

A. INTRODUCTION**OVERVIEW**

The project site is located entirely within in the Coastal Zone designated by New York State and City (see Figure 12-1) and the project also requires State and Federal permits for construction. For these reasons, the project is subject to a review for compliance with the City's Coastal Zone management policies. This chapter provides that review and a consistency determination with respect to the City's policies.

The Federal Coastal Zone Management (CZM) Act of 1972 was established to support and protect the distinctive character of the waterfront, and to establish policies for the Coastal Zone Management.

In 1982, New York State adopted its own state Coastal Management Program, designed to balance economic development and preservation in the Coastal Zone by promoting waterfront revitalization and water-dependent uses while protecting fish and wildlife, open space and scenic areas, public access to the shoreline and farmland, and minimizing adverse changes to ecological systems and erosion and flood hazards. The State program allows for local implementation of a plan when a municipality adopts a local waterfront revitalization program. New York City adopted its first plan in 1982. The State program encourages coordination among all levels of government to promote sound waterfront planning and requires consideration of the program's goals in making land use decisions. Since the City has adopted local waterfront revitalization program, the New York State Department of State (NYSDOS) administers the program at the State level, and the New York City Department of City Planning (DCP) administers it in the City.

Because the proposed project is located within the City's Coastal Zone, it is subject to the policies of the *New York City Waterfront Revitalization Program (WRP)*. The City's WRP was originally adopted in 1982 and approved by NYSDOS for inclusion in the New York State Coastal Management Program. The WRP establishes the City's policies for development and use of the waterfront and provides a framework for evaluating activities proposed in the Coastal Zone. The City's WRP was amended in 1999 to 10 consolidated policies. This amendment was adopted by the City Council in October 1999. In May 2002, NYSDOS approved the City's amended WRP, and the United States Department of Commerce concurred in August 2002. This chapter reviews the New York City Coastal Zone policies and assesses the consistency of the proposed project with the policies.

As described in greater detail below, this analysis concludes that the proposed project would be consistent with the City's 10 WRP policies and standards. The development of a significant public park on the project site is consistent with the borough and City goals for revitalizing and providing public access in the coastal zone.

POLICY BACKGROUND

In addition to the WRP, other studies relevant to Coastal Zone management in the City and in the area of the proposed project are the *New York City Comprehensive Waterfront Plan*, published by DCP in 1992, and the *Plan for the Staten Island Waterfront*, published by DCP in 1994 as a companion document to the *New York City Comprehensive Waterfront Plan*. The *Comprehensive Waterfront Plan* led to the City's current waterfront zoning and was the impetus for the revised WRP.

B. CONSISTENCY OF PROPOSED PROJECT WITH THE WRP POLICIES

Policy 1: Support and facilitate commercial and residential development in areas well-suited to such development.

Policy 1.1: Encourage commercial and residential redevelopment in appropriate coastal zone areas.

Public policy goals for the project site including the *Plan for the Staten Island Waterfront*, the *New York City Comprehensive Waterfront Plan*, and the *Fresh Kills Park: Lifescape Draft Master Plan (DMP)* (March, 2006) call for publicly accessible parkland at the project site. The site is both a closed landfill and also contains extensive wetlands and natural features. For these reasons, residential development is not appropriate at this location. There would be a limited amount of commercial space to support the proposed park, which is consistent with the DMP. Therefore, it is concluded that the proposed project is consistent with this policy.

Policy 1.2: Encourage non-industrial development that enlivens the waterfront and attracts the public.

Consistent with this policy, under the proposed project, this large waterfront site would be developed as publicly accessible parkland. Under the proposed project, the entire site, which is largely a closed municipal solid waste landfill, would be mapped as parkland. Current zoning over the site, which includes industrial and residential zoning districts, would be eliminated in order to map the site as parkland and create the opportunity for public access to the site. In addition to the mapping, implementation of the proposed project includes creating significant active and passive recreational opportunities that would attract the public to the waterfront. For all of these reasons, the proposed project is consistent with this policy.

Policy 1.3: Encourage redevelopment in the coastal area where public facilities and infrastructure are adequate or will be developed.

The proposed park would create new demands for vehicle and pedestrian access both to and across the site, as well as new utility demands, water supply, along with sanitary sewers and stormwater management and new demands for energy. Therefore, consistent with this policy, the proposed project (in addition to creating parkland) would develop the necessary infrastructure and the public facilities to adequately support this redevelopment. In addition, the proposed project would include sustainability goals that would seek to minimize the required infrastructure improvements for the site in lieu of low-impact solutions.

Policy 2: Support water-dependent and industrial uses in New York City coastal areas that are well-suited to their continued operation.

Policy 2.1: Promote water-dependent and industrial uses in Significant Maritime and Industrial Areas.

The project site is not located within a Significant Maritime and Industrial Area. Therefore, this policy does not apply.

Policy 2.2: Encourage working waterfront uses at appropriate sites outside the Significant Maritime and Industrial Areas.

Although, in the past, the site has provided a working waterfront use with barges and maritime services operated by DSNY, as stated above, public policy goals for the project site, including the *Plan for the Staten Island Waterfront*, the *New York City Comprehensive Waterfront Plan*, and the *Fresh Kills Park: Lifescape Draft Master Plan* call for redevelopment of the public parkland with supporting uses. For these reasons, industrial or working waterfront uses are no longer considered appropriate at this location. Therefore, this policy does not apply.

Policy 2.3: Provide infrastructure improvements necessary to support working waterfront uses.

Because the project site is not appropriate for working waterfront uses (see the discussion above), this policy does not apply.

Policy 3: Promote use of New York City's waterways for commercial and recreational boating and water-dependent transportation centers.

3.1 Support and encourage recreational and commercial boating in New York City's maritime centers.

Consistent with this policy, although the project site is not a maritime center, a key element of the proposed project is providing opportunities for recreational boating. In the short term (by 2016), this includes opportunities for kayak launches and recreational use of local waterways by non-motorized craft. In the long term (by 2036), it is assumed that a marina for small craft would also be developed as well as a ferry landing and additional water access facilities for kayaks and small craft. For these reasons, it is concluded that the proposed project is consistent with this policy.

3.2 Minimize conflicts between recreational, commercial, and ocean-going freight vessels.

No commercial or oceangoing freight vessels utilize the creeks that occur on the project site, including Fresh Kill and Great Fresh Kill, Richmond and Main Creeks. Such vessels, however, do use the Arthur Kill. It would not be expected that the non-motorized craft associated with Fresh Kills Park would be using the Arthur Kill since the principal purpose of this activity would be to provide access to the waterways that flow through the natural areas of Fresh Kills Park, William T. Davis Wildlife Refuge, and LaTourette Park. No kayak or boat launches are proposed on the Arthur Kill shoreline as part of the proposed project. While by 2036 a modest 50-slip marina is proposed, the marina facility would be located within the Fresh Kill waterway and would not conflict with the navigational channels of the Arthur Kill. The addition of a small marina and the associated small craft should also not result in any navigational

traffic congestion or conflicts with the Arthur Kill maritime traffic. Likewise, the addition of a water taxi/ferry service that would access the site via the Arthur Kill and land at the Point in Fresh Kills Park (2036) is not expected to result in any conflicts with the maritime traffic currently using the Arthur Kill. The landing for the proposed ferry service would be within Fresh Kills Park and it would be expected that the water taxi or ferry operator would abide by navigational rules that apply when traveling both along the Arthur Kill as well as within the waterways of Fresh Kills. For these reasons, it is concluded that the proposed project is consistent with this policy.

3.3 Minimize impact of commercial and recreational boating activities on the aquatic environment and surrounding land and water uses.

As described in Chapter 1, “Project Description,” the proposed project provides the opportunity for both non-motorized and motorized craft access to the waterways of Fresh Kills. It is expected that this access would be provided under a management plan that would protect, for example, the natural areas of Fresh Kills such as the Isle of Meadows. It is not expected that by allowing access to the water that unrestricted access by the public would be provided to these areas. Rather, managed access would be provided to protect the natural resources of these areas. In addition, the proposed marina and ferry landing (2036) would be constructed in an area that contains existing waterfront infrastructure (e.g., bulkheads). It is therefore expected that these existing facilities would only need an upgrade and improvement rather than the construction of a new facility that could impact the aquatic environment. In addition, the proposed marina would be modest in size and designed to avoid dredging and the associated impacts on benthic landscapes or water quality. For these reasons, it is concluded that the proposed project is consistent with this policy in that it would not impact the aquatic environment, nor would it impact local water quality or the landscapes of Fresh Kills or the adjacent landscapes.

Policy 4: Protect and restore the quality and function of ecological systems within the New York City coastal area.

Policy 4.1: Protect and restore the ecological quality and component habitats and resources within the Special Natural Waterfront Areas, Recognized Ecological Complexes and Significant Coastal Fish and Wildlife Habitats.

The Fresh Kills site is part of the Northwest Staten Island/Harbor Herons Special Natural Waterfront Area (SNWA) one of only three SNWAs mapped in New York City. The designated SNWA is generally all of the project site north of Great Fresh Kill, Little Fresh Kill, and Richmond Creek, and the accompanying waterways and shorelines. Thus, the SNWA encompasses both the Isle of Meadows, all of North Park and East Park, and the shorelines of West Park and South Park. In addition, a large portion of the site is also a State-designated Significant Coastal Fish and Wildlife Habitat (see Figure 12-3).

Fresh Kills was designated as a SNWA and Significant Coastal Fish and Wildlife Habitat because, despite the years of municipal solid waste landfilling operations, it remains one of the largest tidal wetland ecosystems in the City and region. The natural communities in the area, i.e., tidal marshes and mudflats, are among the most valuable potential fish and wildlife landscapes on Staten Island, although it is also recognized that

Fresh Kills has been subject to severe disturbance and degradation by human activities, significantly reducing its fish and wildlife landscapes.

Despite past impacts, portions of Fresh Kills provide significant and suitable landscapes for a variety of fish and wildlife species. The marshes serve as one of the few potential and confirmed nesting areas on Staten Island for a number of bird species, including Canada goose, mallard, black duck, blue-winged teal, wood duck, Virginia rail, common moorhen, spotted sandpiper, fish crow, marsh wren, and swamp sparrow. As stated in the significant Coastal Fish and Wildlife Habitat designation report, in 1989 the Isle of Meadows supported up to 507 nesting pairs of colonial waterbirds, including 62 pairs of cattle egret, 90 pairs of snowy egret, 258 pairs of black-crowned night heron and 78 pairs of glossy ibis. Little blue herons, great egrets, yellow-crowned night herons, and green-backed herons are also known to nest at Isle of Meadows. In that same year it was also known to support colonies of herring gull and black-backed gull with 220 and 15 nesting pairs, respectively.

Based on the findings of the Significant Coastal Fish and Wildlife Designation Report, concentrations of other herons, waterfowl, shorebirds, raptors, and passerine may use Fresh Kills (especially during spring and fall migrations), although the intensity of use by migratory birds has not been documented. Several common barn owls have been known to use a dense stand of conifers at the northwest corner of the landscape for nesting and roosting. During the winter season, the nearby William T. Davis Wildlife Refuge usually has a population of raptors, especially red-tailed hawk, northern harrier, and long-eared owl. As many as 18 to 20 short-eared owls wintered in the area until the mid-1980s, when landfilling drastically altered a portion of the landscape. Relatively little information is available on use of the area by other wildlife, although muskrat, raccoon, and opossum are known to occur there. Box turtles and diamondback terrapin were observed in Fresh Kills in 1967. (Additional updated data regarding avian conditions at the site are provided in Chapter 10, “Natural Resources.”)

The extensive network of tidal creeks and freshwater wetlands at Fresh Kills also provide potential spawning and nursery landscapes for a variety of anadromous and resident freshwater fishes. Estuarine areas such as this are typically valuable landscapes for commercially and recreationally important invertebrates and fishes. While pollutant in Fresh Kills and throughout the Arthur Kill have limited the productivity of the marshes, they remain important landscapes (see also Chapter 10, “Natural Resources”).

The proposed project is consistent with the policy objectives of the City’s Special Natural Waterfront Area designation for the site and the State’s Significant Coastal Fish and Wildlife Habitat designation (see Figures 12-2 and 12-3) in that it is designed to avoid or limit intrusion into sensitive landscapes, concentrating the more active and intensive recreational uses in areas of the site that were previously disturbed (e.g., the Point) and would also restore new wetland and upland landscape where feasible. With the proposed project, it is expected that the overall landscape value of the project site would substantially benefit from landscape enhancements (see also the discussion below). The proposed project requires New York State Department of Environmental Conservation (DEC) and U.S. Army Corps of Engineers (ACOE) permits for activities in wetlands, including the development of roads, structures that would provide public access to the water, and landscape enhancement. Permit review approval by these agencies, as well as the National Maritime Fisheries Service, the U.S. Fish and Wildlife

Service, and EPA's Wetlands Protection Branch, would ensure that all elements of the proposed park minimize any impacts on these wetlands and that overall the proposed park provides landscape increases and benefits. For all of the above reasons, it is concluded that the proposed project is consistent with this policy.

Policy 4.2: Protect and restore tidal and freshwater wetlands.

As described in Chapter 10, "Natural Resources," the proposed project would create a large new public park that would have new roads, buildings, park facilities, and significant landscape enhancements. The landscape enhancement to be implemented at the park includes restoring and expanding existing freshwater wetlands, with possible creation of additional wetland landscapes within certain existing stormwater management basins; enhancing and expanding existing tidal wetlands; developing native grassland and meadow landscapes; and expanding woodlands within the project site.

While the overall impacts of the project with respect to freshwater and tidal wetlands is positive, there are two areas of potential adverse direct impacts with respect to tidal and freshwater wetlands. These include the development of maritime infrastructure that would be installed to provide waterfront access or recreation, such as piers and docks, and the proposed developed park roads.

As described in Chapter 10, "Natural Resources," development of the park roads has the potential to result in adverse direct impacts to natural resources through the loss of landscape removed during road construction. These impacts cannot be avoided. For the 2016 analysis year, this impact would amount to about 0.70 acres of impact on tidal wetlands and 0.22 acres of impact on freshwater wetlands. The direct impacts due to filling are associated with construction of road segments, such as the underpasses at the West Shore Expressway (which is a tidal wetland impact) and the impacts on smaller freshwater wetlands on the site that are regulated by the ACOE (there are no DEC regulated freshwater wetlands on the project site). For the 2036 analysis year, this impact would amount to about 0.03 acres of impacts on tidal wetlands and 0.43 acres of impact on freshwater wetlands. The direct impacts are due to supports for the proposed Signature Bridge (which in one design scenario may extend into the benthic bottom landscape) and construction of the Richmond Hill Connection, which would impact freshwater wetlands on the site that are regulated by the ACOE (there are no DEC regulated freshwater wetlands on the project site). In addition, there would be construction-period impact associated with these wetlands.

As described in Chapter 1, "Project Description," and also in Chapter 23, "Impact Avoidance Measures and Mitigation," the proposed project includes a significant wetland enhancement program that would include both the expansion of tidal and freshwater wetland acreage as well as qualitative improvements in these landscapes. In total, the anticipated acreage of enhanced freshwater and tidal wetlands is expected to total about 56 acres of freshwater wetlands and 76 acres of tidal wetlands. This would more than offset the impact. In addition, the proposed project would include a number of measures to avoid construction period impacts. These measures are also described in Chapter 23, "Impact Avoidance Measures and Mitigation."

For the reasons above, it is concluded that the proposed project would be consistent with the objectives of this policy to both protect and restore tidal and freshwater wetlands.

Policy 4.3: Protect vulnerable plant, fish and wildlife species, and rare ecological communities. Design and develop land and water uses to maximize their integration or compatibility with the identified ecological community.

As described in Chapter 10, “Natural Resources,” the project site has both a history of disturbance as well as extensive waterways and natural landscapes that are found in areas like the Isle of Meadows. In addition, the project site has the potential for use by rare animal species, such as diamondback terrapin and barn owls. In keeping with the objectives of the above policy, the proposed project would avoid impacts to natural systems and restore them in selected areas (see Figure 12-3).

As stated above, the proposed project has been designed to protect the more fragile elements of the site’s natural resource landscapes. It protects landscapes by avoiding any activities in sensitive areas, such as the Isle of Meadows. The proposed project also targets the more intensive recreational uses and activities to areas previously disturbed, such as the Point and Creek Landing. It also integrates the proposed project into the existing landscapes by targeting the more intensive recreational uses and activities to areas previously disturbed, such as the Point and Creek Landing, while expanding natural resources and landscapes that connect with existing landscapes in place, like the William T. Davis Wildlife Refuge.

During construction, the proposed project would implement a number of measures to prevent and minimize impacts to water quality and natural resources. Two such measures are important with respect to vulnerable wildlife species. The state-threatened Northern diamondback terrapin has been captured and observed in Main Creek in the vicinity of the adjacent William T. David Wildlife Refuge in 1995, and again in 2005. Therefore, to avoid impacts to this species, prior to any construction activity in potential terrapin nesting landscape, barriers would be constructed to prevent nest building within proposed work sites. Also, a site walk-through to identify and rescue adults or emerging hatchlings (as necessary) prior to construction activity would be undertaken. These activities would be conducted by an experienced biologist, and any permits required for handling terrapins would be acquired prior to this activity. With these measures in place, the proposed project could avoid impacts to Northern diamondback terrapins. In addition, it is noted that with the proposed landscape enhancements, particularly shoreline wetlands, the landscapes for Northern diamondback terrapins would be greatly enhanced.

In addition, to avoid impacts to barn owls, to the extent possible, any bridge structures known to support nesting barn owls (i.e., abandoned structures) would be fully searched by an experienced ornithologist or biologist for the presence of roosting or nesting owls prior to construction. If any nests are present, a consultation with DEC would be performed to discuss any potential construction-related impacts of the project, and to determine the appropriate course of action (e.g., alternative construction phasing, until young birds have fledged, removal of an inactive nest, etc.). In addition, pre-construction measures could include netting or other techniques that would prohibit or discourage barn owl nesting prior to construction. Signage could also be used to alert contractors to barn owl nesting in these areas to avoid indirect impacts. With these measures in place, the proposed project could avoid impacts to barn owls. It is noted that with the proposed landscape enhancement, particularly expanded meadows and

grasslands, the landscapes for barn owls with respect to foraging would be greatly enhanced.

For the reasons above, and with the proposed impact avoidance measures in place, it is concluded that the proposed project would be consistent with the objectives of this policy to both protect resources and to design and develop, within the context of existing sensitive plant, fish, and wildlife landscapes. It would also protect rare ecological species and restore tidal and freshwater wetlands at Fresh Kills Park.

Policy 4.4: Maintain and protect living aquatic resources.

As discussed in Chapter 10, “Natural Resources,” the proposed project would largely protect the aquatic resources of the project site. Where limited activities are proposed in the waters the proposed project would provide the necessary protection measures during construction and would also expand and enhance the wetlands environments of the project site. For these reasons, it is concluded that the proposed project is consistent with this policy.

Policy 5: Protect and improve water quality in the New York City coastal area.

Policy 5.1: Manage direct or indirect discharges to waterbodies.

Consistent with this policy, as described in Chapter 1, “Project Description,” and also in Chapter 23, “Impact Avoidance Measures and Mitigation,” the proposed project would avoid stormwater impacts from an increase in impervious surfaces and to protect receiving waters, individual stormwater best management practices (BMPs) would be used to enhance proposed park features and provide water quality treatment and quantity management, particularly for the road runoff. Multi-functional source control BMPs, such as bioretention and pocket wetlands that not only provide water quality treatment of stormwater runoff, but also provide aesthetic and natural resource benefits, would be used. The general objectives of the proposed stormwater management system are to collect and handle all on-site runoff without off-site or downstream impacts, maximize pervious surfaces and minimize the introduction of new impervious surfaces, reusing existing structured surfaces where feasible; provide natural systems for stormwater management, and minimize the use of hard infrastructure particularly for handling runoff from roads and parking areas; minimize impacts to natural stormwater management features at the site, such as freshwater and tidal wetlands and to minimize any potential impacts to local water quality; and reuse the existing DSNY stormwater basins, to the extent feasible.

The stormwater management projects proposed as part of the park would be designed to complement and enhance the aesthetic and ecological purposes of the proposed park, while also meeting the above-described stormwater management objectives with the intent of improving current hydrologic and water quality management of the existing stormwater infrastructure.

A hydrologic analysis conducted of the proposed Fresh Kills Park stormwater management plan (Geosyntec 2008) indicates that all New York State stormwater quality and quantity requirements would be met, assuming the development of a four-lane road and before the implementation of low-impact development practices, for both the 2016 and 2036 analysis years. The proposed stormwater management plan would provide peak control and water quality benefits above and beyond those required by the

DEC. Additionally, the results of the pollutant loading conducted for the proposed stormwater management plan indicate that, in general, the total annual loading of total suspended solids (TSS), total nitrogen (TN), and total phosphorus (TP) would decrease in 2016 and 2036 due to the overall decrease in impervious area that would occur at the project site as a result of the proposed project, and the proposed modifications to the existing stormwater basins. Compared with the existing conditions, the proposed stormwater management plan would result in reductions of 67,626 pounds per year for TSS, 676 pounds per year for TN, and 296 pounds per year for TP. With the implementation for low impact development practices, the estimated peak discharge rates and volume of stormwater runoff discharged from the park, as well as the estimated pollutant annual loading rates, would be reduced further.

For the reasons cited above, with the proposed stormwater management plan in place, it is concluded that the proposed project would be consistent with the objectives of this policy to both protect and improve water quality in New York City's coastal area.

Policy 5.2: Protect the quality of New York City's waters by managing activities that generate nonpoint source pollution.

There are a number of proposed park features that would convert existing pervious surfaces to impervious surfaces, particularly the proposed park roads, parking, and structures. Because impervious surfaces do not allow precipitation to infiltrate to the soil, precipitation runs down a slope, infiltrates into soil, or is conveyed via a ditch or storm sewer system to a receiving waterbody. Stormwater runoff from impervious surfaces can carry pollutants (i.e., suspended solids, nutrients, fecal coliform bacteria, petroleum hydrocarbons, metals, chlorides, insecticides, and herbicides) that can affect the water quality and aquatic landscapes of the receiving waterbody.

As stated above, consistent with this policy, as described in Chapter 1, "Project Description," and also in Chapter 23, "Impact Avoidance Measures and Mitigation," in order to avoid impacts from this runoff, the proposed project would provide stormwater management or nonpoint source pollution to avoid impacts from increase in impervious surfaces and to protect receiving waters. To this end, individual stormwater BMPs would be used to enhance proposed park features and provide water quality treatment and quantity management, particularly for the road runoff with the objectives of collecting and handling all on-site runoff without off-site or downstream impacts, maximizing pervious surfaces, minimizing the introduction of new impervious surfaces, reusing existing structured surfaces where feasible; providing natural systems for stormwater management, and minimizing the use of hard infrastructure for handling runoff from roads and parking areas; minimizing impacts to natural stormwater management features at the site, such as freshwater and tidal wetlands and minimizing any potential impacts to local water quality.

For the reasons cited above, with the proposed stormwater management plan in place, it is concluded that the proposed project would be consistent with the objectives of this policy to manage activities that generate nonpoint source pollution.

Policy 5.3: Protect water quality when excavating or placing fill in navigable waters and in or near marshes, estuaries, tidal marshes, and wetlands.

As described in greater detail in Chapter 23, "Impact Avoidance Measures and Mitigation," the installation of the piles, boat ramps, outfall structures, or bulkhead, can

have temporary impacts during construction. To avoid or minimize these impacts, the project would include the following measures: measures to minimize increases in turbidity and suspended sediment in the water column, and to capture floating debris during sediment removal and grading activities, and installation of in-water structures (e.g., silt curtains); stabilizing wetlands enhancement areas, as necessary, during planting, through the use of biodegradable/geosynthetic erosion control mats; implementation of measures that may restrict or limit the construction activities in waters or sensitive areas during certain seasons.

In addition, it is recognized that all construction activities within open water or other wetlands are subject to the review and approval of DEC and ACOE and federal natural resources agencies through the permitting process that would further identify and implement these and other necessary protection measures to protect water quality and landscapes. The above measures would be selected on the basis of on-site conditions and consultation with DEC and ACOE.

With respect to activities on adjacent lands, the project site contains substantial freshwater and tidal wetlands comprised of creeks, ponds, and stormwater basins. Therefore, consistent with this policy, construction of the proposed Fresh Kills Park would need to conform with the requirements of the DEC State Pollution Discharge Elimination System (SPDES) General Permit for Stormwater Discharges from Construction Activity. It is a critical component of the project's construction practices to avoid impacts to these natural systems, not only to avoid impacts to natural resources and water quality, but also to avoid siltation impacts to the existing stormwater basins site. Therefore, the proposed project includes a "Conceptual Site-Wide Erosion and Sediment Control Plan" which establishes the guidelines by which each phase of project construction, through implementation of the proposed techniques, would avoid impacts to natural features, water quality, and in-place stormwater management systems. Implementation of these techniques would be ensured by DPR in the contract documents, as well as through the SPDES General Permit requirements, since most capital projects are expected to cover at least one acre. The overall objectives of the stormwater management plan during construction are to achieve:

- No increase in turbidity that would cause a substantial visible contract to natural conditions;
- No increase in suspended colloidal and settleable solids that would cause "deposition or impair waters for their designated 'best use'"; and
- No residue from oil and floating substances.

For the reasons cited above, it is concluded that, consistent with this policy, the proposed project would protect water quality when excavating or placing fill in navigable waters and when performing construction activities near sensitive landscapes.

Policy 5.4: Protect the quality and quantity of groundwater, streams, and the sources of water for wetlands.

Consistent with this policy, the proposed project would not have any adverse impacts on local water quality or quantity. It would not use any groundwater, not would it have any discharges to groundwater. In addition, as stated above, local surface waters would be protected by the proposed stormwater management plan which, overall, is expected to have a positive impact on water quality. For these reasons cited, it is concluded that,

consistent with this policy, the proposed project would protect local water quality and quantity and sources of water for wetlands.

Policy 6: Minimize loss of life, structures and natural resources caused by flooding and erosion.

Policy 6.1: Minimize losses from flooding and erosion by employing non-structural and structural management measures appropriate to the condition and use of the property to be protected and the surrounding area.

Consistent with this policy, the proposed project would minimize impacts to lives and structures due to flooding impacts by siting structures away from the designated flood hazard areas, or, as needed, structures developed within designated Special Flood Hazard Areas (SFHAs) would comply with applicable Federal Emergency Management Agency (FEMA) and City of New York requirements to minimize flood damage. This would protect the on-site buildings while avoiding any impacts to the adjacent or nearby properties.

Construction of habitable structures in flood zones is regulated by the City of New York Building Code. Within Fresh Kills, the areas along the Creeks are within the 100-year flood zones (see Figure 12-4). Water and waterfront lands along both the Little and Great Fresh Kills are in a Base Flood Elevation 9 Zone. This flood zone continues upstream into Main and Richmond Creeks, where the zone has been mapped, but no base flood elevation has been determined. It is the City's policy that all City structures (e.g., community centers), if located in an SFHA, have their first-floor elevation at least one foot above the 100-year flood level (or elevation 10). Therefore, as future designs proceed, all structures within Fresh Kills would be required to meet this base flood elevation. In addition, all structures would need to comply with future FEMA amendments to the floodplain map, should they be prepared.

Policy 6.2: Direct public funding for flood prevention or erosion control measures to those locations where the investment will yield significant public benefit.

The proposed project would continuously address the flood prevention and erosion control during its operation. The project itself would yield a significant public benefit by creating a large, new open space on a waterfront site previously inaccessible to the public.

6.3 Protect and preserve non-renewable sources of sand for beach nourishment.

The project site does not contain any public or private beaches and does not have a non-renewable source of sand. Therefore, this policy does not apply.

Policy 7: Minimize environmental degradation from solid waste and hazardous substances.

Policy 7.1: Manage solid waste material, hazardous wastes, toxic pollutants, and substances hazardous to the environment to protect public health, control pollution and prevent degradation of coastal ecosystems.

As described in Chapter 1 "Project Description," and Chapter 11, "Hazardous Materials," under the proposed project, hazardous waste or pollutants and substances potentially hazardous to the public health or coastal ecosystems that are identified at the site through testing would be removed or provided with an adequate and protective cover. The site currently has municipal solid waste in its regulated landfill sections that

is covered and protected with an extensive network of environmental control systems and is regulated and monitored by DSNY. The proposed project would not conflict with or impact these in-place protective systems. In addition, the proposed project includes a plan to test existing soils and to import final cover soils that would create a new layer of clean fill over the site in the publicly accessible areas. With all these described measures in place, the proposed project is consistent with this policy.

Policy 7.2: Prevent and remediate discharge of petroleum products.

The proposed project does not include any petroleum storage facilities or structures. As described in Chapter 1 “Project Description,” and Chapter 11, “Hazardous Materials,” under the proposed project any petroleum impairments identified at the site during park development would be properly remediated. With these measures in place the proposed project is consistent with this policy.

Policy 7.3: Transport solid waste and hazardous substances and site solid and hazardous waste facilities in a manner that minimizes potential degradation of coastal resources.

The proposed project would not involve the transport or siting of a hazardous waste facility, nor does the operation of the proposed project involve transport of solid waste or hazardous substances. As stated above, the proposed park would be constructed on the existing Fresh Kills Landfill, which is a solid waste facility, as a pre-existing condition. Management of solid waste at the site is therefore implemented by DSNY in accordance with the permits and agreements with the DEC. The proposed park project would not conflict with or impact implementation of the final closure or post-closure environmental controls, management and monitoring at Fresh Kills Landfill. Where any modifications to existing environmental controls are necessary to implement the proposed park, they would be performed by the City under the guidance and review of DEC in order to ensure the landfill continues to not impact the local environment or public health.

Policy 8: Provide public access to and along New York City’s coastal waters.

Policy 8.1: Preserve, protect and maintain existing physical, visual, and recreational access to the waterfront.

Consistent with this policy, it is the principal objective of the proposed project to provide new physical, visual and recreational access to the waterfront where public access does not currently exist.

Policy 8.2: Incorporate public access into new public and private development where compatible with proposed land use and coastal location.

Consistent with this policy, the proposed project, which is publicly sponsored, would provide new publicly accessible parkland on the waterfront.

Policy 8.3: Provide visual access to coastal lands, waters, and open space where physically practical.

Consistent with this policy, the proposed project, which is publicly sponsored, would provide new publicly accessible parkland on the waterfront with proposed new vistas and visual access.

Policy 8.4: Preserve and develop waterfront open space and recreation on publicly owned land at suitable locations.

Consistent with this policy and the above described objectives of the City, the proposed project, which is entirely publicly held City land, and is publicly sponsored, would provide extensive new publicly accessible parkland and recreational opportunities along the waterfront.

Policy 8.5: Preserve the public interest in and use of lands and waters held in public trust by the state and city.

Consistent with this policy, the proposed project would provide new public parkland on the waterfront and would preserve in the public interest access to and use of the waterfront land and waters that are held in trust by the State and City of New York.

Policy 9: Protect scenic resources that contribute to the visual quality of the New York City coastal area.

Policy 9.1: Protect and improve visual quality associated with New York City's urban context and the historic and working waterfront.

The project site is not located within an area that is part of the New York City's historic and working waterfront. Therefore, this policy does not apply.

Policy 9.2: Protect scenic values associated with natural resources.

Consistent with this policy, the proposed project would protect the scenic values of the on-site natural landscapes, and waterways and provide new public trails with new public views for the enjoyment of these natural resources.

Policy 10: Protect, preserve, and enhance resources significant to the historical, archaeological, and cultural legacy of the New York City coastal area.

Policy 10.1: Retain and preserve designated historic resources and enhance resources significant to the coastal culture of New York City.

The project site does not contain any designated or listed historic or cultural resources significant to the coastal culture of New York City nor would it adversely impact any of the designated or potentially eligible historic resources in the surrounding area. For these reasons, it is concluded that the proposed project is consistent with this policy.

Policy 10.2: Protect and preserve archaeological resources and artifacts.

The project site contains areas that are potentially archaeologically sensitive. These areas are identified in Attachment B, "Phase 1A Archaeological Documentary Study." In order to avoid impacts at these locations, as project construction moves forward, it is proposed that individual construction projects be reviewed by archaeologists who would determine, in conjunction with LPC, if that project could potentially impact areas determined to be sensitive for precontact or historic period archaeological resources (as delineated in the Phase 1A Archaeology Report). If it is determined that impacts to sensitive areas are possible, further investigation including Phase 1B archaeological testing is recommended to identify the presence or absence of archaeological resources within the area of that project. Additional details on the areas of potential impact are provided in Chapter 7, "Historic Resources." *

**NEW YORK CITY WATERFRONT REVITALIZATION PROGRAM
CONSISTENCY ASSESSMENT FORM**

For Internal Use Only:
Date Received: _____

WRP no. WRP 08-019
DOS no. _____

NEW YORK CITY WATERFRONT REVITALIZATION PROGRAM Consistency Assessment Form

Proposed action subject to CEQR, ULURP, or other Local, State or Federal Agency Discretionary Actions that are situated within New York City's designated Coastal Zone Boundary must be reviewed and assessed for their consistency with the New York City Waterfront Revitalization Program (WRP). The WRP was adopted as a 197-a Plan by the Council of the City of New York on October 13, 1999, and approved in coordination with local, state and Federal laws and regulations, including the State's Coastal Management Program (Executive Law, Article 42) and the Federal Coastal Zone Management Act of 1972 (P.L. 92-583). As a result of these approvals, state and federal discretionary actions within the city's coastal zone must be consistent to the maximum extent practicable with the WRP policies and the city must be given the opportunity to comment on all state and federal projects within its coastal zone.

This form is intended to assist an applicant in certifying that the proposed activity is consistent with the WRP. It should be completed when the local, state, or federal application is prepared. The completed form and accompanying information will be used by the New York State Department of State, other State Agency or the New York City Department of City Planning in its review of the applicant's certification of consistency.

A. APPLICANT

1. Name:
New York City Department of Parks and Recreation (DPR)
Address:
The Arsenal, Central Park, New York, NY 10065
3. Telephone: **212.360.3402** Fax: **212.360.3453**
E-mail Address:
joshua.laird@parks.nyc.gov
4. Project site owner:
**New York City Department of Sanitation (DSNY), New York City Department of Parks and Recreation (DPR),
New York City Department of Environmental Protection (DEP)**

B. PROPOSED ACTIVITY

1. Brief description of activity:
This proposed project is a new public park that would provide active and passive recreational spaces, cultural and supporting commercial facilities, new access roads and parking, and landscape preservation and enhancement. The project site is the Fresh Kills Landfill complex and most of the site is currently under the jurisdiction of the City's Department of Sanitation (DSNY), although portions are under the jurisdiction of DPR and a small portion is under the jurisdiction of DEP. Under this proposal, DSNY would continue its closure and post-closure maintenance and monitoring for the purposes of meeting the requirements with the State of New York regarding Fresh Kills Landfill. However, the property would be assigned to DPR for construction of the proposed park. If approved, the proposed project is expected to be fully completed and operational by 2036 with a phased implementation of park improvement projects through that time.
2. Purpose of activity:
The proposed project would reuse underutilized City land to provide much-needed waterfront parkland for residents of Staten Island, the City of New York and the region as a whole. It would convert a large, underused site into productive use for the community and also preserve wetlands and create new landscapes.
3. Location of activity (street address/borough or site description):
The project site is located in Southwest Staten Island and fronts on the Arthur Kill (see Figures 1-1 and 1-3 in Chapter 1 "Project Description"). The project site is owned by the City of New York and managed by DSNY, DEP, and DPR.
4. If a federal or state permit or license was issued or is required for the proposed activity, identify the permit type(s), the authorizing agency and provide the application or permit number(s), if known:
The New York State Department of Environmental Conservation (DEC) will review the proposed project for compliance with regulations pertaining to landfills, tidal wetlands and protection of waters. The U.S. Army Corps of Engineers (ACOE) will review the proposed project with respect to any dredging or filling and impacts to wetlands as well as any structures in or over navigable waters.
5. Is federal or state funding being used to finance the project? If so, please identify the funding source(s).
No.

- | | | | |
|----|---|------------|-----------------|
| 6. | Will the proposed project result in any large physical change to a site within the coastal area that will require the preparation of an environmental impact statement? | <u>Yes</u> | <u>No</u> |
| | If yes, identify Lead Agency: | <u>✓</u> | <u> </u> |

New York City Department of Parks and Recreation

7. Identify **City** discretionary actions, such as **zoning amendment or adoption of an urban renewal plan**, required for the proposed project.

The proposed project requires the following discretionary City actions:

- Amendment to the City map to establish as parkland those portions of this project site that are not currently mapped as parkland;
 - Amendment to the City map to eliminate certain unbuilt paper streets;
 - Amendment to the City map to map a public place to serve as the right-of-way for the future vehicular road system, which entails demapping a small portion of the existing mapped parkland;
 - Site selection for a capital project (CPC);
 - Capital funding and construction (DPR);
 - LWRP consistency;
 - Possible amendment to Title V Air Permit for Landfill (DSNY and DEC);
 - Fill material operation permit (DSNY);
 - Amendment to SPDES Stormwater Permit for Landfill (DEC and DSNY);
 - A zoning map amendment to vacate the NA-1 zoning where it currently exists on the site; and
 - A zoning text amendment to remove “Fresh Kills Park” from Section 105 941 of the current zoning text.
-

C. COASTAL ASSESSMENT

The following questions represent, in a broad sense, the policy of the WRP. The number in the parentheses after each question indicated the policy or policies that are the focus of the question. A detailed explanation of the Waterfront Revitalization Program and its policies are contained in the publication the *New York City Waterfront Revitalization Program*.

Check either “Yes” or “No” for each of the following questions. Once the checklist is completed, assess how the proposed project affects the policy or standards indicated in "()" after each question with a Yes response. Explain how the action is consistent with the goals of the policy or standard.

Location Questions:	Yes	No
1. Is the project site on the waterfront or at the water's edge?	<u>✓</u>	<u> </u>
2. Does the proposed project require a waterfront site?	<u>✓</u>	<u> </u>
3. Would the action result in a physical alteration to a waterfront site, including land along the shoreline, land underwater, or coastal waters?	<u>✓</u>	<u> </u>

Policy Questions:	Yes	No
The following questions represent, in a broad sense, the policies of the WRP. Numbers in parentheses after each questions indicate the policy or policies addressed by the question. The new <u>Waterfront Revitalization Program</u> offers detailed explanations of the policies, including criteria for consistency determinations.		
Check either "Yes" or "No" for each of the following questions. For all "yes" responses, provide an attachment assessing the effects of the proposed activity on the relevant policies or standards. Explain how the action would be consistent with the goals of those policies and standards.		
4. Will the proposed project result in revitalization or redevelopment of a deteriorated or under- used waterfront site? (1)	✓	
5. Is the project site appropriate for residential or commercial redevelopment? (1.1)		✓
6. Will the action result in a change in scale or character of a neighborhood? (1.2)		✓
7. Will the proposed activity require provision of new public services or infrastructure in undeveloped or sparsely populated sections of the coastal area? (1.3)	✓	
8. Is the action located in one of the designated Significant Maritime and Industrial Areas (SMIA): South Bronx, Newtown Creek, Brooklyn Navy Yard, Red Hook, Sunset Park, or Staten Island? (2)		✓
9. Are there any waterfront structures, such as piers, docks, bulkheads or wharves, located on the project sites? (2)	✓	
10. Would the action involve the siting or construction of a facility essential to the generation or transmission of energy, or a natural gas facility, or would it develop new energy resources? (2.1)		✓
11. Does the action involve the siting of a working waterfront use outside of a SMIA? (2.2)		✓
12. Does the proposed project involve infrastructure improvement, such as construction or repair of piers, docks, or bulkheads? (2.3, 3.2)	✓	
13. Would the action involve mining, dredging, or dredge disposal, or placement of dredged or fill materials in coastal waters? (2.3, 3.1, 4, 5.3, 6.3)		✓
14. Would the action be located in a commercial or recreational boating center, such as City Island, Sheepshead Bay or Great Kills or an area devoted to water-dependent transportation? (3)		✓
15. Would the proposed project have an adverse effect upon the land or water uses within a commercial or recreation boating center or water-dependent transportation center? (3.1)		✓
16. Would the proposed project create any conflicts between commercial and recreational boating? (3.2)		✓
17. Does the proposed project involve any boating activity that would have an impact on the aquatic environment or surrounding land and water uses? (3.3)		✓
18. Is the action located in one of the designated Special Natural Waterfront Areas (SNWA): Long Island Sound-East River, Jamaica Bay, or Northwest Staten Island? (4 and 9.2)	✓	
19. Is the project site in or adjacent to a Significant Coastal Fish and Wildlife Habitats? (4.1)	✓	
20. Is the site located within or adjacent to a Recognized Ecological Complex: South Shore of Staten Island or Riverdale Natural Area District? (4.1and 9.2)		✓
21. Would the action involve any activity in or near a tidal or freshwater wetland? (4.2)	✓	
22. Does the project site contain a rare ecological community or would the proposed project affect a vulnerable plant, fish, or wildlife species? (4.3)	✓	
23. Would the action have any effects on commercial or recreational use of fish resources? (4.4)		✓
24. Would the proposed project in any way affect the water quality classification of nearby waters or be unable to be consistent with that classification? (5)		✓
25. Would the action result in any direct or indirect discharges, including toxins, hazardous substances, or other pollutants, effluent, or waste, into any waterbody? (5.1)		✓
26. Would the action result in the draining of stormwater runoff or sewer overflows into coastal waters? (5.1)	✓	
27. Will any activity associated with the project generate nonpoint source pollution? (5.2)	✓	
28. Would the action cause violations of the National or State air quality standards? (5.2)		✓
29. Would the action result in significant amounts of acid rain precursors (nitrates and sulfates)? (5.2C)		✓
30. Will the project involve the excavation or placing of fill in or near navigable waters, marshes, estuaries, tidal marshes or other wetlands? (5.3)	✓	

Policy Questions cont'd:

	Yes	No
31. Would the proposed action have any effects on surface or ground water supplies? (5.4)	<hr/>	<hr/> <input checked="" type="checkbox"/>
32. Would the action result in any activities within a Federally designated flood hazard area or State designated erosion hazards area? (6)	<hr/> <input checked="" type="checkbox"/>	<hr/>
33. Would the action result in any construction activities that would lead to erosion? (6)	<hr/>	<hr/> <input checked="" type="checkbox"/>
34. Would the action involve construction or reconstruction of flood or erosion control structure? (6.1)	<hr/>	<hr/> <input checked="" type="checkbox"/>
35. Would the action involve any new or increased activity on or near any beach, dune, barrier island, or bluff? (6.1)	<hr/>	<hr/> <input checked="" type="checkbox"/>
36. Does the proposed project involve use of public funds for flood prevention or erosion control? (6.2)	<hr/> <input checked="" type="checkbox"/>	<hr/>
37. Would the proposed project affect a non-renewable source of sand? (6.3)	<hr/>	<hr/> <input checked="" type="checkbox"/>
38. Would the action result in shipping, handling, or storing of solid wastes; hazardous materials, or other pollutants? (7)	<hr/> <input checked="" type="checkbox"/>	<hr/>
39. Would the action affect any sites that have been used as landfills? (7.1)	<hr/> <input checked="" type="checkbox"/>	<hr/>
40. Would the action result in development of a site that may contain contamination or has a history of underground fuel tanks, oil spills, or other form or petroleum product use or storage? (7.2)	<hr/>	<hr/>
	<hr/> <input checked="" type="checkbox"/>	<hr/>
41. Will the proposed activity result in any transport, storage, treatment, or disposal of solid wastes or hazardous materials, or the siting of a solid or hazardous waste facility? (7.3)	<hr/>	<hr/> <input checked="" type="checkbox"/>
42. Would the action result in a reduction of existing or required access to or along coastal waters, public access areas, or public parks or open spaces? (8)	<hr/>	<hr/> <input checked="" type="checkbox"/>
43. Will the proposed project affect or be located in, on, or adjacent to any federal, state, or city park or other land in public ownership protected for open space preservation? (8)	<hr/> <input checked="" type="checkbox"/>	<hr/>
44. Would the action result in the provision of open space without the provision for its maintenance? (8.1)	<hr/>	<hr/> <input checked="" type="checkbox"/>
45. Would the action result in any development along the shoreline but NOT include new water enhanced or water dependent recreational space? (8.2)	<hr/>	<hr/> <input checked="" type="checkbox"/>
46. Will the proposed project impede visual access to coastal lands, waters and open space? (8.3)	<hr/>	<hr/> <input checked="" type="checkbox"/>

Policy Questions cont'd:

		Yes	No
47.	Does the proposed project involve publicly owned or acquired land that could accommodate waterfront open space or recreation? (8.4)	✓	
48.	Does the project site involve lands or waters held in public trust by the state or city? (8.5)	✓	
49.	Would the action affect natural or built resources that contribute to the scenic quality of a coastal area? (9)	✓	
50.	Does the site currently include elements that degrade the area's scenic quality or block views to the water? (9.1)	✓	
51.	Would the proposed action have a significant adverse impact on historic, archeological, or cultural resources? (10)		✓
52.	Will the proposed activity affect or be located in, on, or adjacent to an historic resource listed on the National or State Register of Historic Places, or designated as a landmark by the City of New York? (10)	✓	

D. CERTIFICATION

The applicant must certify that the proposed activity is consistent with New York City's Waterfront Revitalization Program, pursuant to the New York State Coastal Management Program. If this certification cannot be made, the proposed activity shall not be undertaken. If the certification can be made, complete this section.



"The proposed activity complies with New York State's Coastal Management Program as expressed in New York City's approved Local Waterfront Revitalization Program, pursuant to New York State's Coastal Management Program, and will be conducted in a manner consistent with such program."

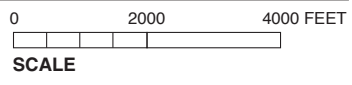
Applicant/Agent Name: **New York City Department of Parks and Recreation/ Joshua Laird**
 Address: **The Arsenal, Central Park**
New York, NY 10065
 Telephone: **212.360.3402**
 Applicant/Agent Signature: **S/**
 Date: **3/13/09**

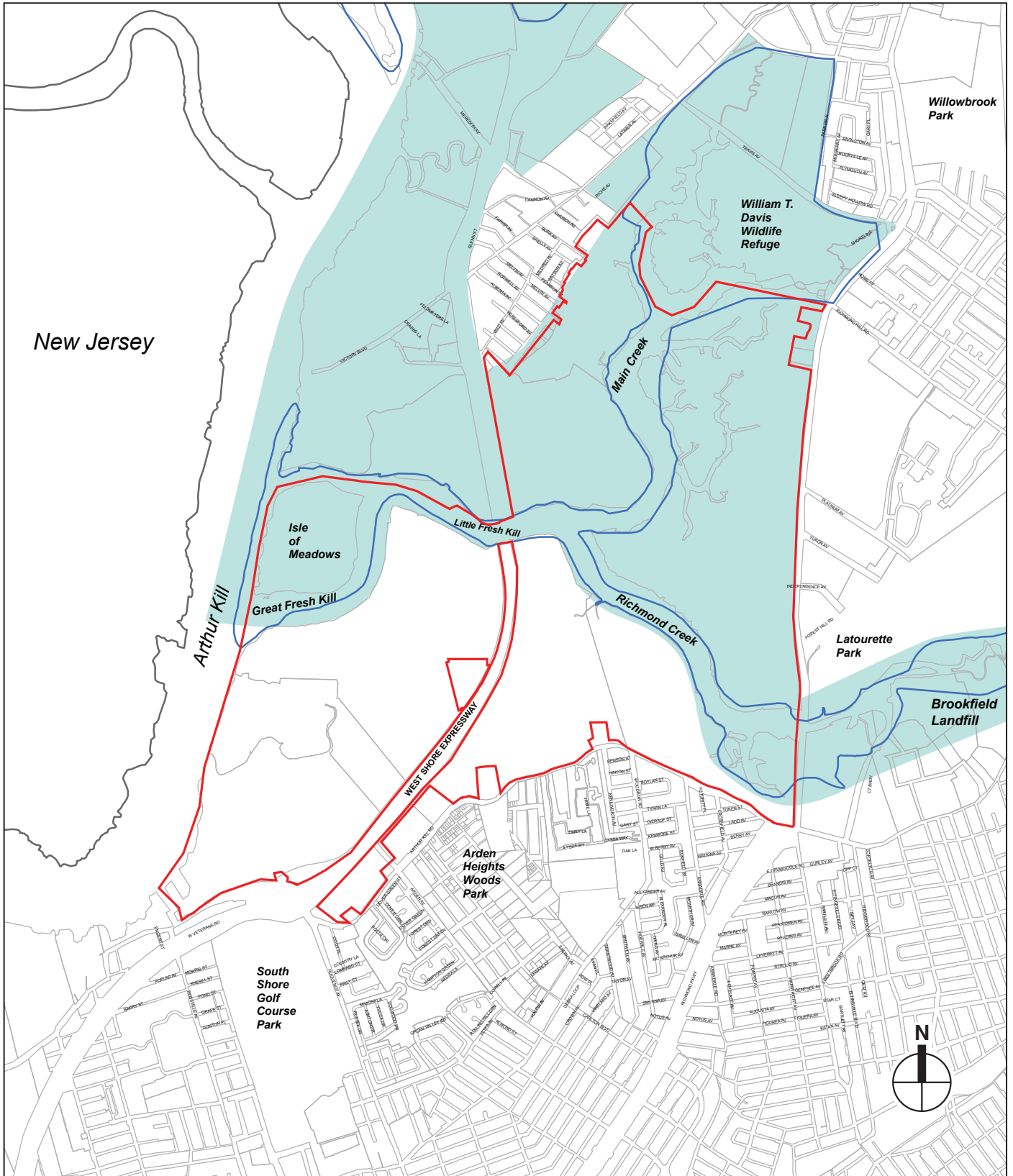
*



STATE OF NEW YORK
DEPT. OF MENTAL HYGIENE

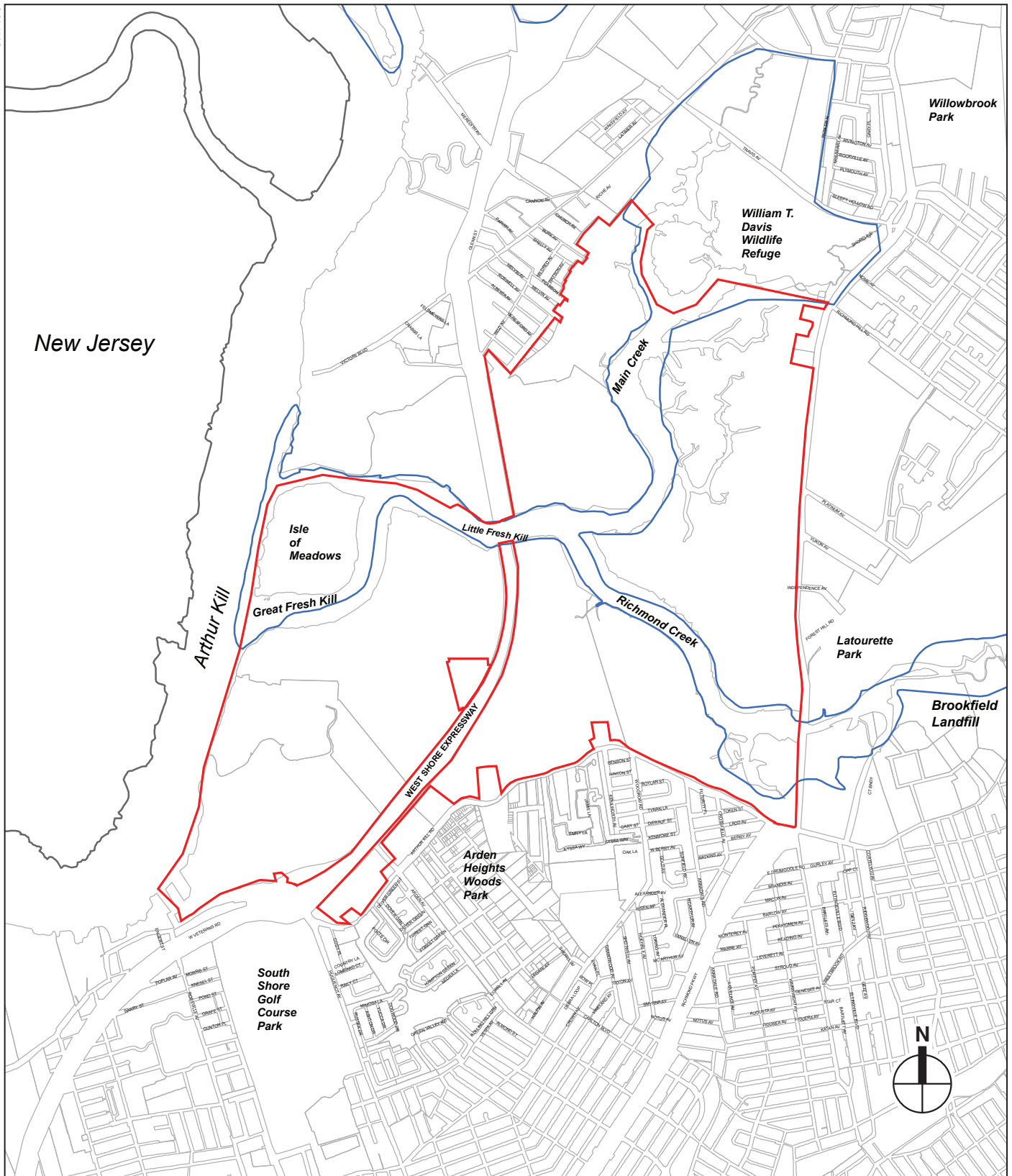
-  Fresh Kills Project Boundary
-  Coastal Zone Boundary





- Fresh Kills Project Site
- Significant Coastal Fish and Wildlife Habitat
- Northwest Staten Island/ Harbor Herons Special Natural Waterfront Area

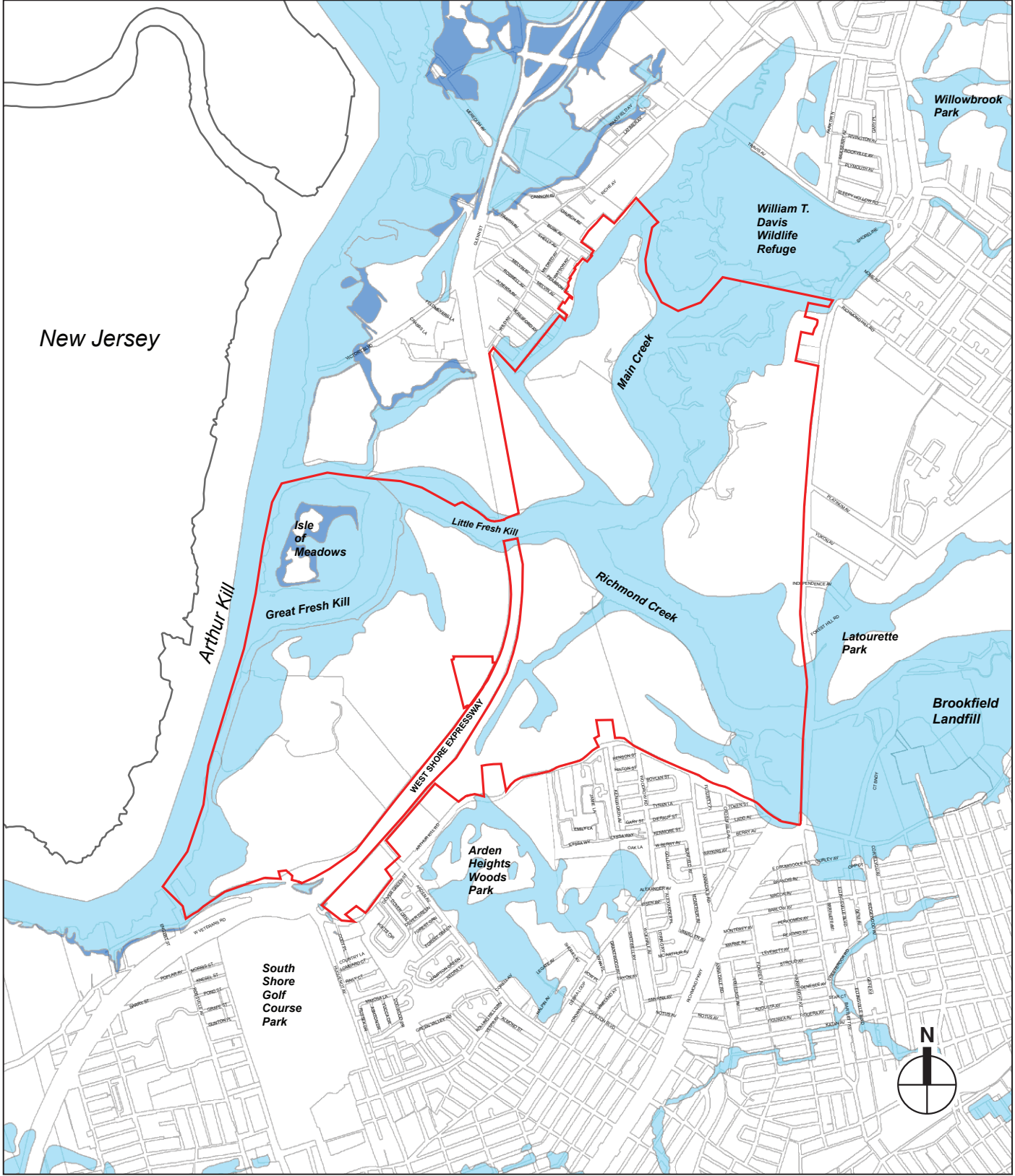




- Fresh Kills Project Site
- Significant Coastal Fish and Wildlife Habitat

0 2000 FEET
SCALE

Fresh Kills Significant Coastal Fish and Wildlife Habitat
Figure 12-3



Fresh Kills Project Site

FEMA Flood Plains

- Inside 100-Year Floodplain
- Inside 500-Year Floodplain

FRESH KILLS PARK • GEIS

0 2000 FEET

 SCALE



Flood Hazard Areas
 Figure 12-4