



December 29, 2023

VIA ELECTRONIC MAIL

US Army Corps of Engineers
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**Re: Ivy Castle Partners, LLC., 800 New Castle Ave. – File No: NAP-2022-01018-45 -----
Water Obstruction & Encroachment Permit and U.S. Army Corps of Engineers
Section 404 Permit Application – Permanent wetland fill of 1.15 acres or 50,000 sq.
ft. of existing palustrine emergent wetlands**

Please accept the following comments made on behalf of the Delaware Riverkeeper Network and Maya K. van Rossum, the Delaware Riverkeeper (collectively, “DRN”). Ivy Castle, LLC, and Mr. Anthony DiTommaso, Ivy Castle LLC with HQ at 102 Chestnut Ridge Road, Suite 204 Montvale, New Jersey 07645 proposes to fill wetlands for a new warehouse project. The project is located adjacent to the Christina River, located at 800 New Castle Avenue, known as tax parcel number 26-058.00-012, in the City of Wilmington, New Castle County, Delaware. Center coordinates are: 39.725924°, -75.542557°.

If permitted, according to the applicant, Mr. DiTommaso’s development project would replace the existing warehouse and other storage facilities with two (2) new warehouses totaling 477,000 square feet, associated with the redevelopment of the property to provide modern infrastructure to meet current market demands/conditions for storage and transportation. Historically, the main existing warehouse facility and overall development of property occurred prior to 1926. Currently, the existing 239,000 square foot warehouse and the other storage facilities on the property are dilapidated and do not present the opportunity for their continued use or renovation. The applicant proposes to redevelop the property in two phases. The first phase (1) would involve the construction of a 97,000± square foot warehouse building, new accessways, pedestrian parking, and appropriate loading space to allow the existing tenant to maintain and/or conduct operations on the site while the main warehouse and other secondary facilities are demolished. Upon completion of the phase 1 building and appurtenances, the owner will construct phase 2 improvements to include demolition and redevelopment of the existing warehouse with a new 350,000-375,000 square foot warehouse. The new building would remove all secondary warehouse buildings while potentially maintaining an

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existing 25,000± square foot storage building constructed in 2018.

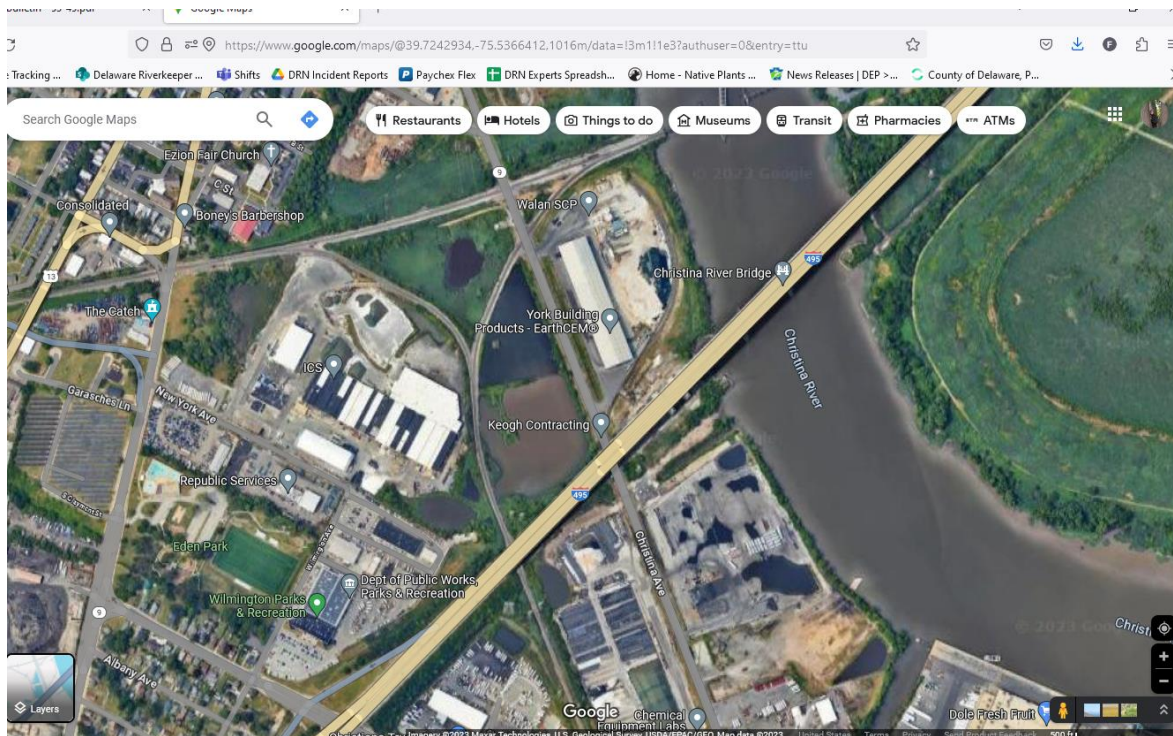
The massive warehouse project proposes to impact and/fill approximately 50,000 square feet (1.15 acres) of existing palustrine emergent wetlands during phase 1.

In summary, DRN urges that the Corps reject this application and deny it outright. The location of the site and the existing wetlands should not be allowed to be destroyed for two separate phases of warehouse buildings that could be reduced in size to allow for a healthy buffer from the wetland and the wetlands to remain untouched. DRN believes the Corps has no other option than to deny the application. This project is not water dependent and therefore its footprint should not be allowed to fill finite and sensitive wetlands that remain in an area that already is highly industrialized. These wetlands provide important water quantity and water quality benefits as well as floodwater attenuation benefits for the Christina River. This warehouse project would also not provide benefits for the welfare of the people and all other cumulative benefits of preserving this wetland as required by Chapter 105 regulations. Warehouse spaces are being overbuilt at a time when too much warehouse space remains vacant and empty. Developers are using speculative unsustainable growth of warehouses at the expense of our natural resources and communities – the Corps must deny this application.

Additional detailed comments from Delaware Riverkeeper Network are below for your consideration:

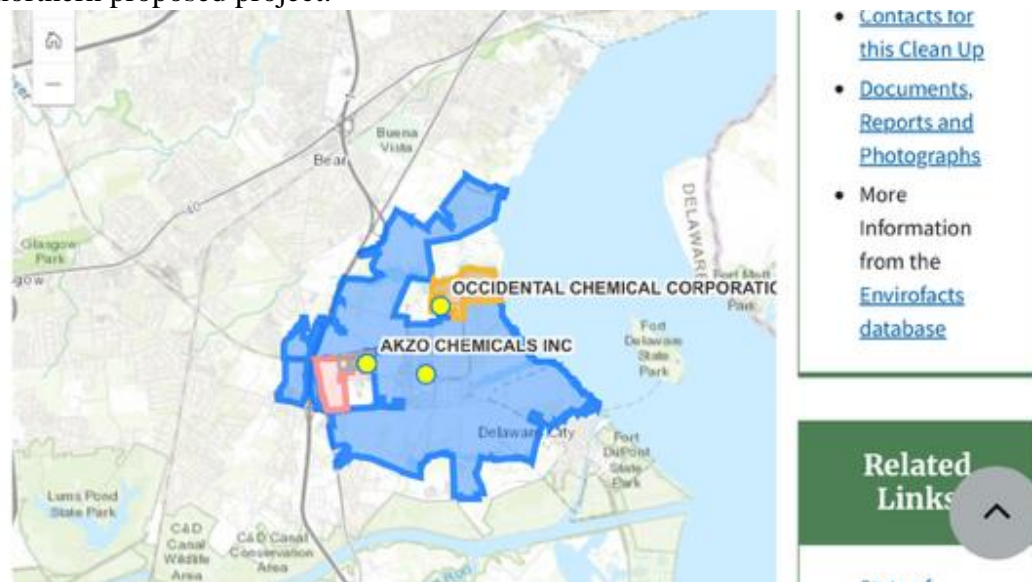
DRN believes this application should be denied by the Corps. We would offer up that the warehouse configuration at a minimum should be required to avoid existing wetlands and also should include planting and creation of a natural forested buffer area of native shrubs, trees and forbs. Warehouse stormwater which would carry oils, road salts and other harmful chemicals should not be allowed to further degrade the wetlands with discharges to these wetlands if they are proposed.

- It appears that with its proximity to the Christina River (see figure below) and the diagrams, the warehouse and part of the proposed building would also encroach within the 100 yr floodplain. With climate change impacts, the Corps allowing any type of hard structures let alone large warehouses and increased impervious surfaces of which known storage and warehouse customers are not clear - in a floodplain - would be reckless. In addition, climate change and flooding and increased storm events to come based on Delaware weather predictions with catastrophic climate change (CCD) is already here. This site would be much more valuable being restored as a natural area and forested riparian corridor and wetland habitat for the public trust to benefit the surrounding communities that lack open space, forests, and natural wetlands to enjoy. This type of natural restoration would also fully help mitigate the impacts of climate change that are coming to downstream communities while not allowing more wetland fill and mitigation and yet another warehouse building built on speculation that would put infrastructure in harms way to future flooding. Warehouse tenants and stockpiles of unknown materials could also pose a large risk of future flooding.



- DRN urges the Corps if it does not outright deny this application, to engage in a holistic review of the Project that includes all impacts to water resources, including impacts associated with remediation that would impact PEM wetlands and potential habitat of perhaps the red bellied turtle and the atlantic coast leopard frog. ESA Section 7 consultation would be essential to any decisions as well as an on site Corps jurisdictional wetland determination (JD) to verify the applicants information provided – the application notes a prelim Corps delineation was conducted but no other details appear to be provided.
- The Corp’s review must account for the multiple intersecting environmental impacts borne by the Wilmington area communities, particularly as the neighborhood is in flux due to proposed industrial development in the immediate vicinity of the proposed Project.
- Wetlands mapped from satellite imagery often do not reflect the actual wetlands and perimeter of wetlands on the ground accurately. For accuracy, it’s crucial that actual field truthing and an independent Jurisdictional Determination (JD) by the Army Corps be conducted.
- The notice states that the proposed wetland mitigation on-site does not comply with 33 CFR, Part 332, “the Mitigation Rule”, partly because of the existence of contaminated soils and/or disturbed areas within the subject property. However, even if offsite wetland mitigation is utilized instead, the massive amounts of rooftops and parking lots and nature of traffic and warehouse pollutants including road salt, PAHs and other inputs will carry polluted runoff from the contaminated soil and pose major threats to the Christina and Delaware Rivers.

- Evidence accrued over the last 15 years has demonstrated that wetland compensation failure rates at the regional level are often over 50% and can be as high as 90%. This research has demonstrated that a continuous string of wetland impacts, followed by delays in achieving fully successful compensatory mitigation, can easily lead to an extended period of net loss of wetland function within the landscape. This occurs even under the assumptions of perfect restoration and mitigation ratios consistently above 1:1, which are both assumptions commonly made by regulators in their mitigation programs. **Citation: Bendor, T. (2009). A dynamic analysis of the wetland mitigation process and its effects on no net loss policy. *Landscape and Urban Planning* 89 (2009) 17–27.**
- The proposed offsite wetland mitigation area is located 10.5 miles away in a completely different watershed (Red Lion Creek). Adding 1.25 acres of emergent wetlands does nothing to offset wetland impacts in the Christina River Watershed. The offsite mitigation area is already surrounded by extensive acres of emergent, scrub-shrub, and forested wetlands in the Red Lion Creek floodplain and DRN does support preserving this land in perpetuity by a conservation easement as stated but it is not appropriate for this particular mitigation. AVOIDANCE of wetland filling is the first requirement that clearly would be feasible with reconfiguration of the warehouse projects. The image below shows the industrial nature of the Red Lion overburdened community as well for this drainage that is highly industrialized in nature but not an appropriate mitigation site for the northern proposed project.



- According to the Pennsylvania Post-Construction Stormwater Management (PCSM) Manual, there is evidence that the region will experience fewer rain events, but more intense rain events, so that flood risk may increase. For several municipalities in the Philadelphia region, it is estimated that, in the near term (by 2035), a 10% increase in rainfall depth (i.e., 10% greater than the average depths often used for design) is expected. Meanwhile, design storm rainfall depths are predicted to increase up to 18% by

2100. These intense rainfall velocities increase erosion in streambanks when stormwater is directly discharged into streams. Direct discharge systems need to be upgraded to focus on green stormwater infrastructure and infiltration. In fact, the Plan Ordinance in the Monocacy Creek Watershed Act 167 Stormwater Management Plan has a “green infrastructure first” standard that requires designs to provide an overall design that mimics natural runoff, recharge and evapotranspiration.

- The wetland areas surrounding the warehouse complex may be suitable habitat for the **Atlantic Coast Leopard Frog (*Lithobates kauffeldi*)**. This species was only discovered in 2014 and little is known about its status. It is listed as a Species of Greatest Conservation Need in Delaware’s current Wildlife Action Plan. On-the-ground surveys should be conducted to confirm the presence or absence of this species in the wetlands adjacent to the warehouse complex.
- The wetland areas and surrounding floodplain may be habitat for the American red bellied turtle (red bellied cooter). To encroach on these existing habitats to build an inappropriate warehouse in a floodplain would be a missed opportunity on true restoration that could be possible for this site.
- DRN believes the wetland mitigation project is grossly insufficient to compensate for the wetland values and functions lost through development. And again the track record of truly restored wetlands is not a good one. Avoidance of the existing wetlands must come before mitigation.
- The Project site’s redevelopment will involve disturbing land that may have been heavily impacted by past industry, DRN calls on the Corps to ensure that any soil, sediment, groundwater, or surface water sampling include testing for per- and polyfluoroalkyl substances (“PFAS”) to further protect the wetlands. PFAS are present in, among other products, firefighting foams frequently used at petrochemical facilities like the site in question. The site should also be analyzed for the presence of polychlorinated biphenyls (“PCBs”) to ensure that the Christina River’s Total Maximum Daily Loads for contaminants is not affected. The Corps should not grant any wetland permits without a full and complete understanding of the Project’s impacts on water and wetland resources at the site, including PFAS and PCB-related impacts.
- The Corps is required to look at economic parameters in its analysis. Warehouses are being overbuilt through speculation development - There are many warehouse spaces for rent in the state of Delaware. A quick web search cited at least 51 rental listings for warehouses in the state of Delaware.¹ Just a few of the examples of already existing warehouse space for lease include:

¹ [Delaware Industrial and Warehouse Space For Rent & Lease | Showcase](#). Accessed from web 12.29.23

- A 207,294-square-foot warehouse by Delaware Logistics Center in New Castle. [It is a new construction that was completed in 2021 and offers 36-foot clear height, 50 dock doors, and four drive-in doors.](#)²
- A 60,000-square-foot warehouse by Industrial Space for sale or lease in Seaford. It has 24-foot clear height, 10 dock doors, and two drive-in doors. [It is available for lease at \\$7.00 per square foot per year or for sale at \\$3,000,000.](#)³
- A 3,650-square-foot warehouse by 20 Salem Church Road in Newark. It has 16-foot clear height, one dock door, and one drive-in door. [It is available for lease at \\$3,000 per month.](#)⁴
- A 15,000-square-foot warehouse by 6 Bellecor Dr in New Castle. It has 18-foot clear height, two dock doors, and one drive-in door. [It is available for lease at \\$12.50 per square foot per year.](#)⁵
- A 35,000-square-foot warehouse by Warehouse and Office Space Available For Sublease in New Castle. It has 24-foot clear height, four dock doors, and one drive-in door. It is available for sublease at a negotiable rate.

In conclusion, DRN urges the Corps to deny the Application due to the harm it would inflict to the wetland community, floodplain community and the current natural community that is holding on in this region. Thank you for your time and consideration of these comments. Please contact DRN's Director of Monitoring Faith Zerbe at 215-369-1188 ext. 110 or faith@delawareriverkeeper.org with questions, concerns, or updates on this project and actions taken by the Corps in its review.

Sincerely,



Maya K. van Rossum
the Delaware Riverkeeper
Delaware Riverkeeper Network

² [RPM WAREHOUSING & TRANSPORTATION \(rpmwarehouse.com\)](#). Accessed from web 12.29.23

³ [Delaware Industrial and Warehouse Space For Rent & Lease | Showcase](#). Accessed from web 12.29.23

⁴ [51 Industrial and Warehouse Listings in Delaware \(propertyshark.com\)](#). Accessed from web 12.29.23

⁵ [Delaware Industrial & Warehouse Spaces for Rent \(commercialsearch.com\)](#). Accessed from web 12.29.23