

**Excerpt from “Protecting the Delaware Bayshore Environment: An Analysis of Existing Programs and Protections to Identify Opportunities for Ecosystem Based Management,” by Susan Kennedy, pp. 191-193**

**Recommendations:**

There are many opportunities for interested persons or organizations to become involved and advocate for better protections and programs in the Project Area. Such efforts would benefit not just the Project Area, but the resources of the entire states of Delaware and New Jersey. Some of the more significant opportunities are identified in the following list of recommendations.

- **Support and Expand Existing Ecosystem Based Management Approaches** - Support and highlight as examples existing ecosystem based management approaches, such as Delaware’s watershed based TMDL program, New Jersey’s move to county-wide Water Quality Management Plans, Delaware’s Tributary Action Teams and Whole Basin Management Approach, the Delaware River Basin Commission and the New Jersey Coastal and Ocean Protection Council;
- **Realize the Full Effect and Potential of Regulatory Protections and Programs that Allow for an Ecosystem Based Management Approach** – Emphasize and advocate for the implementation of regulatory protections and programs that provide for or allow an ecosystem based management approach, but are not being used to their full effect and potential, including but not limited to, the application of surface water quality standards and TMDLs, section 404 dredge and fill permit programs, the CAFRA Section 10 Findings and Coastal Goals, the Coastal and Estuarine Lands Conservation Program, the use of Special Area Management Plans, and the New Jersey and Delaware Wildlife Action Plans;
- **Support and Expand Programs that Engage in the Acquisition of Important Lands** - Support and highlight as examples the successful implementation and management of programs that have resulted in, and continue to engage in, the acquisition of important lands to protect water quality and critical habitat of specific ecosystems, such as the Delaware National Estuary Program, the Jacques Cousteau National Estuarine Research Reserve, the Delaware National Estuarine Research Reserve, the Cape May National Wildlife Refuge, the Bombay Hook and Prime Hook National Wildlife Refuges, the Delaware and New Jersey Land Owner Incentives Programs, and projects funded under the Neotropical Migratory Bird Conservation Act, such as the International Red Knot Conservation Project of Delaware, New Jersey, Argentina and Chile.
- **Establish TMDLs for Toxic and Bioaccumulative Contaminants** - Advocate for the expeditious establishment of TMDLs for toxic and bioaccumulative contaminants such as PCBs, heavy metals, pesticides and hydrocarbons, and for the inclusion of waters impaired due to the presence of these contaminants on the next New Jersey and Delaware priority list of impaired waters.

- **Oppose the Segmented Use of Water Quality Criteria and Antidegradation Standards** – Advocate for the consistent application of water quality criteria and antidegradation standards, such as New Jersey’s Category 1 standards, throughout entire waterways instead of to only certain segments of those waterways. Cessation of this practice is particularly critical in river systems where the Category 1 segments are located downriver of those subject to the less protective standards. Under such circumstances, the waters subject to the lesser protections are continually flowing into the Category 1 segments, making the degradation of these exceptional waters inevitable.
- **Establish a State Priority Wetlands List** – Advocate for the development of a Priority Wetlands List by both the states of New Jersey and Delaware. The lists could be similar to the Priority Wetlands for the State of New Jersey developed by the EPA in 1994 to guide the DEP in its assumption and implementation of the CWA Section 404 Program. Much if not all of the work necessary to identify state Priority Wetlands can be accomplished by New Jersey’s and Delaware’s ongoing efforts to complete a comprehensive assessment of all of their wetlands by 2014, as is required by Section 305(b) of the Clean Water Act. New Jersey and Delaware should then be encouraged to incorporate the Priority Wetlands List into their respective wetlands regulations. However, instead of just prohibiting or limiting General Permits in Priority Wetlands as New Jersey did in 1994, the issuance of Individual Permits in such wetlands should also be highly restricted.
- **Support the New Jersey Coastal and Ocean Protection Council** - Advocate for the appointment and confirmation of the rest of the members of New Jersey’s Coastal and Ocean Protection Council. Work with the Council to identify all opportunities for ecosystem based management approaches to be incorporated into the state’s programs and work towards the implementation of such approaches.
- **Create a Delaware Coastal and Ocean Protection Council** - Advocate for the appointment of a Coastal and Ocean Protection Council or similar entity in Delaware to identify all opportunities for ecosystem based management approaches to be implemented in its programs and work towards the implementation of such approaches.
- **Insist Upon the Use of Timely and Relevant Data** - Advocate for the states’ development and use of timely and relevant data in their management decisions, including data related to the status and extent of wetlands, wetlands buffers, land use and land cover, critical habitat and submerged aquatic vegetation.
- **Promote the Use of Compatible Data Reporting** - Advocate for the states’ reporting of compatible data to allow for a valid assessment of existing programs including, but not limited to, data regarding wetland losses and wetland restoration and mitigation efforts from comparable time periods.
- **Advocate for the Protection of Critical Habitat and Imperiled Species** - Advocate for the states’ immediate establishment of policies or regulations designed to protect critical habitat and imperiled species, emphasizing the more effective use of their Wildlife

Action Plans and funding available under the State Wildlife Grants Program to assist in this effort.

- **Advocate for the Consideration of Secondary and Cumulative Impacts** - Advocate for the states' collection and consideration of data pertaining to secondary and cumulative impacts of development upon water quality, vulnerable species and their habitat in all management programs and permit decisions.
- **Enforce Existing Statutory Mandates** - Consult with the New Jersey DEP to determine the reasons why it is not utilizing the authorities and tools provided by statutes and, therefore, in some cases, not meeting the mandates of these statutes, as is demonstrated by its lack of a Coastal and Estuarine Land Conservation Program Plan, its misallocation of CZMA funds, its lack of an approved Coastal Nonpoint Source Pollution Control Plan, its failure to utilize Special Area Management Plans, its failure to utilize the CAFRA Section 10 Findings and Coastal Goals to prevent "inappropriate development" in its Coastal Area, and its lack of Water Quality Management Plans. If these deficiencies are due to budgetary constraints, work with the agency to reestablish its priorities.
- **Implement Recommendations of the DNEP and DRBC** - Review the findings and recommendations of the State of the Delaware Estuary Report 2008 and the State of the Basin Report 2008 to determine additional actions necessary for the enhanced protection and monitoring of the Project Area.