ever made available for development that is inconsistent with the purposes of CBRA, the DOI recommends that it then be automatically included in the CBRS. A complete discussion of DOI's recommendations concerning otherwise protected, undeveloped coastal barriers appears in Volume 1. Maps of all otherwise protected, undeveloped coastal barriers in Delaware appear in the following section. A table presenting the Department's position on each unit or proposed unit identified in Delaware follows this discussion.

The Department of the Interior's recommendations were developed after full consideration of the many public, State and Federal agency, and Congressional comments on the delineations in the Draft Report released in March 1987. The State of Delaware reviewed the 1987 Draft Report and made recommendations on several existing and proposed CBRS units in the State. The State supports a CBRS expansion in Delaware. The State also supports DOI's recommendation to exclude otherwise protected coastal barriers from the CBRS and to delete the protected area in H00 from the CBRS. The State's positions on individual existing and proposed CBRS units are discussed in the following section, interspersed with the appropriate maps. The State's positions on the DOI's general recommendations are discussed in Volume 1.

The Department received 16 other comment letters concerning Delaware. Two expressed general support for the recommended additions in Delaware; the others expressed opinions on specific existing or proposed CBRS units. These are discussed and reprinted in the following section, interspersed with the appropriate maps.

SUMMARY OF RECOMMENDATIONS FOR COASTAL BARRIERS IN DELAWARE

Unit ID Code ^a	Unit Name ^b	County	Congress. Dist. ^c	Shore-line Length (miles) ^d	Total Area (acres) ^e	Fast-land Area (acres) ^f	Recommendation ^g
DE-01	Little Creek	Kent	AL	1.9	898	65	Add to CBRS
H00	Broadkill Beach Complex	Kent Sussex	AL	14.5	5,814	535	Adjust boundary to conform with development existing in 1982; delete privately protected area at Bennetts Pier. Add wetlands to remaining CBRS unit
DE-06	Silver Lake	Sussex	AL	0.3	56	15	Add to CBRS

(continued)

SUMMARY OF RECOMMENDATIONS FOR COASTAL BARRIERS IN DELAWARE (CONCLUDED)

Unit ID Code ^a	Unit Name ^b	County	Congress. Dist. ^c	Shore-line Length (miles) ^d	Total Area (acres) ^e	Fast-land Area (acres) ^f	Recommendation ^g
H01	North Bethany Beach	Sussex	AL	0.8	177	125	Delete southwest nonwetland area from existing CBRS unit
Total - CBRS as Recommended				17.5	6,945	740	
Existing CBRS				17.1	1,565	517	
Net change in CBRS				+0.4	+5,380	+223	

^aUNIT ID CODE - State initials (DE) plus a number identify a proposed new unit. An existing unit is identified by the legal code letter (H) and number established by Congress in 1982.

^bUNIT NAME - For proposed new units, this is a provisional name based on a prominent local feature. For existing CBRS units, this is the legal name.

^cCONGRESSIONAL DISTRICT - U.S. Congressional District in which unit is located. AL denotes at large. There is only one district in Delaware.

^dSHORELINE LENGTH - For existing units with additions or deletions, this length is for the entire unit, as modified.

^eTOTAL AREA - For existing units with additions or deletions, this area is for the entire unit, as modified.

^fFASTLAND AREA - This acreage is a rough estimate of the portion of the total area that is above the mean high tide line (i.e., the non-wetland area). It is a very general representation of the potentially developable land.

^gRECOMMENDATION - A brief explanation of the Department's recommendations to Congress. For more detailed explanations, see the following section. Abbreviations: FWS = Fish and Wildlife Service, NPS = National Park Service, CBRS = Coastal Barrier Resources System.

STATE COMMENT LETTER

1406



STATE OF DELAWARE
DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL
DIVISION OF SOIL AND WATER CONSERVATION
BRANDENBURGH
P.O. BOX 1401
DOVER, DELAWARE 19903

OFFICE OF THE
DIRECTOR

TELEPHONE (302) 736-4411

June 23, 1987

Coastal Barriers Study Group
U.S. Department of the Interior
National Park Service - 498
P.O. Box 37127
Washington, DC 20013-7127

Gentlemen:

On October 18, 1982, President Reagan signed the Coastal Barrier Resources Act (CBRA), Public Law 97-348, into law. The law established a Coastal Barrier Resources System (CBRS) based on a specific set of maps adopted by Congress. Within that System the law prohibited the expenditure of most Federal funds that would promote or assist development activities.

Two coastal barrier units were designated in Delaware; North Bethany Beach (H01) and the Broadkill Beach Complex (H00), which consists of a series of undeveloped stretches of beach along Delaware Bay between the developments of Broadkill Beach, Primehook Beach, Slaughter Beach, Big Stone Beach and South Bowers.

Section 10 of the CBRA directed the Secretary of the Department of Interior (DOI) to provide a report to Congress regarding the CBRS within three years of passage of the Act. The study would include recommendations for additions, deletions or modifications to the System and for management alternatives that would foster the stated purposes of the Act which are to minimize the loss of human life, reduce the wasteful expenditure of federal revenue, and reduce the damage to fish and wildlife and other natural resources that can occur when coastal barriers are developed.

In carrying out the Section 10 study, DOI first contacted each state affected by the Act, requesting their recommendations for additions, deletions and modifications to the CBRS.

On January 24, 1984, the State of Delaware recommended several boundary modifications of the Broadkill Beach Complex System Unit which would result in the addition of two areas with a combined beach frontage of 260 feet and the deletion of five areas with a combined beach frontage of 3,520 feet. All areas were near the ends of existing bayfront developments. Areas recommended for addition were undeveloped while areas recommended for deletion contained a total of 50 buildings, all of them contiguous parts of the existing communities. The recommendations were made in the belief that cartographic error was involved in the initial delineation of the boundaries.

The extension of a system unit boundary seaward of the actual sand-sharing system could potentially restrict the availability of offshore sand resources for federally cost shared beach nourishment projects on adjacent developed barriers should it be decided that the nourishment project is not consistent with the purposes of the Act under Section 6(a)(6)(G).

Delaware would like to see a more realistic definition used for the sand-sharing system within Delaware Bay.

C. Secondary Barriers

Proposed recommendation: DOI proposes that secondary barriers be added to the CBRS.

COMMENT: Delaware supports this recommendation with respect to Delaware Bay.

D. "Otherwise Protected" Coastal Barriers

Proposed recommendation: DOI proposes that all privately owned property within a conservation or recreation area established by Federal, State, or local law on an undeveloped coastal barrier (inholding) be included by reference in the CBRS. DOI also proposes that privately owned undeveloped coastal barriers held for conservation purposes be automatically included in the CBRS if the not-for-profit owner ever proposes to sell the property for development that is inconsistent with the long-term conservation of the barrier. An amendment to CBRA providing a legislative directive to DOI to develop guidelines for such acceptable development is necessary. These guidelines would be similar to the Secretary's Standards for Historic Preservation utilized to certify Historic Preservation Tax Credits. Lack of safeguards or long-term plans in selling the land would constitute justification for automatic inclusion in the CBRS.

COMMENT: Delaware supports this recommendation.

PROPOSED CONSERVATION RECOMMENDATIONS

A. Federal Stewardship: The Acquisition Alternative

Proposed recommendation: DOI proposes that the Federal Government continue to employ the user fee concept in acquisition of CBRS lands as appropriate. DOI also proposes that State, and local land-managing agencies be encouraged to pursue acquisition of CBRS lands as appropriate. If any CBRS lands are added to a conservation/recreation unit managed by a government agency, these lands would automatically become exempt from CBRA's restrictions. DOI also proposes that the areas currently included in the CBRS on military and Coast Guard lands be deleted. In addition, DOI proposes that if at some time in the future these, and any other Federal coastal barrier properties, are determined to be excess/surplus to government needs, the portions of such properties which GSA, in consultation with DOI, determines are appropriate for inclusion in the CBRS would be included in the CBRS prior to disposal unless they otherwise qualify for exemption under the law.

COMMENT: Delaware supports this recommendation.

Following receipt of recommendations from the states, DOI prepared a draft set of maps depicting proposed changes to the CBRS. DOI also worked with four regional task forces and prepared a draft study containing various management alternatives for coastal barriers. The draft maps and study were made available for review by states, local government and the general public in March and April of 1985, respectively. The State of Delaware forwarded its comments and recommendations on the initial draft report and maps to the Coastal Barriers Study Group by letter of September 30, 1985.

On March 23, 1987, DOI released a final Draft Report to Congress and maps for a 90-day public comment period. Following that period the Secretary (of DOI) will submit his final recommendations to Congress. The final report is required to contain a summary of the comments received from Governors, state CZM agencies, other government officials, and the public.

The State of Delaware has reviewed both the Executive Summary, which outlines DOI's proposed general recommendations for changes to the CBRS and presents the proposed conservation alternatives selected from the report, and volume 8 of the report, which contains background information about Delaware's coastal barriers, maps of those barriers, and recommendations for specific additions to and deletions from the CBRS. The comments that follow are based upon that review.

EXECUTIVE SUMMARY

PROPOSED RECOMMENDATIONS FOR ADDITIONS TO OR DELETIONS FROM THE CBRS

A. Geographic Scope

Proposed recommendations: DOI proposes that the undeveloped, unprotected coastal barriers of the Florida Keys, Puerto Rico, and the Virgin Islands be added to the CBRS.

COMMENT: Delaware has no comment on this recommendation.

B. Associated Aquatic Habit

Proposed recommendations: DOI proposes that all of the aquatic habitats associated with existing CBRS units be added to the CBRS. This definition reflects the specific conservation purposes of CBRA to protect the fish, wildlife, and other natural resources of coastal barriers. All such associated aquatic habitats are inseparable parts of the coastal barrier ecosystem.

COMMENT: Delaware supports this recommendation with the singular exception of the proposed definition of the seaward boundary of the sand-sharing system along coastal embayments, such as Delaware Bay. The seaward boundary for system units along coastal embayments was proposed in the initial Draft Report as the 20 foot bathymetric contour or one mile from mean high water, whichever is nearer the coastal barrier.

Delaware supports defining and including the entire sand-sharing system within CBRS units. Based upon our experience with coastal erosion control projects, however, it is felt that the sand-sharing system along the Delaware Bayshore is considerably more limited in extent than would be suggested by the proposed definition.

B. Regulatory Consistency

Proposed recommendation: The DOI finds that the major Federal permit programs that affect the CBRS--permits for dredge and fill and bridge construction--take fish and wildlife values into account. Requiring regulatory consistency at the Federal level would depart from the basic CBRA premise that conservation can be achieved without increasing Federal regulatory involvement, by simply withdrawing Federal financial support for development of undeveloped coastal barriers. Furthermore, most States have additional regulatory safeguards that also serve the purposes of CBRA. These include wetlands protection programs, construction setback requirements, and poststorm reconstruction policies to control development on barriers. Therefore, DOI recommends no regulatory amendment.

COMMENT: Delaware supports this recommendation.

C. Tax Policy Alternatives

Proposed recommendation: We recommend no tax amendments at this time.

COMMENT: Delaware has no specific position on any of the various tax policy alternatives considered, but in general supports options that either reduce the incentive to develop or increase the incentive to conserve coastal barriers and which are consistent with the conservation, fiscal and health and safety goals of CBRA.

D. Other Amendments to CBRA

1. Section 5

Proposed recommendation: Although CBRA and its legislative history do not speak directly to this issue, DOI concludes that Federal financial assistance specifically directed to a purpose within a CBRS unit is prohibited by CBRA. DOI will develop guidance for Federal agencies that will clarify our understanding that Federal funding for a facility located outside a CBRS unit whose direct purpose is to provide a tangible product within the CBRS unit (water, electricity, etc.) is restricted by CBRA.

COMMENT: Delaware supports this recommendation.

2(a) Section 6 Essential Link

Proposed recommendation: DOI proposes that Section 6(a) (3) be deleted. Maintenance, replacement, reconstruction, or repair, but not the expansion, of publicly-owned or publicly-operated roads, structures, or facilities would continue to be allowed under Section 6(a) (6) (F) provided they are consistent with the purposes of CBRA.

COMMENT: Delaware supports this recommendation.

2(b) Section 6 Dredged Material Disposal

Proposed recommendation: DOI proposes that Section 6(a) (2) be amended to insert after the word "improvements" the phrase "which shall be performed in a manner consistent with the purposes of this Act", so that it would read: "the maintenance of existing channel improvements and related structures, such as jetties, and including the disposal of dredged material related to such improvements, which shall be performed in a manner consistent with the purposes of this Act".

COMMENT: Delaware supports this recommendation.

2(c) Section 6 Recreational Projects

Proposed recommendation: DOI proposes no amendment to Section 6(a) (6) (A). The term "recreational project" is not ambiguous; further clarification, if needed, can be supplied by this Department upon request.

COMMENT: Delaware supports this recommendation.

2(d) Section 3 Technical Assistance

Proposed recommendation: DOI proposes no amendment to Section 3(3). The term "technical assistance" is generally considered as a form of "indirect Federal assistance" as listed in Section 3. Further clarification, if needed, can be supplied through Departmental guidelines.

COMMENT: Delaware supports this recommendation.

2(e) Federal Agency Compliance

Proposed recommendation: DOI proposes no amendment to address block grants. The Department believes most agencies have incorporated compliance with CBRA into regular program activities. For instance, the Department of Housing and Urban Development requires recipients to comply with the purposes of CBRA. The benefits derived from amending the law to require Federal agencies responsible for disbursing Federal funds to States and localities to establish coordinated tracking systems to monitor and assure compliance with CBRA would be outweighed by the costs of implementation.

COMMENT: Delaware opposes this recommendation. Federal agencies should be required to account for their granting of block grants or other actions, assuring that the actions are consistent with CBRA.

3. Section 7

Proposed recommendations: DOI proposed that Section 7 be deleted from CBRA. All Federal agencies comply with CBRA. There is no reason to expect that such compliance will not continue. Continued compliance can be ensured through Departmental and Congressional auditing and oversight. The annual certification requirement, therefore, is unnecessarily burdensome.

COMMENT: Delaware opposes this recommendation. Presently there is little, if any, oversight of federal agency actions to determine if they are consistent with CBRA.

Currently compliance with CBRA's consultation requirements rests with each federal agency and in particular, with the federal officer responsible for the proposed expenditure. Upon consultation DOI provides technical information and a written opinion. Regardless of the opinion the final determination of whether an action is permitted rests with the consulting federal agency. DOI has no enforcement authority and cannot prevent assistance to a project believed to be beyond the scope of the exceptions. Outside monitoring of this process is difficult because there is no requirement for public notice of proposed expenditures under the Section 6 exceptions. Section 7 of CBRA requires the Office of Management and Budget (OMB) to make annual certification that each agency has complied with the provisions of CBRA during the fiscal year. OMB's certification, however, relies on the statements of each federal agency.

Delaware believes the above shortfalls create a potential for abuse of the exceptions process. Consequently, Delaware recommends adoption of a requirement that the consulting federal agency consider DOI's comments and recommendations and provide a written explanation when differing with them before proceeding. Finally, Delaware supports the establishment of a procedure to notify the public, State Coastal Zone Management Offices and Congress of proposed expenditures under the Section 6 exceptions and consultation process. Such notification would allow outside comment on the proposed action and, if necessary, pursuit of legal or legislative action to prevent the expenditure.

E. Conservation of Atlantic and Gulf Coast Barriers: The Next Step

Proposed recommendation: DOI proposes that a joint study be undertaken by DOI, DOD, FEMA and NOAA to develop alternative guidelines on which to base decisions concerning redevelopment of coastal barriers following major storms or hurricanes. The existing policy of simply replacing the structures that have been damaged or destroyed does not consider the special risks associated with development on coastal barriers. Additional efforts in public education could also help coastal barrier residents and government officials make these difficult decisions in an informed manner.

COMMENT: Delaware supports this recommendation.

VOLUME 8 - DELAWARE

INTRODUCTION

COMMENT: None

BACKGROUND

COMMENT: Reference to the oil refinery at Delaware City should be changed to reflect a change in ownership from the Getty Oil Company to the Texaco Oil Company.

COASTAL RESOURCE MANAGEMENT

COMMENT: None

EXISTING CBRS UNITS

COMMENT: None

PROPOSED ADDITIONS AND MODIFICATIONS

COMMENT: See comment below on summary of proposed recommendations for coastal barriers in Delaware.

SUMMARY OF PROPOSED RECOMMENDATIONS FOR COASTAL BARRIERS IN DELAWARE

COMMENT: Delaware recommends deletion of the following "otherwise protected" areas from their respective CBRS units as shown on the attached maps:

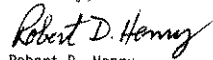
DE-01 Ted Harvey Wildlife Area, Logan Lane and Buckaloo Tracts (State owned).

H00 Milford Neck Wildlife Area (State owned) and property at Bennetts Pier recently acquired by Delaware Wild Lands, Inc., (a private, non-profit conservation organization).

More detailed information on the above areas can be provided upon request should it be necessary.

The State of Delaware appreciates the opportunity to participate in the review of the final Draft Report to Congress on the Coastal Barrier Resources System.

Sincerely,



Robert D. Henry
Governor's Representative on Coastal
Barriers

Attachments

OTHER GENERAL COMMENT LETTERS CONCERNING DELAWARE

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Working for the Nature of Tomorrow. NATIONAL WILDLIFE FEDERATION 1412 Sixteenth Street, N.W. Washington, D.C. 20036-2266 (202) 797-6800

Coastal Barriers Study Group Department of the Interior National Park Service P.O. Box 37127 Washington, D.C. 20013-7127

RE: Comments on the Coastal Barrier Resources Act--Section 10 Draft Report to Congress, 52 Federal Register 9618-9619

Dear Sir or Madam:

The National Wildlife Federation, the Natural Resources Defense Council, the Coast Alliance, and the Oceanic Society are writing in response to the Department of the Interior's Federal Register Notice of March 23, 1987 soliciting comments on the Draft Report to Congress: Coastal Barrier Resources System--Executive Summary.

Our organizations have a longtime interest in the conservation of coastal barriers. The Natural Resources Defense Council was the founding organization of the Barrier Islands Coalition in 1978. Likewise, the National Wildlife Federation, the Coast Alliance, and the Oceanic Society became members of that coalition in 1979 to help seek protection of coastal barriers.

Our organizations have led efforts to pass legislation which would conserve the natural resources of coastal barriers--first, the flood insurance prohibition in the Omnibus Reconciliation Act in 1981 and then, the Federal financial prohibition in the Coastal Barrier Resources Act (CBRA) in 1982. We continue to support the goals of CBRA and expansion of the Coastal Barrier Resources System (CBRS) throughout the United States and its territories. The federal government should not be subsidizing development in hazardous areas which destroys productive coastal ecosystems, endangers the lives and properties of shoreline residents, and costs federal taxpayers millions of dollars each year in flood insurance claims and disaster relief.

The need for an expanded Coastal Barrier Resources System in which federal development subsidies are prohibited is becoming increasingly critical in light of the projected rise in sea levels due to global warming. As water levels rise, so will the costs of protecting existing structures, the damages from erosion and flooding, and the risk to human life and property. Unfortunately, however, development in these unstable coastal areas continues to grow at a frightening pace. We feel strongly, therefore, that it is essential that the Department recommend maximum expansion of the System to include the eligible areas on all of America's coasts

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before these sites are irrevocably committed to development. An appendix of specific comments on additions to and deletions from the System follow our general comments.

PROPOSED RECOMMENDATIONS FOR ADDITIONS TO OR DELETIONS FROM THE CBRS

We support the Department's recommendation to expand the definition of a "coastal barrier" to include landforms which function as coastal barriers in protecting the mainland and adjacent aquatic habitats, even if they are not composed of unconsolidated sediments as are barriers in the traditional definition. Use of this expanded definition in delineating CBRS units is consistent with the conservation goals of CBRA and would allow for the inclusion of such new geological formations as undeveloped beach rock, cemented dunes, fringing mangroves and associated coral reefs, cheniers, discontinuous outcrops of bedrock, and coarse glacial deposits. Since these areas serve the same function as coastal barriers and are as vulnerable to development pressure, sea level rise, and storm damage as traditionally-defined coastal barriers, it is appropriate that they also be protected within the System.

APPENDIX

COMMENTS ON SPECIFIC COASTAL BARRIER AREAS

The National Wildlife Federation, the Natural Resources Defense Council, the Coast Alliance, and the Oceanic Society endorse the inclusion of all undeveloped coastal barriers identified by the Department of Interior in the March 1985 inventory, as well as some additional areas mentioned below. Following are our comments on some of the specific areas.

Delaware

We concur with the Department's expansion of the System to secondary barriers along the Delaware Bay. These areas are important in protecting the Delaware mainland from storm, erosion, and high sea level damage, as well as providing crucial fish and wildlife habitat.

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SENATE STATE OF DELAWARE LEGISLATIVE HALL DOVER, DELAWARE 19901

RUTH ANN MINNER R.D. 2, BOX 694 MILFORD, DELAWARE 19968 HOME: 802-422-4155 OFF: 302-458-4920 SENATE OFFICE: 302-738-4154

COMMITTEES COMMUNITY AFFAIRS, CHAIRMAN HIGHWAYS & TRANSPORTATION NATURAL RESOURCES, ENVIRONMENTAL CONTROL PUBLIC SAFETY

May 7, 1987

Coastal Barriers Study Group U.S. Department of the Interior National Park Service - 498 Post Office Box 37127 Washington, D.C. 20013-7127

Gentlemen:

I've reviewed your draft report to Congress concerning proposed changes and additions to the Coastal Barrier Resources System. I was particularly interested in the section detailing proposed additions and deletions of lands along the Delaware Coast, much of which falls within the boundaries of my senatorial district.

In general, I am in agreement with the recommended additions and deletions along the Delaware Coast. I was concerned when the original recommendations for lands to be included in what is known as the "Broadkill Beach Complex (H00)" were made public. The problem at that time was that lands which were already under development were included.

I see that those areas have now been recommended for deletion because the Department of the Interior had originally included them based on obsolete information. As far as I can see from the maps included with the draft report, all such areas are to be deleted. That being the case, I would favor both the proposed deletions and the proposed additions along the Delaware Coast.

Coastal Barriers Study Group

Page Two:

The general public in Delaware and elsewhere is now well-enough aware of the dangers faced by development in low-lying coastal areas that they should only undertake new development at their own risk. But there are several much older coastal communities in my district like Lewes, Broadkill and Slaughter Beach which were largely developed years before the Coastal Barrier Resource System was even conceived of and I am very much concerned that these communities shouldn't be required to suffer as a result of it.

Sincerely yours,

Ruth Ann Minner

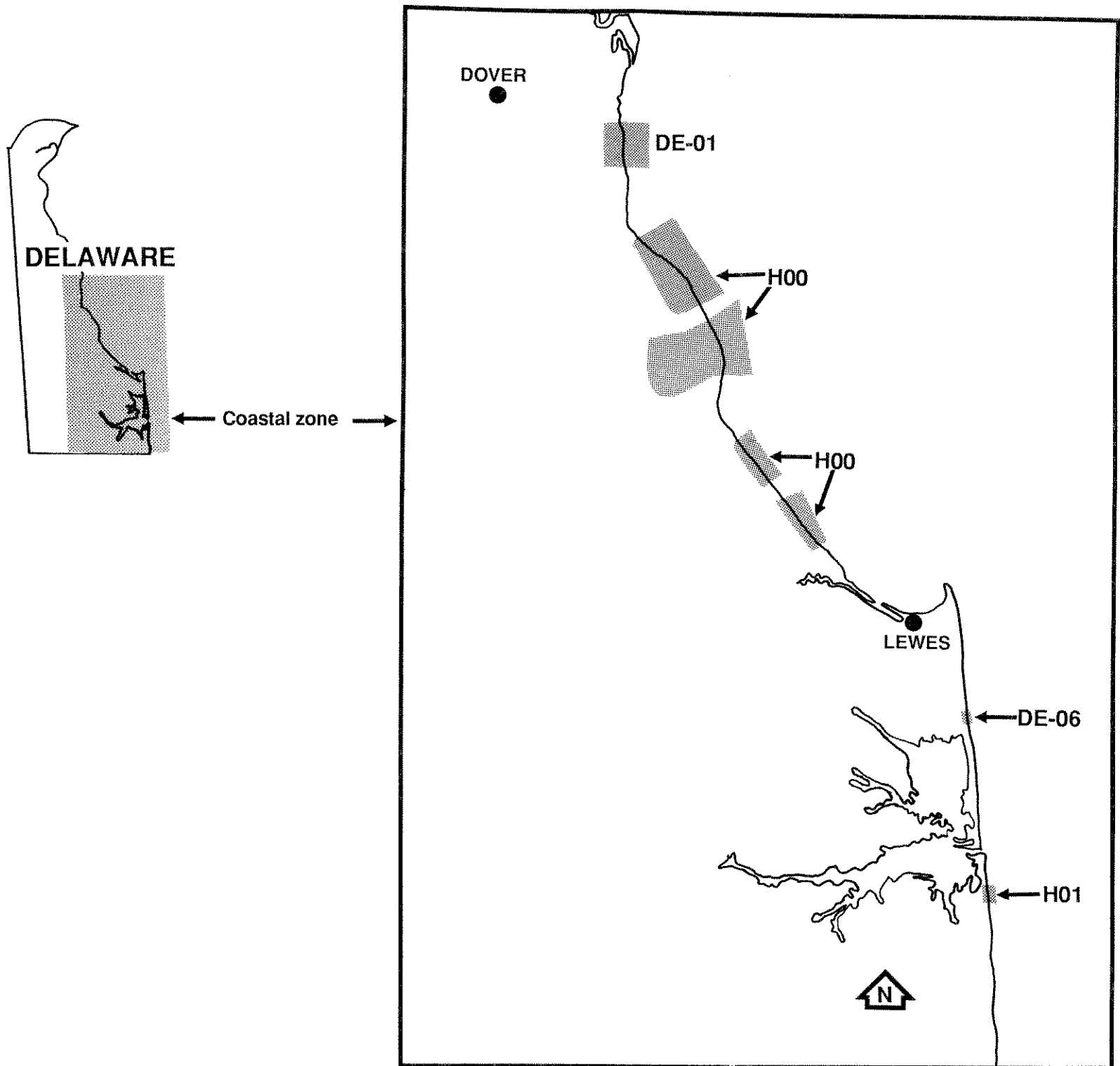
RUTH ANN MINNER State Senator - 18th District

cc: Mr. Robert D. Henry CBRA State Coordinator

RAM/rbc

INDEX TO EXISTING AND PROPOSED CBRS UNITS IN DELAWARE

USER NOTE: To locate the map(s) of each existing and proposed CBRS unit in this volume, consult the table on the following page.



MAPS DEPICTING EXISTING AND PROPOSED CBRS UNITS

Unit ID Code	Unit Name	USGS Topographic Map or Map Composite	Page
H00*	Broadkill Beach Complex	Frederica	12
		Bennetts Pier	15
		Mispillion River	16
		Milton	17
		Lewes	18
H01*	North Bethany Beach	Bethany Beach	23
DE-01*	Little Creek	Little Creek	11
DE-06*	Silver Lake	Frederica	12
		Rehoboth Beach	21

*Public comment summaries and DOI responses follow unit maps.

MAPS DEPICTING OTHERWISE PROTECTED, MILITARY, AND COAST GUARD LANDS ON UNDEVELOPED COASTAL BARRIERS*

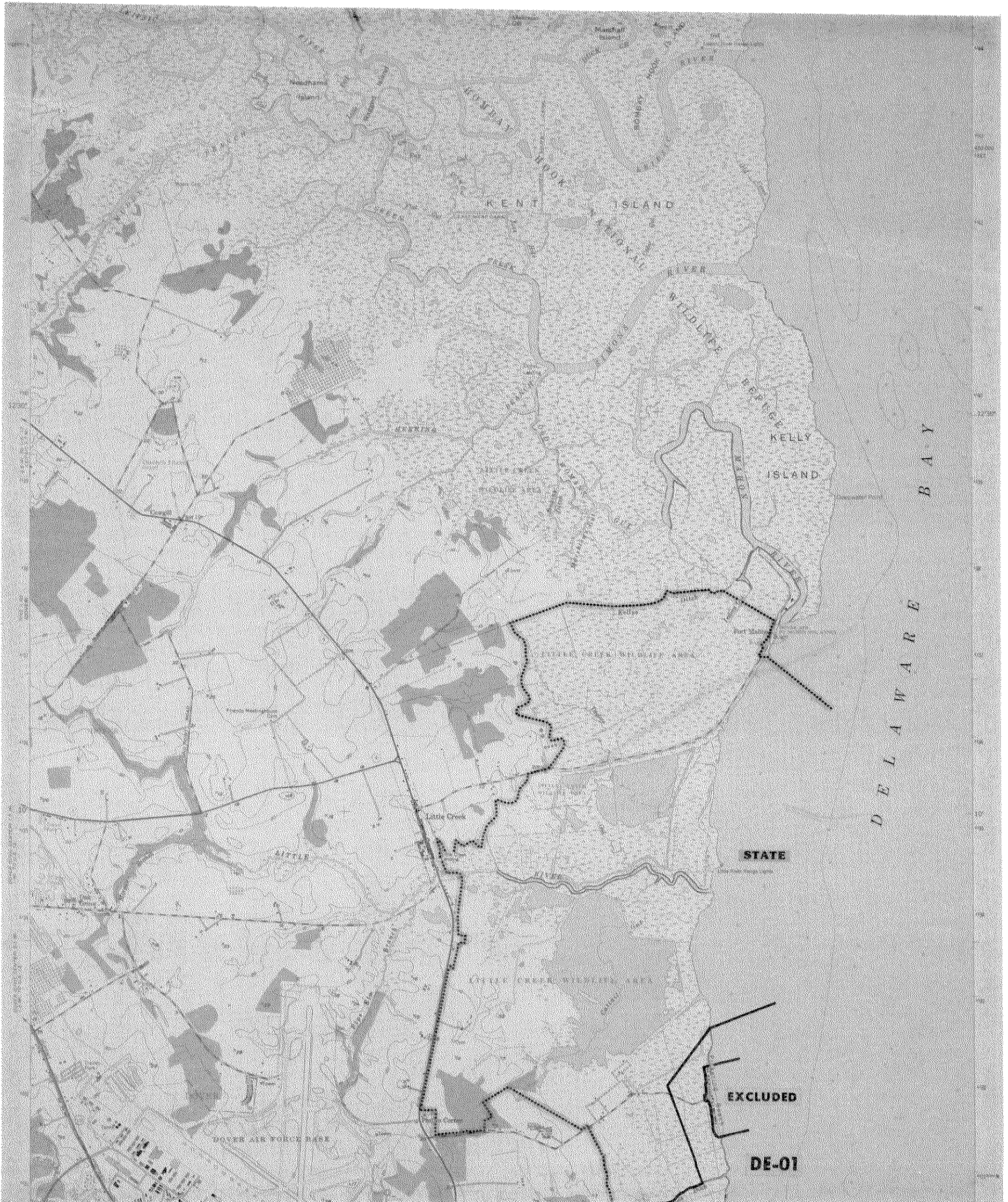
USGS Topographic Map or Map Composite	Coastal Barrier Status	Page
Little Creek	State	11
Frederica	State, Private	12
Bennetts Pier	Private	15
Mispillion River	Federal, State	16
Milton	Federal, State	17
Lewes	Federal, State	18
Cape Henlopen	State	20
Rehoboth Beach	State	21
Bethany Beach	State	23
Assawoman Bay	State	29

*These maps are provided for information purposes only. DOI is not recommending the addition of these areas to the CBRS unless they are made available for development that is inconsistent with the CBRA purposes.

MAP KEY

-----	Existing CBRS units
_____	Recommended additions to or deletions from the CBRS
.....	Military, Coast Guard, or otherwise protected, undeveloped coastal barrier
ADD	Area recommended for addition to the CBRS
DELETE	Area recommended for deletion from the CBRS
EXCLUDED	Area excluded from an existing or proposed CBRS unit because it is developed
FEDERAL	Federally protected, undeveloped coastal barrier; for information only
STATE	State protected, undeveloped coastal barrier; for information only
LOCAL	Locally protected, undeveloped coastal barrier; for information only
PRIVATE	Privately protected, undeveloped coastal barrier; for information only
MILITARY	Undeveloped coastal barrier owned by the military; for information only
COAST GUARD	Undeveloped coastal barrier owned by the Coast Guard; for information only

Maps are arranged in geographic order from north to south.



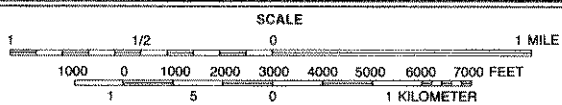
Report to Congress on the Coastal Barrier Resources System

UNITED STATES
DEPARTMENT OF THE INTERIOR



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U.S. Department of the Interior
Washington, D.C. 20240

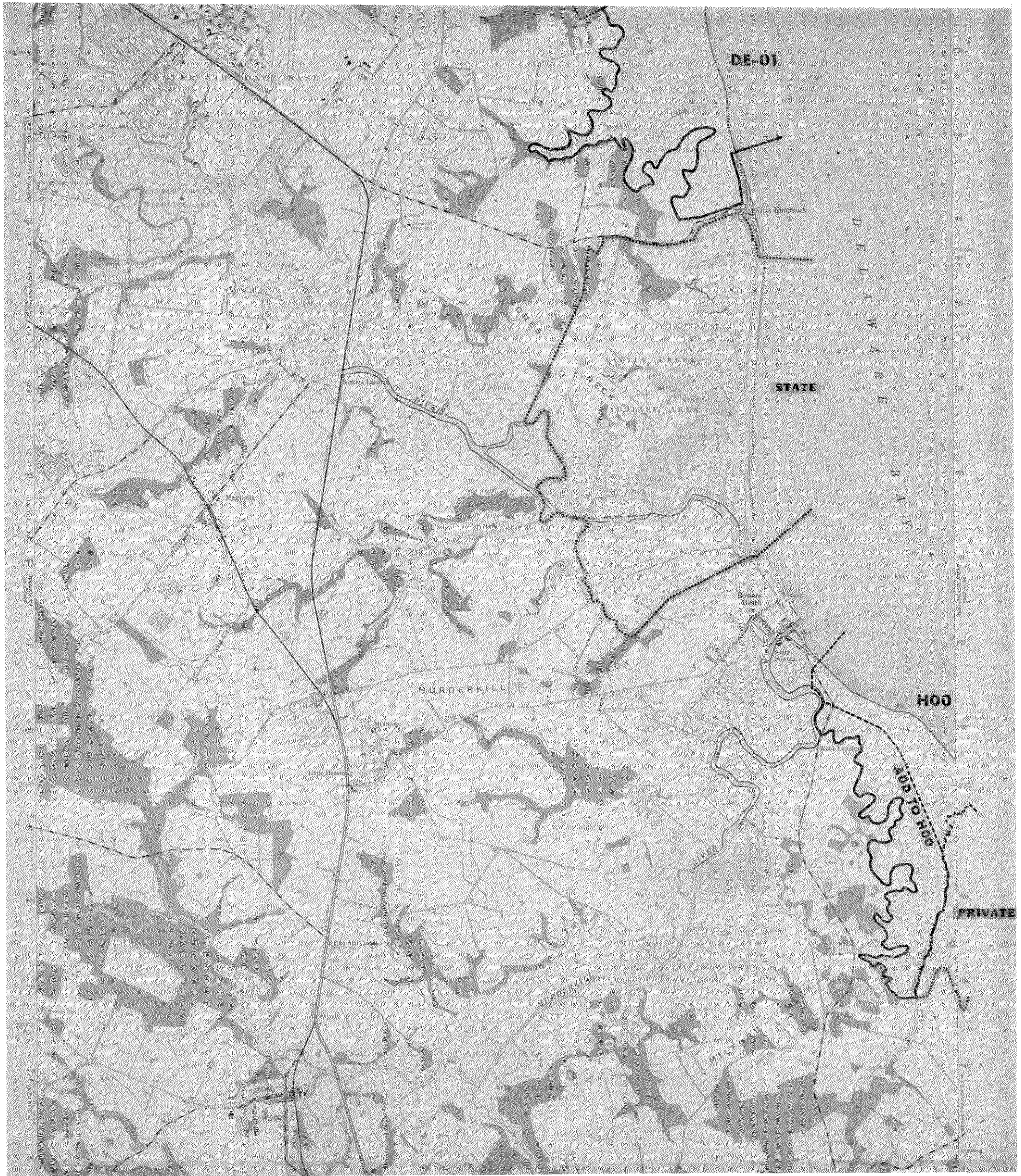
QUADRANGLE
LITTLE CREEK
DELAWARE



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Base Map is the U.S. Geological Survey 1:24,000 scale quadrangle.



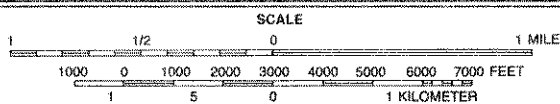
Report to Congress on the Coastal Barrier Resources System

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DEPARTMENT OF THE INTERIOR



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QUADRANGLE
FREDERICA
DELAWARE



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DE-01 - LITTLE CREEK

State Position: The State of Delaware supports the addition of DE-01 to the CBRS but requested that the proposed boundary be modified to exclude the State Wildlife Area.

Other Comments: One letter was received objecting to the inclusion of some of the associated aquatic habitat in DE-01. It is reprinted below.

Response: All of the associated aquatic habitat is fully qualified for addition to

the CBRS under DOI criteria. The DOI has used the information provided by the State to exclude the State-protected area from the proposed unit. Shellfishing is not prohibited in the CBRS.

DOI Recommendation: The DOI recommends adding DE-01 to the CBRS. The recommended boundaries have been modified from those in the 1987 Draft Report to exclude a State-protected area and include an additional undeveloped, unprotected barrier area.

1111

Draper Dickerson Enterprises
11313 Willowbrook Drive
Potomac, MD 20854-2568
phone: (301)-983-9796

June 20, 1987

The Coastal Barrier Study Group
Department of the Interior
National Park Service
P.O. Box 37217
Washington, D.C. 20013-7127

CERTIFIED MAIL
RETURN RECEIPT
REQUESTED

Gentlemen:

I vigorously object to the inclusion of approximately 80 acres of the lands for which I am sole trustee into the associated aquatic habitats of the Coastal Barrier Resources System (CBRS). As depicted in: "REPORT TO CONGRESS: COASTAL BARRIER RESOURCES SYSTEM, Proposed Recommendations for Additions to or Deletions from the Coastal Barrier Resources System", Volume B Delaware, February 1987, U.S. Department of Interior, page 7; my included lands are in East Dover Hundred, north of Lewis Ditch, west of Pickering Beach and the Delaware Bay and east of Delaware Department of Natural Resources and Environmental Control preserve lands.

I further object to the way I was notified. The enclosed notice received on May 4, was by first class mail and receipt by me or my agent was not insured. Further this notice was not that different from zoning and other notices of little to no consequence. I hope you understand that I consider this action of Government intervention of major consequence.

I am certain the record will show my family and I are strong conservationists. At the same time, we do not wish to deal with additional Federal and State bureaucracy to make modest changes to marshlands which I own and may wish to improve for shellfish or wildlife production. While I do not anticipate doing so in the near future, I may wish to build on these lands, in a manner responsible to conservation needs of the habitat and for the betterment of my fellowman. Again, I do not wish additional layers of bureaucracy to obtain permission.

Page one of two

Page two of two June 20, 1987

In addition to the above philosophical objections I wish to register these specific objections:

- My included lands are west of the excluded coastal lands of Pickering Beach.

- I am advised that there are three strong State laws: Coastal Zone Act, 1971
Beach Preservation Act
Wetlands Act
that address preservation of aquatic habitats.

- In addition, the Federal Clean Water Act protects and regulates the use of aquatic habitats.

I hope my thoughts on this proposal are clear, if not please contact me immediately. Rest assured, I will vigorously oppose the inclusion of my lands.

Sincerely yours,

Sally Draper Dickerson, Trustee
Sally Draper Dickerson, Trustee

cc: Hon. Thomas R. Carper
Mr. Robert D. Henry, Delaware CBRS State Coordinator
Hon. William V. Roth, Jr.

oDo



STATE OF DELAWARE
DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL
DIVISION OF SOIL AND WATER CONSERVATION
89 KINGS HIGHWAY
P.O. BOX 1421
DOVER, DELAWARE 19903

OFFICE OF THE
DIRECTOR

TELEPHONE (302) 736-4411

April 24, 1987

TO WHOM IT MAY CONCERN:

On October 18, 1982, President Reagan signed the Coastal Barrier Resources Act (CBRA; P.L. 97-348) into law. The Act established a Coastal Barrier Resources System based upon a specific set of maps adopted by Congress, and prohibited all new expenditures of Federal funds within the units of that System unless specifically excepted by the Act.

Section 10 of the Act directs the Secretary of the U.S. Department of Interior (DOI) to undertake a study of coastal barriers and report to Congress any recommendations for conservation alternatives to the provisions of the Act and for additions to, or deletions from, the System.

In partial fulfillment of the requirements of Section 10, DOI has released for public comment a draft summary of their Report to Congress accompanied by draft maps showing proposed additions to and deletions from the System. Copies of these materials are available for inspection at the offices of the Division of Soil and Water Conservation located at the Richardson and Robbins Building, 89 Kings Highway, Dover, and the Agricultural Center, 408 North duPort Highway (U.S. 113), Georgetown.

Comments will be accepted until June 24, 1987, and should be sent to:

Coastal Barriers Study Group
U.S. Department of the Interior
National Park Service -498
P. O. Box 37127
Washington, D.C. 20013-7127

I would appreciate copies of any comments sent to the Study Group.

Recommendations made by the Secretary of DOI will be advisory only; any changes to the System will require an Act of Congress.

For further information on this aspect of the study, you may call Mr. Frank B. McGilvrey, Coastal Barriers Coordinator (U.S. Fish and Wildlife Service), at (202) 343-2618 or me at (302) 736-4411.

Sincerely,

Robert D. Henry
Robert D. Henry
CBRA State Coordinator

pc: Frank McGilvrey



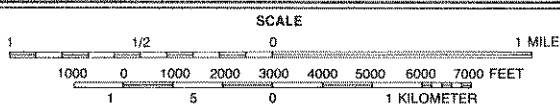
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DEPARTMENT OF THE INTERIOR



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U.S. Department of the Interior
Washington, D.C. 20240

Report to Congress on the Coastal Barrier Resources System

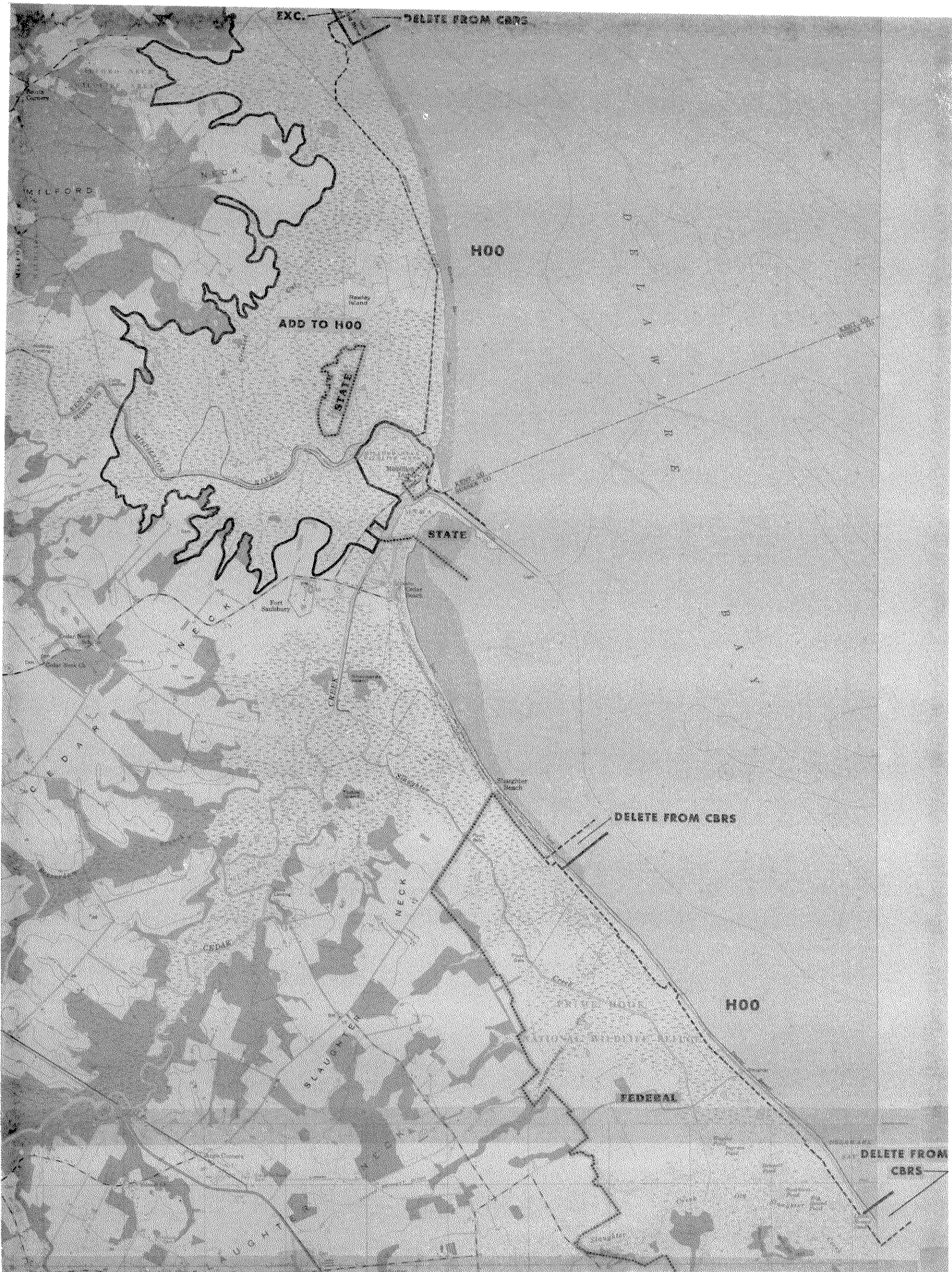
QUADRANGLE
BENNETTS PIER
DELAWARE



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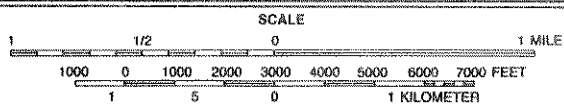
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Washington, D.C. 20240

Report to Congress on the Coastal Barrier Resources System

QUADRANGLE
MISPILLION RIVER
DELAWARE



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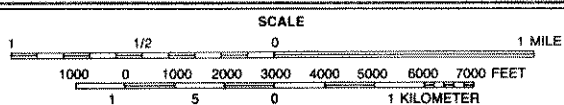
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DEPARTMENT OF THE INTERIOR**



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QUADRANGLE
MILTON
DELAWARE

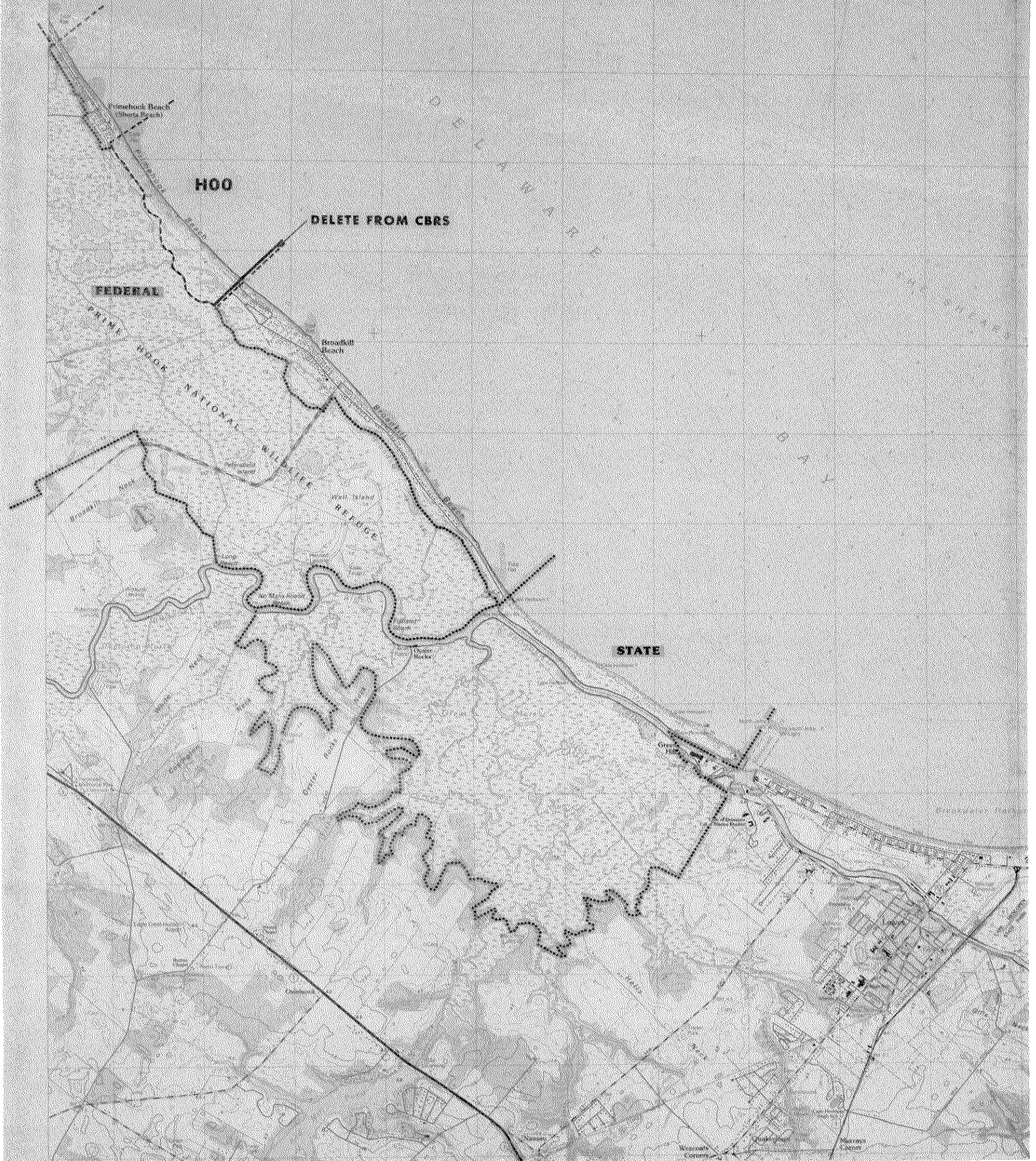


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DELETE FROM CBRIS
H00



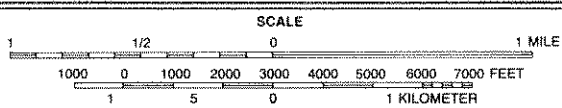
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DEPARTMENT OF THE INTERIOR



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Washington, D.C. 20240

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QUADRANGLE
LEWES
DELAWARE



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H00 - BROADKILL BEACH COMPLEX

State Position: The State of Delaware requested that a privately protected area at Bennetts Pier be deleted from the existing CBRS unit and that the Milford Neck Wildlife Management Area not be included in the proposed additions to H00.

Other Comments: One letter of support for CBRS unit H00 was received. It is reprinted below.

Response: Because no aerial photographs of Broadkill Beach were available in 1982, some boundaries were incorrectly drawn. The boundary modifications recommended by DOI would delete from the CBRS several small areas that were developed in 1982 and should not have been included in the unit. A

portion of H00 at Bennetts Pier has recently been acquired by Delaware Wild Lands, Inc., a private, nonprofit conservation organization. Because the area is now otherwise protected, it should be deleted from the CBRS. None of the Milford Neck Wildlife Management Area is included in the proposed additions to H00. The undeveloped unprotected barrier portions of H00 protect associated aquatic habitat that fully qualifies for addition to the CBRS under DOI criteria.

DOI Recommendation: The DOI recommends modifying the boundary of H00 to conform with development existing in 1982 and deleting the privately protected area at Bennetts Pier from the existing CBRS unit. The DOI also recommends adding associated aquatic habitat to the remaining CBRS unit.

563

Warner and Johanne Fleming
R. D. No. 1, Box B269
Broadkill Beach
Milton, Delaware 19968

May 18, 1987

Costal Barriers Study Group
National Park Service
U.S. Dept. of the Interior
P.O. Box 37127
Washington, D.C. 20013-7127

We are writing in reference to the planned deletion of Unit H00 from the Costal Barrier Resources System. This area lies North of Broadkill Beach, where we have owned property for over 20 years.

As you can see from reading the attached letter from Governor Mike Castle, this area is vital to the bird migrations. Unit H00 is the site where thousands of birds feed daily on the horseshoe crab eggs. In addition, it is also the nesting place for many of the least terns, a bird on the endangered list. A pair of bald eagles are now nesting in this area also.

The developments of Prime Hook and Broadkill Beaches still have many buildings

Warner and Johanne Fleming
R. D. No. 1, Box B269
Broadkill Beach
Milton, Delaware 19968

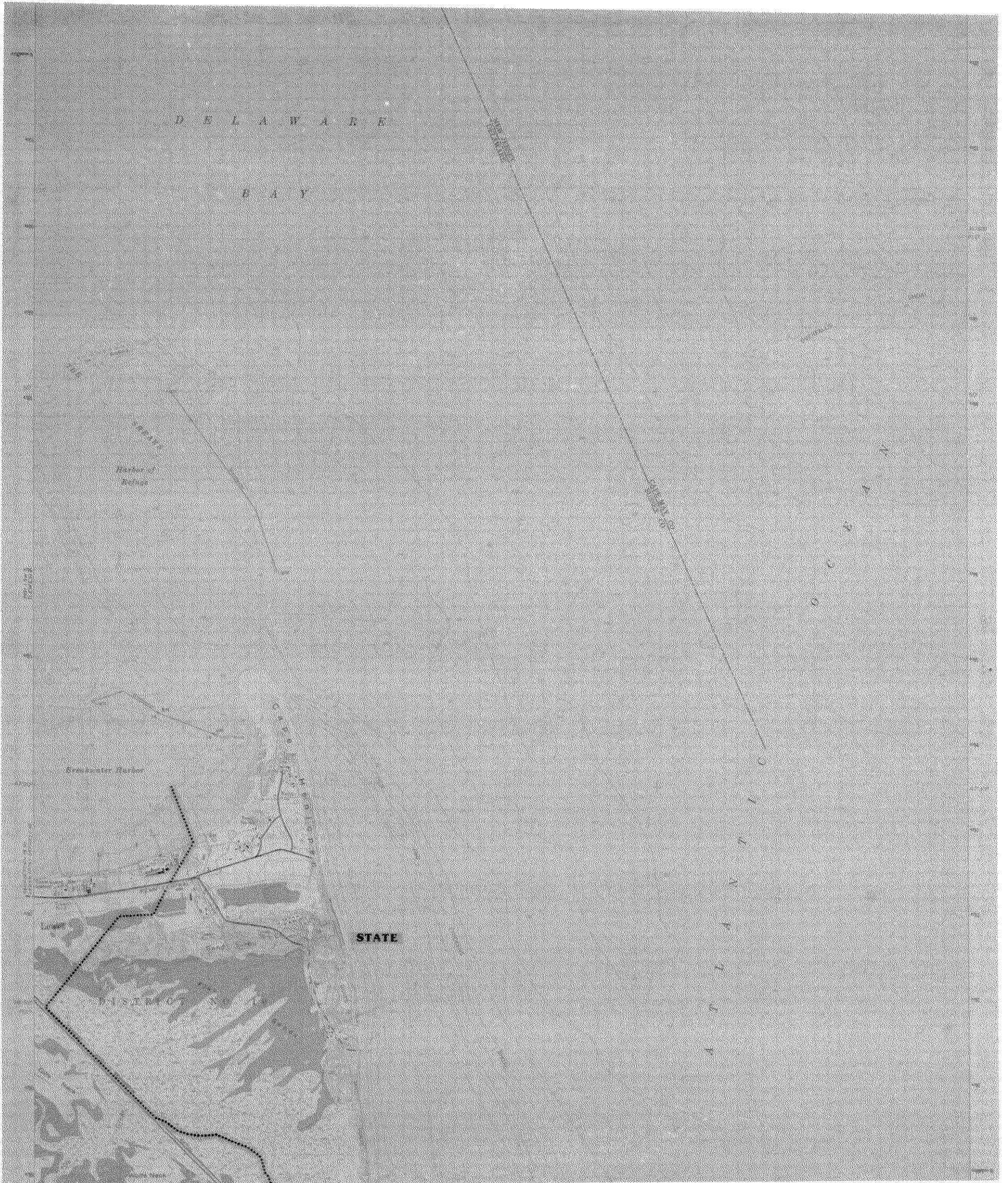
page 2

available for future development. Area H00 is truly a unique area and should be maintained as an integral part of the Costal Barrier system.

Sincerely,
Johanne B. Fleming
Warner Fleming

c.c. Rep. Thomas Carper Sen. Bill Roth
Gov. Mike Castle George Cole
Sen. Joseph Biden Ralph E. Benson
Delaware Dept. of Natural Resources
John Hughes
V. George Carey
John Henry

Attachments



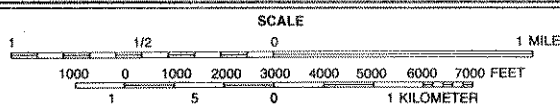
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DEPARTMENT OF THE INTERIOR**



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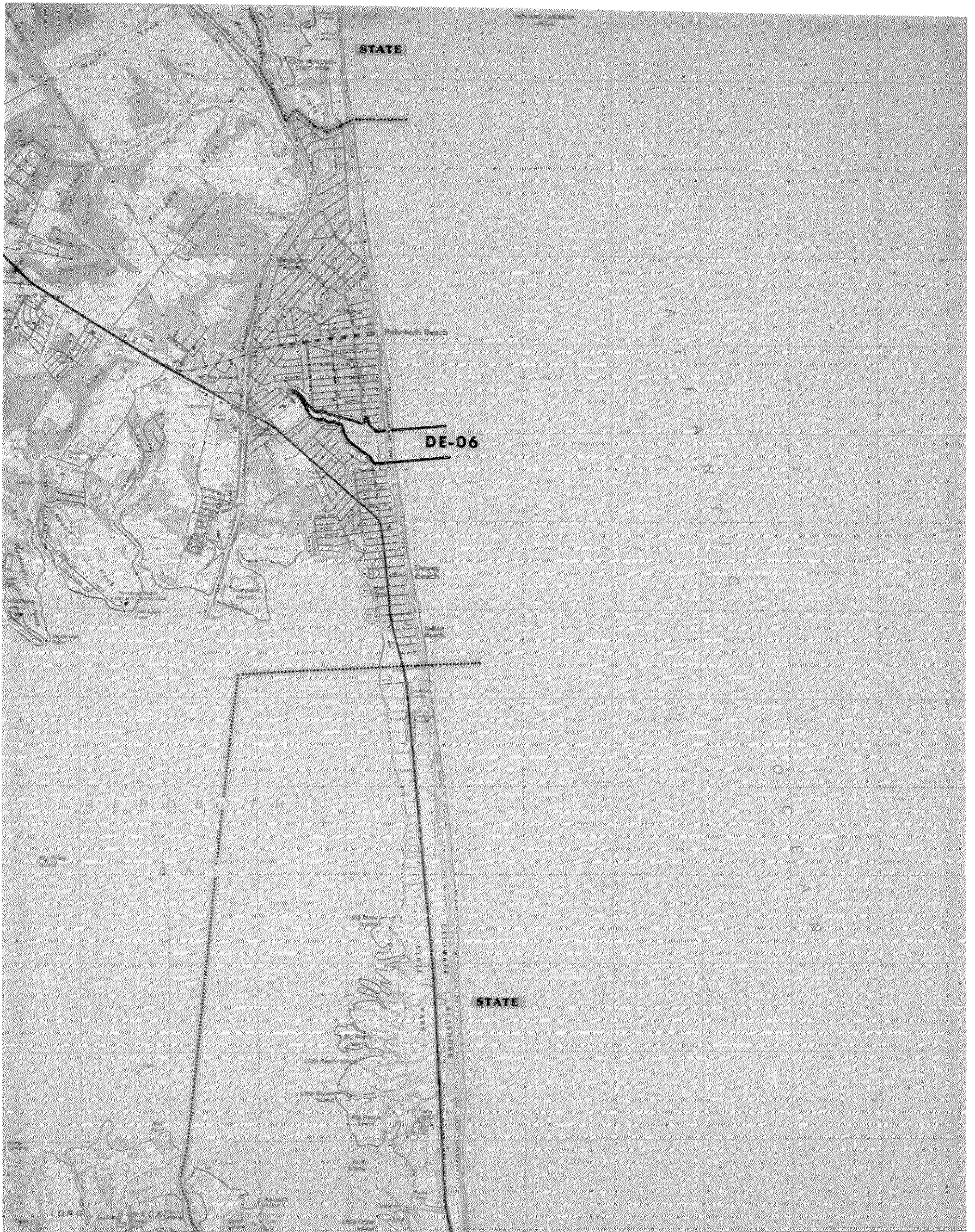
QUADRANGLE
CAPE HENLOPEN
DELAWARE



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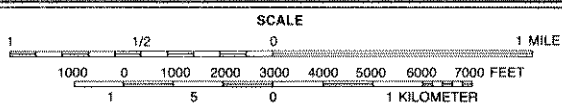
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Report to Congress on the Coastal Barrier Resources System

QUADRANGLE
REHOBOTH BEACH
DELAWARE



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DE-06 - SILVER LAKE

State Position: The State of Delaware supports the CBRS expansion; however, no position on this particular unit was expressed.

Other Comments: One commenter sent two letters opposing the addition of DE-06 to the CBRS, claiming the barrier is developed and stabilized. The comment letters are reprinted below.

Response: Proposed unit DE-06 fully meets DOI definitions of undeveloped and fully qualifies for addition to the CBRS.

DOI Recommendation: The DOI recommends adding DE-06 to the CBRS.

470

Richard B. Judge
19 Robinson Dr.
PO Box 734
Rehoboth Beach, DE 19971
May 17, 1987

Coastal Barriers Study Group
National Park Service
U.S. Dept. of the Interior
PO Box 37127
Washington, D.C. 20013

Dear Coastal Barriers Study Group:

It has come to my attention that a parcel of land I am purchasing may be recommended for inclusion into the Coastal Barrier Resource System.

It is not clear if Section DE-06 includes the 223 feet within the Town of Dewey Beach. This property is known as block 50 $\frac{1}{2}$, adjacent to the improved block 50, and is the northern most property within the Town of Dewey Beach. It is one of the most stabilized sections of oceanfront on the Delaware coast with large natural sand dunes and wide open beach. These dunes are well protected by stringent building setback regulations.

Throughout the storm history of this area (Rehoboth and Dewey Beaches) the least storm damage and erosion has occurred on this particular stretch. (visual observations and DNREC Beach Preservation records)

This ocean front parcel is bordered by the non-tidal, fresh water lake known as Silver Lake. Enclosed is a core data study showing that Silver Lake is an isolated body of water, (no evidence of being or having been an intertidal stream or stream system.)

A preliminary subdivision has been approved for seven oversized single family building lots and a building permit was issued in January of 1987. The DNREC Beach Preservation Department has issued a letter of approval for building and we are ready to commence improvements.

If this parcel is included in DE-06, then by this letter I respectfully request this $\frac{1}{2}$ block within the limits of Dewey Beach be reconsidered and deleted from the recommendation based on the following: 1- block 50 $\frac{1}{2}$ is part of the mainland and is not a coastal barrier.
2- block 50 $\frac{1}{2}$ is protected by extensive bulkheading landward of the primary dune line along the entire frontage.

Thank You for this consideration.

Most Sincerely,
Richard B. Judge

731

Richard B. Judge
19 Robinson Dr.
PO Box 734
Rehoboth Beach, DE 19971
May 27, 1987

Coastal Barriers Study Group
National Park Service
U.S. Department of the Interior
PO Box 37127
Washington, D.C. 20013

Dear Coastal Barriers Study Group:

This is an addendum to the letter mailed May 17, 1987 on behalf of block 50 $\frac{1}{2}$, a parcel of land east southeast of Silver Lake, Dewey Beach, Delaware, requesting a reconsideration and deletion from the CBRS.

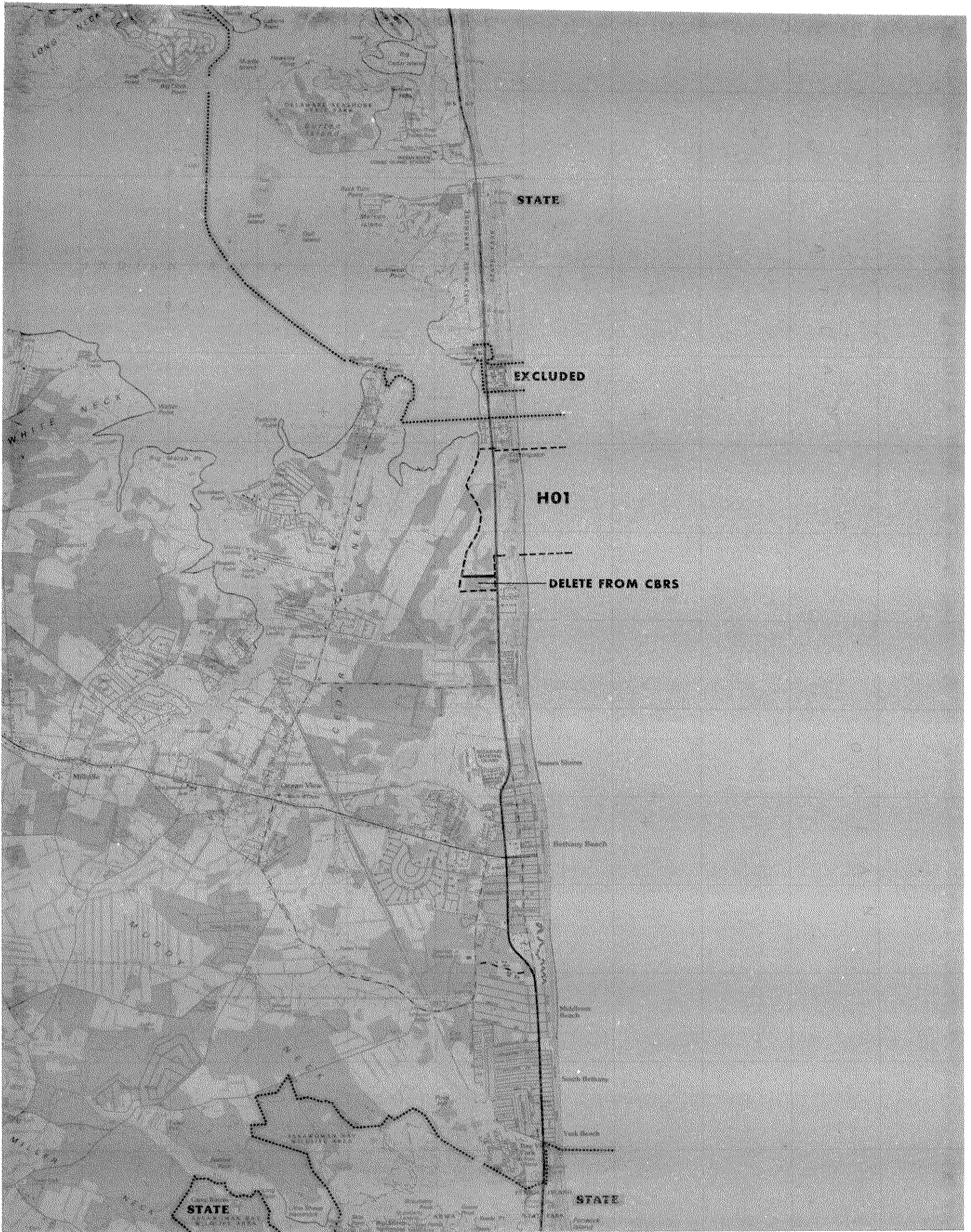
I failed to mention a most important consideration.

Block 50 $\frac{1}{2}$ and block 51 constitute the entire oceanfront area on Silver Lake. Block 51 is a single parcel improved by a large two story home. Block 50 $\frac{1}{2}$ is 1.6 acres (well under the 5 acres required by CBRS) and is improved by bulkheading landward of the dune line.

Hoping this information will facilitate the deletion of section DE 06 from the CBRS, I am...

Most Sincerely,
Richard B. Judge

enclosure



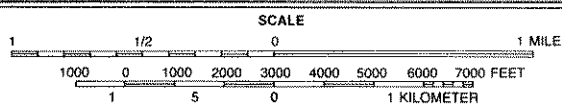
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**UNITED STATES
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QUADRANGLE
BETHANY BEACH
DELAWARE



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H01 - NORTH BETHANY BEACH

State Position: The State of Delaware has verified that a small nonwetland area exists in the southwest corner of the existing unit and supports its deletion from the CBRS.

Other Comments: One letter was received requesting the deletion of the small nonwetland area in the southwest corner of the unit from the CBRS. Eight letters were received expressing support for retaining H01 in the CBRS as is. All letters are reprinted below.

Response: The southwest corner of the CBRS unit is upland; it is not wetland and does not qualify as associated aquatic habitat under DOI criteria. It was erroneously included in the unit in 1982 and should be deleted.

DOI Recommendation: The DOI recommends deleting the nonwetland area from the existing CBRS unit.

605

OCEAN VILLAGE COMMUNITY ASSOCIATION

Address Reply To:
4600 Connecticut Ave., N.W.
No. 319
Washington, D.C. 20008

May 28, 1987

The Coastal Barriers Study Group
Department of the Interior
National Park Services
P. O. Box 37127
Washington, D.C. 20013-7127

Gentlemen:

The Ocean Village Community Association requests the Secretary of The Interior to recommend to the Congress that Coastal Barrier Resources System Unit H01 in North Bethany Beach, Delaware, be retained as a Coastal Barrier Unit.

As a long standing community of 20 years, this Association strongly favors the retention of CBRS Unit H01 as coastal barrier to protect the fragile natural environment of the area. Constant pressures to over develop the land along the coast in the H01 area pose a potential hazard to the beaches, wetlands, and wildlife. The Delaware coast deserves a better fate than the shores of Ocean City, Maryland. It is essential that this coastal barrier be maintained.

We urge the Congress to retain H01 as a coastal barrier and request that this letter be made a part of the official report and file to the Congress.

The Ocean Village Community Association is composed of approximately 90 owners of homes in an ocean-front subdivision which is located on the East side of Delaware Route 1 approximately one and one-half miles North of

OCEAN VILLAGE COMMUNITY ASSOCIATION

Address Reply To:
4600 Connecticut Ave., N.W.
No. 319
Washington, D.C. 20008

The Coastal Barriers Study Group
May 28, 1987
Page Two

its intersection with Route 26 in Bethany Beach, Delaware. It and its members have a direct interest in these proceedings.

We appreciate your consideration of the views set forth herein.

Respectfully submitted,

Robert Lowenstein
Robert Lowenstein
President, Ocean Village Community
Association

RL/cj

1749

2 Haven Road
Ocean Village
Bethany, Delaware
March 15, 1988

Mr. William P. Horn
Assistant Secretary for Fish
and Wildlife and Parks
U.S. Department of the Interior
Washington, D.C. 20240

Dear Mr. Horn:

In response to your solicitation for comment on the Draft Supplemental Regulations Environmental Impact Statement on the Proposed Change to the Coastal Barrier Resources System (CBRS) on behalf of Ocean Village Community Association in North Bethany Beach, Delaware. The Ocean Village Community Association is composed of 71 homeowners living on the coast just south of the designated Coastal Barrier Area (CBA) in Delaware.

The Association strongly recommends that Coastal Barrier Area HO-1 remain as a designated Coastal Barrier for the protection of the wildlife, wetlands, dunes, and overall natural environment of the area. It also supports the other designated Coastal Barrier areas in the State of Delaware.

Your consideration of this recommendation for the Secretary's final recommendations to the U.S. Congress will be appreciated.

Very sincerely,
Hewart Thomas
STEWART THOMAS
Chairman, Coastal Barrier Committee
Ocean Village Community Association

Coastal Barriers Study Group June 23, 1987 Page 2

licensed and registered land surveyor in the State of Delaware, shows the large majority of Parcel "C-2" is above elevation +6' MSL.

Appearing as Exhibit 3 of this letter is a partial reprint of the current existing Flood Insurance Rate Map (FIRM) for the North Bethany Beach area as issued by the Federal Emergency Management Agency (FEMA). The current map for the North Bethany Beach area is identified as Community-Panel Number 100029 0285C, dated January 5, 1984. It can be seen from Exhibit 3 that the majority of Parcel "C-2" is located in Zones B and C.

Zone B is defined as "Areas between limits of the 100-year flood and 500-year flood" while Zone C is defined as "Areas of minimal flooding".

Also from Exhibit 3 it can be seen that Parcel "C-2" is not directly affected by Zone V which is defined as "Areas of 100-year coastal flood with velocity (wave action)". In fact from Exhibit 3 it can be determined that where Zone V appears in the North Bethany Beach CBRS it is east of the currently existing dune line.

Aquatic Habitat

Appearing as Exhibit 4 of this letter is a copy of correspondence received by this writer from Environmental Concern, Inc., a nonprofit corporation nationally respected and honored for its wetlands analyses. The letter states that with the exception of the man-made shallow pond in the back yard of my home there are no Federal (Section 10 and Section 404) wetlands existing on Parcel "C-2". The letter also states no State of Delaware wetlands are present on Parcel "C-2". The State of Delaware regulates only tidal wetlands.

Development

The following is an accurate detailed account of how Parcel "C-2" was established as a developed land tract and how it was previously part of a large undeveloped raw land mass.

In 1921 my late father, Mr. William P. Short, Sr., began assembling a major undeveloped raw land mass. Major acquisitions have continued at intervals since that time. The total undeveloped raw land mass accumulated exceeded 1,900 acres in area.

In 1929 my father established the Atlantic Coast Inland Corporation to begin development of the more than 1,900 acres. The other principal stockholder in the corporation was the late Mr. Ruby Vale, a nationally prominent attorney who was also the Chief Counsel for the then Pennsylvania Railroad Corporation.

The Atlantic Coast Inland Corporation initially constructed the major infrastructure to serve the undeveloped raw land mass. During the 1930's the only major infrastructure required was roadways and electric service. Some of the roadways were solely constructed by the corporation and later dedicated to a public government agency. In other instances the corporation granted rights-of-way to public

1356

WILLIAM P. SHORT, JR.
P.O. Box 169, Route 1
Bethany Beach, Delaware 19930

(302) 539-7840
(302) 539-7576

June 23, 1987

Coastal Barriers Study Group
United States Department of the Interior
National Park Service - 498
Post Office Box 37127
Washington, D.C. 20013-7127

REF: COASTAL BARRIER RESOURCES ACT (CBRA: P.L. 97-348)

Gentlemen:

On March 23, 1987 it was publicly announced the National Park Service would receive public comments through June 24, 1987 on its proposed recommendations for changes to the Coastal Barrier Resources System (CBRS). This letter is in response to that public announcement. I respectfully request that information submitted with this letter be carefully reviewed and ask that every consideration be given to the change in the CBRS I am recommending. Please enter this submittal into your public record.

I am formally requesting a change be made in CBRS Unit Number H01, commonly referred to as the North Bethany Beach (Sussex County), Delaware unit. It is requested that a land parcel of which I am the owner be deleted from the North Bethany Beach CBRS. This land parcel, identified as Sussex County Property Map/Parcel Number 1-34-9-13 and commonly referred to as Parcel "C-2", is located on the westside of Delaware Route 1. The parcel requested for deletion is shown in Exhibit 1 as an enclosure to this letter. Exhibit 1 also depicts the current existing boundaries of the North Bethany Beach CBRS.

Presented hereafter are extensive discussions and exhibits as enclosures to this letter to address why Parcel "C-2" should be actively considered for deletion based upon each of the following National Park Service evaluation criteria.

- (1) Wind, Waves and Tides
- (2) Aquatic Habitat
- (3) Development

Wind, Waves and Tides

Appearing as Exhibit 2 to this letter is an existing topographic survey of Parcel "C-2". This topographic survey, prepared by a duly

Coastal Barriers Study Group June 23, 1987 Page 3

government agencies so those agencies could construct other roads needed to serve the large raw land mass. The corporation negotiated directly with the predecessor of the now Delmarva Power and Light Company for the installation of electric facilities needed to serve the large raw land mass.

It is not uncommon for large raw land masses such as the one assembled here by my father (Mr. William P. Short, Sr.) to be developed and subdivided by a corporation (Atlantic Coast Inland Corporation) into much smaller land tracts. The developer of the large land mass provides the needed development infrastructure so additional construction can occur in phases on each of the smaller land tracts. This is the path the Atlantic Coast Inland Corporation took. It is the same path taken today by major developers of raw land across this country. Development of large raw land masses in this manner can be confirmed through the nationally respected Urban Land Institute (ULI) of Washington, D.C. The ULI is an independent nonprofit research and educational organization dedicated to improve the quality and standards of land use and development.

During the late 1930's as the national economy began to improve, war was also on the horizon. After World War II ended, the corporation in earnest began the additional construction in phases on the subdivided smaller land tracts. In 1948 construction began on that small land tract now known as the Sussex Shores community.

In 1955 it became necessary to add a third major infrastructure improvement to serve all the smaller land tracts which constituted the now developed and subdivided original raw land mass of the 1920's. A central water system was added at that time. Its master plan for water service was designed to serve each of the smaller land tracts in such a manner that the water treatment plant portion of the overall system could be expanded in phases concurrent with the construction occurring on each smaller land tract. As part of the initial system installed, central water distribution and transmission underground pipelines were readily available to provide service for each of the smaller land tracts.

In 1957 construction began on that small land tract now known as the Tower Shores, Watergate and Ocean Court communities. This was followed in 1959 with construction on that small land tract now known as the Ocean Village community. In 1963 construction began on that small land tract now known as the Cottonpatch Hills community.

For the remaining developed small land tracts where additional construction would occur, a comprehensive master plan was prepared in 1965. At that time there were no zoning controls in Sussex County, Delaware and all such plans had to be filed with the former Water and Air Resources (WAR) Commission of the State of Delaware. This former commission is now part of the State of Delaware Department of Natural Resources and Environmental Control.

In 1967 the initial zoning ordinance for Sussex County, Delaware was implemented. Two major basic types of residential zoning were shown in Sussex County's initial plan which was prepared by the professional staff of the then State of Delaware Planning Office. One

type was called the agricultural-residential (AR) zone which encompassed the agricultural and undeveloped residential areas of Sussex County. The vast majority of land area on the initial zoning ordinance map was in the AR zone. The other primary type of residential zoning was identified as the medium density residential (MR) zone. As shown on the initial zoning ordinance map, the MR zone included the developed areas of Sussex County and those areas for which a comprehensive master plan for development had previously been submitted prior to the initial zoning ordinance being conceived. In this case, such a plan for the developed small land tracts where additional construction would take place had previously been submitted several years prior to WAR, which was the applicable agency at that time. Thus, the initial Sussex County, Delaware zoning ordinance map, and all succeeding maps since then, have depicted in the MR zone each of the smaller land tracts which many years previous had comprised the overall total land mass. The current zoning ordinance map for Sussex County, Delaware still lists each of the smaller land tracts, including Parcel "C-2" as areas of MR zoning.

During the succeeding years other developed small land tracts received additional construction. These are now referred to respectively as the communities of (1) Seadel Estates, (2) Bethany Dunes, (3) Bethany Village, (4) Beachfront Nonresidential Recreational Area, (5) Bayberry Dunes, (6) Sea Pines Estates, (7) Gulls Nest, and (8) Seabreak. Also, during the past year, additional construction has begun on five of the other developed small land tracts.

Thus, it is evident from the above history that Parcel "C-2" was originally part of a large raw land mass that was later developed and subdivided into small land tracts which had the predominantly needed infrastructure (roads, electric service, and central water) available to directly serve it in 1955.

After the CRBA was signed into law in October 1982, the National Park Service conducted a public review period to determine what properties should be either added to or deleted from the CBRS units originally proposed. The CBRS unit boundaries originally proposed appear in Exhibit 5 of this letter. During this public review period, the State of Delaware submitted two letters to the National Park Service asking that three properties within the proposed boundaries of the North Bethany Beach CBRS unit be deleted. These two letters appear as Exhibit 6 and Exhibit 7, respectively, of this letter. The National Park Service recommended deleting two of the properties, but not the third which was Parcel "C-2". Unfortunately, the above information was not included with the deletion request so that the National Park Service would have additional information to consider before making its recommendation.

With respect to Parcel "C-2", it seems apparent from the guidelines used by the National Park Service to evaluate changes that this small land tract should also be excluded. It is noted the National Park Service generally draws the boundary line perpendicular to the unprotected shoreline and directly across the entire coastal barrier. A review of the currently existing North Bethany Beach CBRS unit southern boundary in Exhibit 1 of this letter shows this practice does not

presently occur with respect to Parcel "C-2". As can be seen in both Exhibit 1 and Exhibit 5, respectively, Parcel "C-2" is directly west of the two parcels the National Park Service has previously deleted from the North Bethany Beach CBRS unit.

In summary then, I am respectfully requesting the National Park Service consider deleting Parcel "C-2" as shown on Exhibit 1 and Exhibit 5 herein from the North Bethany Beach (Sussex County), Delaware CBRS Unit Number H01. Such deletion seems warranted based upon a review of this small land tract as affected by the following.

- (1) Wind, Waves and Tides
- (2) Aquatic Habitat
- (3) Development
- (4) Previous Deletions and Their Respective Geographical Location
- (5) General Boundary Line Principles Established for Coastal Barriers

Your consideration of this deletion request is sincerely appreciated.

If additional clarifying information is needed to base your decision, please call. Thank you very much.

Respectfully submitted,

William P. Short, Jr.
William P. Short, Jr.

Enclosures (7 Exhibits)

1568



STATE OF DELAWARE
DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL
DIVISION OF SOIL AND WATER CONSERVATION
850 MARKET STREET
P.O. BOX 1401
DOVER, DELAWARE 19903

OFFICE OF THE DIRECTOR

TELEPHONE 302 739 02

July 29, 1987

Coastal Barriers Study Group
United States Department of the Interior
National Park Service - 498
P.O. Box 37127
Washington, DC 20013-7127

Gentlemen:

I have reviewed the letter of June 23, 1987 (copy attached), submitted to you by Mr. William P. Short, Jr., requesting that his property, identified as Sussex County Property Map/Parcel Number 1-34-9-13 and commonly referred to as Parcel "C-2", be deleted from the CBRS Unit H01.

Concerning the matter of aquatic habitat the Wetlands Branch of this Department's Division of Water Resources has determined that the parcel in question contains no wetlands regulated by the State of Delaware. Based upon that determination and the parcel's location with respect to the extension of the southern boundary line of this Unit landward from the unprotected shoreline the State of Delaware has no objection to the deletion of this parcel from CBRS Unit H01 as requested.

Please note that the above determination in no way addresses the question as to whether federally regulated wetlands are contained within this parcel. Such a determination would have to be made by the Philadelphia District Office of the U.S. Army, Corps of Engineers.

If you have any questions concerning this letter, please do not hesitate to contact me.

Sincerely,
Robert D. Henry
Robert D. Henry
CBRS State Coordinator

Enclosure

pc: Secretary John E. Wilson, III
William F. Moyer
Richard Hassel
William P. Short, Jr.
Eugene H. Bayard, Esquire

606

M. Reza Hagigh, M.D., P.A.
Pars Medical Center
930 North Charles Street
Baltimore, Maryland 21201

Fellow of American College of Surgeons

Phone 717-9100

Diplomate of American Board of Ophthalmology

May 27, 1987

The Coastal Barriers Study Group
Department of the Interior
National Park Service
Post Office Box 37127
Washington, D.C. 20013-7127

Ref: Unit designated H01 of Coastal Barrier Resources System

Dear Mr. Secretary:

Although I basically agree with the least Federal intervention in the affairs of the State, nonetheless, to preserve our God-given beautiful coasts on both the Atlantic and Pacific shores rests mainly in a good deal of Federal supervision and care.

To protect our ever vanishing beaches and adjoining wetlands which help to maintain our natural environment with its wildlife, I strongly urge you to maintain H01 designated section of CBRS, the way it is in North Bethany Beach portion of Delaware state.

This will undoubtedly save a good deal of the Federal funds needed for other good causes.

As a dweller of the Bethany Beach region in Delaware, I urge you to maintain H01, as is, in CBRS.

Your cooperation in this matter is well appreciated.

Sincerely yours,
M. Reza Hagigh
M. Reza Hagigh, M.D., F.A.C.S.
MRH/bg

712

Jerome H. Spingarn
1409 29th Street, N.W.
Washington, D.C. 20007

June 3, 1987

Coastal Barriers Study Group
National Park Service
P.O. Box 37127
Washington, D.C. 20013

Dear Sirs:

This is to commend the Secretary's report to Congress which recommended, among other things, the recommendation to add 6,319 acres in Delaware.

The retention of CBRS Unit H01 in North Bethany is very important to protect the beach and prevent its deterioration, in which, as a nearby property owner, I am very much interested.

Sincerely,

JHS/hf

718

George T. Rado
818 Carrie Court
McLean, Virginia 22101

June 5, 1987

The Coastal Barriers Study Group
Department of the Interior
National Park Service
P.O. Box 37127
Washington, D.C. 20013-7127

Dear Members of the Coastal Barriers Study Group:

As property owners in Ocean Village, which is located near Bethany Beach, Delaware, my wife and I strongly favor the retention of CBRS Unit H01 in North Bethany Beach as a Coastal Barrier Unit.

We believe that the proposed retention will protect the beach, prevent its deterioration, and maintain the natural environment. Furthermore, the retention of CBRS Unit H01 as a coastal barrier will prevent much of the expenditure of federal funds for repairing damage caused by natural disasters and it will act as a strong deterrent to possible high rise and commercial development. Finally, the proposed retention will reduce the potential number of people residing in the area and reduce potential automobile traffic.

Ladies and Gentlemen, we beseech you to keep America beautiful for our children and our children's children.

Respectfully yours

George T. Rado

744

3244 Patterson St., NW
Washington, D.C. 20015

June 8, 1987

Coastal Barriers Study Group
Department of the Interior
National Park Service
P.O. Box 37127
Washington, D.C. 20013-7127

Dear Sirs:

I am writing with regard to the report and recommendations to Congress prepared by the Secretary of the Interior to fulfill the requirements of the Coastal Barrier Resources Act.

More specifically I am writing in strong support of the Secretary's recommendation that no change be made in the existing Coastal Barrier Resources System unit designated H01, located in North Bethany Beach, Delaware.

This area, of ocean front barrier and back barrier wetlands, is one with which I am most familiar. In order to protect the beach and wetlands from deterioration, and to maintain the wetlands as a natural environment for wildlife, it is extremely important to retain this area H01 as a coastal barrier unit - and to prevent the use of federal funds to enhance or support development inconsistent with these aims.

I want to offer my full support to the proposed recommendation to retain H01 as a CBRS unit in the report which you will be sending to the Congress.

Sincerely,

Theodore C. Nelson

1013

Mrs. Joseph M. McDonald
24 Wellesley Circle
Glen Echo, Maryland 20812

June 20, 1987

The Coastal Barriers Study Group
Department of the Interior
Washington, D.C.

Dear Study Group Members,

A note to let you know of my strong support of Coastal Barrier Resources System in general but my particular interest is in CBRS unit H01 in North Bethany Beach, Delaware.

Please continue to protect the existing land in H01 and, hopefully, add to it.

These coastal barrier and wetlands are so fragile and beautiful. Please protect what little we have left.

Thank you,

Nancy J. McDonald
(Mrs. Joseph M.)

1715

March 3, 1988

15 Atlantic Watergate
Bethany Beach, DE 19971

Miss Janet Dixon
Coastal Barrier Study Group
Department of the Interior
Box 37127
Washington, D.C. 20013-7127

Dear Miss Dixon:

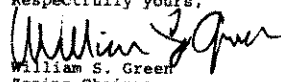
On behalf of the Atlantic Watergate Association, a home owners' group in North Bethany Beach (Sussex County) Delaware, we wish to support the decision to retain the Coastal Barrier designation on HO-1, North Bethany Beach.

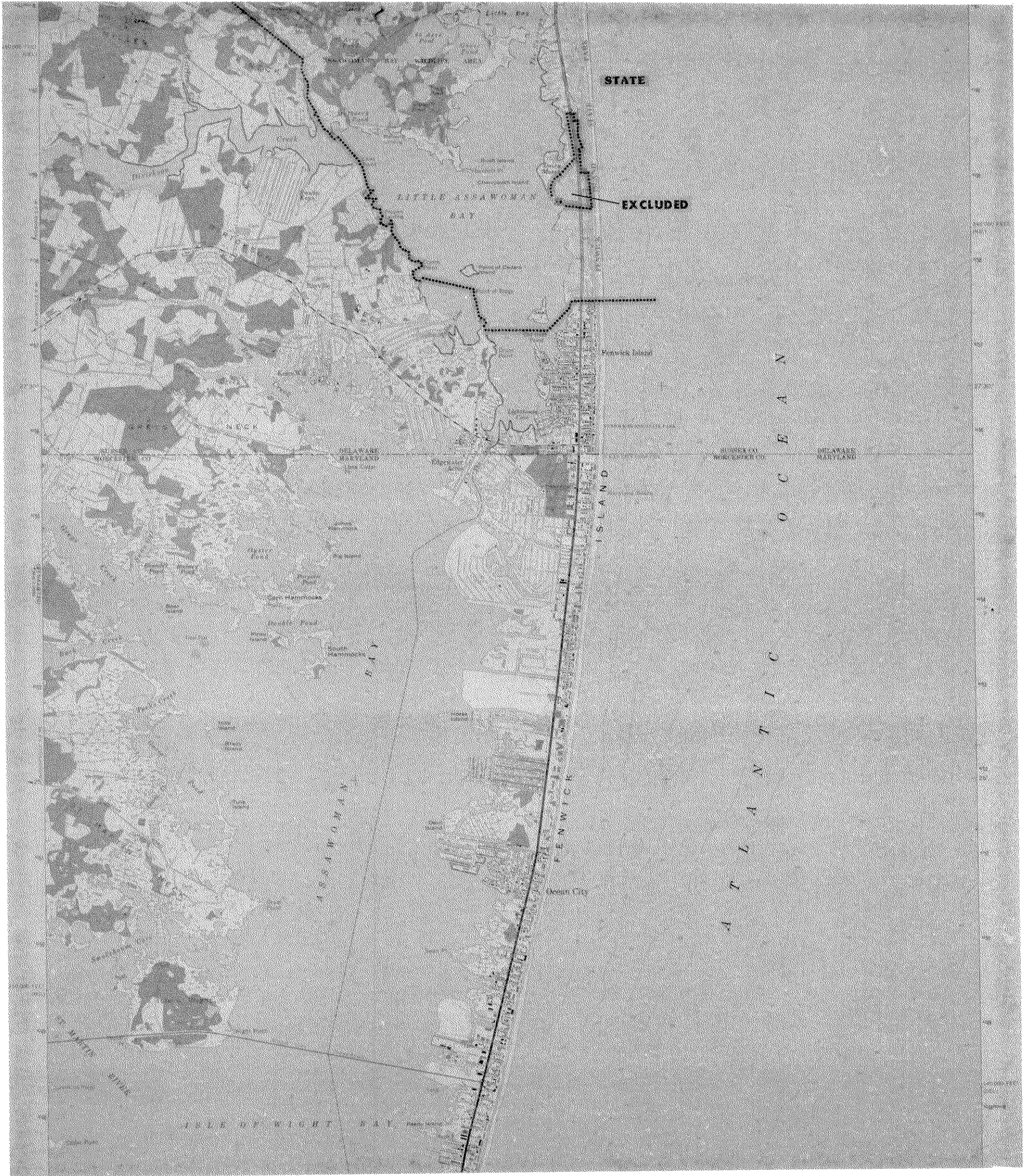
The designation of the area as a Coastal Barrier has prevented a developer-controlled County Council from zoning the area for high-density development and has accomplished a small miracle of preserving the barrier islands in that area.

The developers and their allies on the County Council have blamed the barrier island designation of the area for the high cost of sewer service--a patent misstatement. Federal funds are not available for that area because of the "no funds for development" provisions of the Clean Water Act, not because of the Barrier Island status of a portion of the sewer district.

We would not be surprised if you received developer-inspired mail and pressure based on this misstatement of the applicable law.

In any event, we support the Barrier Island designation of the North Bethany Beach segment, and commend you for proposing that it be retained.

Respectfully yours,

William S. Green
Zoning Chairman
Atlantic Watergate Association



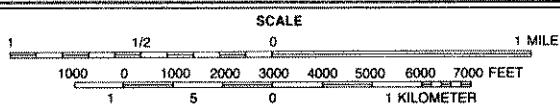
Report to Congress on the Coastal Barrier Resources System

UNITED STATES
DEPARTMENT OF THE INTERIOR



Mapped, edited and published
by the Coastal Barriers Study Group
U.S. Department of the Interior
Washington, D.C. 20240

QUADRANGLE
ASSAWOMAN BAY
DELAWARE



- Solid lines depict recommendations for additions to or deletions from the Coastal Barrier Resources System. (Section 10 of P.L. 97 - 348.)
- - - - Dash lines depict approximate boundaries of existing units in the Coastal Barrier Resources System, for reference purposes only.
- Dotted lines depict approximate boundaries of an undeveloped coastal barrier that is "otherwise protected" or a military or coast guard property.



Base Map is the U.S. Geological Survey 1:24,000 scale quadrangle.