

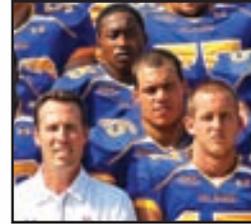


Dover woman turns trash into treasure

PEOPLE, PAGE 33

High hopes for Hens

SPORTS, PAGE 21



Downstate military academy proposed

PAGE 16

Delaware State News

\$1.50

Vol. 111, No. 25

The State Capital Daily

Sunday, August 29, 2010

Del. court negates law enacted to help boy

Legislation was to aid parents affected by paternity fraud

By Logan B. Anderson
Delaware State News

DOVER — The “Nathaniel Hall Law” may not help Nathaniel Hall.

Created to help children and their families affected by paternity fraud, the measure — sponsored by Sen. Bruce C. Ennis, D-Smyrna — was crafted with Nathaniel’s saga in mind. But Delaware’s Supreme Court could block the law from helping.

Nathaniel is a 9-year-old boy who is disabled. The law was created to give his mother the opportunity to legally compel his biological father to give the 9-year-old’s doctors the information they need to treat him properly.

Paternity fraud is when a mother wrongly identifies a man as the father of her child.

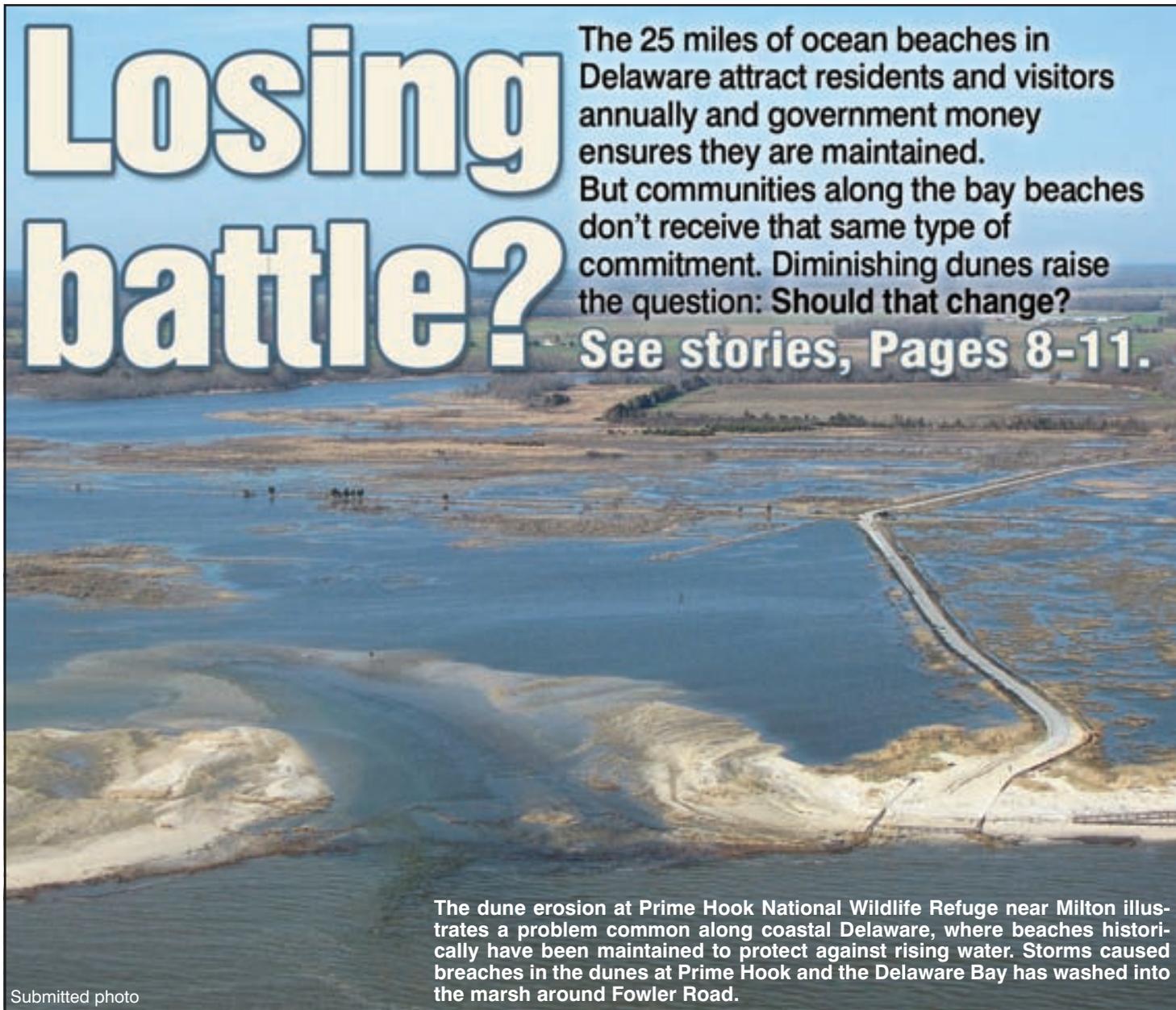
When a man is named the father of a child, under what was the Delaware Uniform Parentage Act, that

See Law — Page 12

Losing battle?

The 25 miles of ocean beaches in Delaware attract residents and visitors annually and government money ensures they are maintained. But communities along the bay beaches don’t receive that same type of commitment. Diminishing dunes raise the question: Should that change?

See stories, Pages 8-11.



Submitted photo

The dune erosion at Prime Hook National Wildlife Refuge near Milton illustrates a problem common along coastal Delaware, where beaches historically have been maintained to protect against rising water. Storms caused breaches in the dunes at Prime Hook and the Delaware Bay has washed into the marsh around Fowler Road.



New 2010 Acura MDX

Smart Luxury!

LEASE FOR \$499/MONTH FOR 36 MONTHS*

*Offer expires 9/7/2010. \$499 per month for 36 months. \$2,999 due at signing, plus taxes and tags. Security deposit waived. 2010 Acura MDX 6 Speed Automatic (Model YD2H2AJJNW), Residual \$24,992.20, Cap Cost \$39,851.42. Lease is for 10,000 miles per year. Requires approval as an AHFC Super Preferred Credit Customer.



302-734-1000 • priceacura.com

FROM THE EDITOR: MENTORS HAVE ‘BIG’ IMPACT



Funding options sought for bay shorelines

Ocean beaches take replenishment priority because of tourism dollars

By Ashley Dawson
Delaware State News

DOVER — Beaches in Delaware are not created equal.

Though all public beaches receive government money for replenishment, the ocean beaches draw from federal dollars and the bay beaches receive only state money.

In the last 10 years, the ocean beaches got nearly \$62 million for nourishment work and the bay beaches received at least \$745,060, according to state records for Delaware beach projects.

Historically, the money spent to dredge sand and pump it onto the ocean beaches is awarded based on an economic formula that money is regained through jobs and tourism. For every \$1 spent on beach replenishment, \$320 is collected in tax revenue.

Ed Voigt, of the Army Corps of Engineers, which partners with the state for beach replenishment, said because of the economic return, "The priority is the beaches. If Rehoboth goes away, that would be a major economic impact for Delaware."

Just last month, the state received \$8.172 million in federal money for beach-replenishment work that could start this fall in Bethany Beach and South Bethany. The request, of U.S. Sens. Thomas R. Carper, D-Del., and Ted Kaufman, D-Del., and U.S. Rep. Michael N. Castle, R-Del., was made as a result of damage sustained in November 2009 storms.

That federal pool of money isn't available to bay beaches. But with dunes diminishing along the state's coast, officials are wondering if that should change as they consider how to pay for continued beach replenishment in Delaware.

A March report outlines at least \$15 million in projects that would shore up the coast from Pickering Beach to Broadkill Beach. Primehook Beach, which is technically a private beach, was included in the report as a hypothetical because the community in the past inquired about becoming a public beach. Otherwise, private beaches do not get public money for nourishment.

While the coastal bay communities boast historical landmarks and carry Coastal Greenways distinctions, those facets don't guarantee funding or ensure protection.

"People come to Kitts Hummock for solitude, for nature," said Mike Costello, who, with his wife, Carol, built a house in the small community 10 years ago. "It's a natural resource. It's something that has got to be protected and preserved."

The state did its own dredging for beach replenishment from the 1970s to the late 1980s, until permitting regulations and a near tragedy with a dredge off Broadkill Beach forced the state to re-evaluate the



Submitted photos

Slaughter Beach Mayor Frank Draper would like government agencies to work together to repair the Mispillion River jetty, which he attributes as a factor in the flooding that affects the community.

process, said Tony Pratt, administrator for the state's Shoreline and Waterway Management Section, a division of the Department of Natural Resources and Environmental Control. During a winter storm, three men had to be rescued from the dredge that sank.

After a few years of hiring commercial dredges, Mr. Pratt said, the state realized the need to consider how much money the beach replenishment costs. That led to the report, "Management Plan for the Delaware Bay Beaches," which outlines projects needed to maintain the beaches through the next 10 years. "It's kind of holding onto what we've had historically," he said.

Now a group will be formed to study funding options and how sustainable the replenishment spending is for Delaware. Mr. Pratt said, "Is the state in a position to do this at one hundred percent of the state cost? That's the drive."

State Sen. Brian Bushweller, who requested the group, said he hopes to see members gathered soon to propose solutions for the General Assembly to consider when it convenes in January. His senatorial district includes the northern part of Kitts Hummock and the southern section of Pickering Beach.

Mr. Pratt said, "I'm kind of modeling the process here to what we did on the ocean coast in the late 1980s," which involves economic studies to determine if the money spent on beach replenishment is documented as having an economic re-investment for the general public.

Sen. Bushweller, D-Dover, said, "Right now, federal beach replenishment money



With parking, portable toilets and two access points, Bowers Beach draws people who don't live in the com-

munity to its beaches. Crowds fill a stretch of the Delaware Bay beach on the Fourth of July.

is ocean beaches only. That is one issue I think this work group will look at." He noted that if the federal government didn't participate in ocean beach replenishment, the state couldn't afford it alone.

In the 1990s, the Army Corps of Engineers conducted its own Delaware Bay shore-protection study that identified beaches ideal for replenishment from an environmental and economic standpoint.

Those were Port Mahon, Broadkill Beach and Lewes, which was replenished in 2004. The project, records show, cost \$3.79 million, with the state paying about 23 percent of the cost and the federal government funding the rest.

Though current replenishment projects are slated, money isn't guaranteed,

Beaches

Continued From Page 8

explained Mr. Voigt. "I don't remember a time when all possible projects have been funded. There's always more needs than there are funds available."

One project is secure. Dredge spoils from the Delaware River deepening project will be used to nourish Broadkill Beach for storm protection and for environmental work at Kelly Island in the Delaware Bay. While the river deepening is a definite, Mr. Voigt said, the timing for Broadkill to get sand depends on awarding contracts and which section of the river gets dredged next.

While some people wondered about the possibility of getting more sand from the river deepening to benefit more beaches along coastal Delaware, Mr. Voigt said, the amount of sand estimated to come from the deepening won't be sufficient. With better surveying technology to estimate the volume of sand that will be dredged, he said, "The trend is for less material to be put on the beach, not more."

Economics of replenishment

Though Sen. Bushweller wants the possibility of federal funding studied, he acknowledged that the formula is troublesome when applied to bay beaches and that, given the thousands of miles of bay beaches nationwide, it's a massive commitment for the federal government compared to ocean beaches.

The economic cost benefit analysis considers the money regained in tourism dollars and jobs though spending on beach replenishment. For instance, according to a report that documented the effects on Delaware without replenishment, 271,476 visitors would be lost if officials failed to nourish beaches from Fenwick to Rehoboth in the next five years. That decrease in visitors would result in a potential lost of an estimated \$23.3 million, the report shows.

Officials realize that tourism and related jobs are not driving forces along the bay beaches.

State Sen. Gary Simpson, who represents bay communities in Sussex County, said, "There's not quite as big of an economic return in Broadkill Beach and Slaughter Beach as far as tourism dollars go" compared to the coastal beach resorts.

"Fortunately, Rep. [George] Carey and I were both on the bond bill committee. That was a big help" in budgeting state money for the last replenishment in Slaughter Beach in 2005, he said.

Sen. Bushweller said, "There are no jobs in Kitts that would be lost." Yet, he and others, cited personal property damage, wildlife habitats, recreational and commercial fishing among the reasons officials need to respond.

"These are peoples' homes. This is where they live," Sen. Bushweller said.

Kent County Levy Court Commissioner Allan Angel echoed that thinking. "The only difference, to me, in Kitts Hummock and Rehoboth Beach is tourism. To me, the money that is there is for the health, safety and welfare of the people who live there," Mr. Angel said.



Submitted photo

Near Slaughter Beach, a boat enters the Mispillion Inlet where the jetty wall closest to land has deteriorated.

Sen. Bushweller said by permitting homes to be built in the bay communities, officials have condoned construction and have a responsibility to the residents to address beach erosion, flooding and draining issues.

"I don't think we can just sort of cut them off ... and say we're not going to help you out anymore," he said.

Kent County is spending \$5 million to extend the county sewer system to Kitts Hummock by 2012. Project Manager Jason Miller said a federal grant of nearly \$2.6 million and a loan of \$2.4 million will fund the project.

Jim Kirkbride, of Wilmington, owns one of 40 lots that make up Pickering Beach east of Dover. "Being a tiny beach community and being essentially at sea level, we are vulnerable," he said. "Many people are under a lot of stress."

Access versus easements

Residents who own beachfront property have agreements with the state allowing the public to use their property in exchange for beach maintenance.

Bowers Mayor Ron Hunsicker said his community fully welcomes the public, offering parking, portable restrooms and two points for beach access. "We feel that if we uphold our end of the covenant, the state should uphold its end of the covenant. When people said they would give public access to their property, they fully expected their property to be maintained," he said.

But the town of Bowers Beach has a covenant for a 70-foot protective dune, and that amount of protection doesn't exist along the beach now.

He recognized that limited resources exist and several groups are vying for the same pool of money, but he thinks that the beaches deserve more attention. "I think right now, people are just looking for a commitment to the covenant that was written."

Debbie Houseknecht, who has been a visitor for 25 years and a property owner for 14, spends one morning a month rak-

Environmental laws, accident doomed state dredging duties

By Ashley Dawson

Delaware State News

DOVER — Tony Pratt admits it used to be easier to replenish Delaware's bay beaches.

The state had a dredge and workers would set it up offshore during the summer months and pump sand onto the beaches as needed.

"We did that from the early 1970s to the mid- to late-1980s," said Mr. Pratt, administrator for the state's Shoreline and Waterway Management Section.

When the state Department of Natural Resources and Environmental Control was created in 1971, the agency took over beach authority from the state highway department.

That transition occurred only nine years after the March Storm of 1962 when the reality of storm destruction was still sharp in Delawareans' minds.

In effect, Mr. Pratt said, the agency was "given the benefit of a broad, sweeping program" for keeping the beaches from Pickering Beach to Fenwick Island nourished.

But as the number of state and federal permits required for replenishment in-

creased, dredging and pumping sand to widen Delaware's beaches and maintain protective dune systems became more restricted, he said.

Environmental laws progressed and scientists gained improved data about fishery stock, Mr. Pratt said. For instance, they found that dredging in the summer caused stress to summer flounder.

State officials were limited to "environmental windows" when dredging would have less impact on wildlife.

By the mid-1980s, the state could not dredge in the summer, putting the work into winter months when weather and temperatures did not create ideal conditions.

As it became less efficient to keep up with demand using the state's equipment, Mr. Pratt said, a near-tragedy occurred that made officials scrutinize the practice. While working off Broadkill Beach, the dredge was caught in an under-predicted storm in March. Three men went out to move it and had to be plucked from the sinking dredge by a Coast Guard helicopter crew.

"It was a wake up call for us," Mr. Pratt said.

ing up debris along the beach in front of her oceanfront house and those nearby in Bowers Beach. She said she doesn't mind the beachgoers, "as long as they carry in, carry off" their trash and personal items. "That's growth," she said.

Mr. Hunsicker said, "Generally the public is really good. The people generally police themselves."

Mr. Kirkbride, of Pickering Beach, said while his community doesn't offer ameni-

ties, it does have access to its public beach and members of the public who use it.

"I have welcomed people into my cottage" to use the restroom, he said. "We try to keep it cleaned and managed. It's really the state's and county's responsibility to maintain that beach. It's a public beach."

At one time a private beach, Mr. Kirkbride said residents sought public status.



Submitted photo

Normal high tides cause water to rise across Lighthouse Road in Slaughter Beach earlier this month.

Beaches

Continued From Page 9

“We thought that by having that public access, we’d get a little bit of attention.”

Finding joint solutions

Slaughter Beach Mayor Frank Draper said the town is satisfied with DNREC’s beach maintenance along its stretch of bay beach. “For my lifetime, it’s a doable maintenance job. It’s not cheap, but it is practically feasible to maintain the beach,” said Mr. Draper, the only other mayor who represents a bayfront community. Slaughter, in Sussex County, and Bowers, in Kent, are the only bay communities governed by elected officials.

But Draper takes issue with the maintenance approach to the Mispillion Inlet and Prime Hook Wildlife Refuge, areas that bookend Slaughter Beach. He compared officials not acting quickly to repair dune washouts at Prime Hook and not rebuilding the jetty walls at the inlet to taking care of the middle of a chain and letting the ends rust out.

“This [flooding] phenomenon was brought about by the breach in the bay,” Mr. Draper said, and the disrepair of the jetty wall closest to shore at the Mispillion Inlet. “When the east wind blows, we’re in the bay.”

“To me, it’s such an aggravation of these overlapping agencies and everybody’s accomplishing nothing,” Mr. Draper said.

“It’s not that Al Gore melted glaciers, it’s that the beach is breached. The only thing

we can’t do is choose up teams and fix it,” Mr. Draper said. “We’ve got something [government] made and they’re not willing to maintain it.”

But Mr. Pratt, Delaware’s shoreline program administrator, disagrees with the theory that the jetty would control the tidal flooding. He said the bay communities are products of their environment. “By definition, marshes flood,” he said.

While Mr. Pratt has heard many people say that replenishing the beaches isn’t a complicated or large issue, he said, “This problem is that big. It’s difficult. It’s complex and it’s hard to sustain.”

That’s why he said it required the study and subsequent consideration of the long-term impacts of funding the replenishment. “As long as a measurable benefit from our nourishment exceeds the cost, we’ll stay in business. I think that’s the same philosophical position we should be in for the bay beaches,” he said. “Good science makes good public policy.”

In the meantime, DNREC will continue hauling sand in to the bay communities to restore dunes and defend against storms. “It’s effective. It gets a couple thousand yards [of sand] on the beach. It gets us through a stormy season,” Mr. Pratt said.

While Mr. Costello welcomes that sand, he anticipates a major beach restoration project that will secure Kitts Hummock against erosion and flooding.

“I’m an optimistic person. I think someone is going to do something,” he said. “To do nothing is suicide.”

News editor Ashley Dawson can be reached at 741-8233 or adawson@newszap.com.



Submitted photo

Looking south from Fowler Beach Road, a view of the refuge shows the impact of the bay washing through dunes and into the marsh. Wildlife officials support fixing the breaches south of the road with sand in the refuge, but allowing the breach north of the road to remain open.

Residents, officials seek answer to Prime Hook dune breaches

Degradation of freshwater marsh, flooding a concern

By Ashley Dawson
Delaware State News

PRIMEHOOK BEACH — The scenery at Prime Hook National Wildlife Refuge near Milton is changing.

Strong storms created breaches in the dunes and the Delaware Bay has washed over the beach and into the refuge.

The first breach occurred north of Fowler Beach Road in 2006, and last year, breaches opened the dune south of that road, which runs from Del. 1 east to the bay.

With saltwater inundating the freshwater marshes, the area is undergoing a transformation that has rankled residents of the small Primehook Beach community that is essentially surrounded by the refuge.

Federal wildlife officials allowed the 2006 breach to remain open and decided to conduct an environmental assessment before fixing the most recent breach that occurred. That assessment, which closed to public comment on Thursday, Aug. 26, proposed three solutions: do nothing, fill

the dunes in with sand on the refuge or fill the breach with sand hauled from an off-site location.

“Our preferred alternative is scraping up the existing sand and rebuilding the dune south of Fowler Beach Road,” said Michael Stroeh, project leader with the Coastal Delaware Refuge Complex, which includes Prime Hook and Bombay Hook National Wildlife Refuge near Smyrna.

With that plan, 700 feet of refuge dune-line south of Fowler Beach would be rebuilt and existing inlets would be filled in a partnership with the state Department of Natural Resources and Environmental Control.

“If everything goes smoothly the work could be accomplished in October. That would be the earliest,” Mr. Stroeh said.

That work would also be a short-term solution to a problem that could arise again as soon as the next significant storm hits coastal Delaware. So, as managers of the 10,000-acre federal property consider how to fix breaches in the dune system along the Delaware Bay, they are also working on a comprehensive plan that will outline

See **Flooding** — Page 11



At Prime Hook Wildlife Refuge, the Delaware Bay has breached the dunes north and south of Fowler Beach Road, causing the bay to wash into the surrounding marshes. Refuge managers support fixing the breaches south of the road.

Flooding

Continued From Page 10

management of the refuge through the next 15 years or more.

That could mean allowing the entire area to become a saltwater marsh, Mr. Stroeh said.

"The overwash rejuvenated the salt marsh [north of Fowler Beach Road] and it is extremely beneficial, so we're protecting the overwash. It looks gorgeous out there," he said.

The area south of the road hasn't seen that kind of change.

State Sen. Gary Simpson, R-Milford, whose district includes Prime Hook, described the refuge area where the bay has washed over as barren.

"I went down there [one Saturday in August] and I maybe saw five or six geese. That's the extent of it," he said.

Mr. Stroeh acknowledged the area does not look like it did, but that over time, and possibly with help, it would improve. "They're used to lush, green marsh," he said.

When the refuge was created in the 1960s and 1970s, Mr. Stroeh said landowners influenced the make up of the surrounding marshes, manipulating the shoreline and building dunes, he said, to meet their needs, which ranged from grazing cattle to trapping muskrat. In the 1980s, the U.S. Fish and Wildlife Service created two freshwater impoundments to boost habitat for migrating waterfowl.

"If everyone had left it alone, the marsh

would have been a salt marsh," he said.

"We loved our freshwater marshes. They did great things for ducks. They did great things for marshes overall," Mr. Stroeh said.

But scientists didn't consider the long-term consequences at the time, which brings refuge officials to their current situation, he said.

"We may have caused ourself a bigger problem," Mr. Stroeh said.

Residents of the area are focused on the immediate problems caused by the breaches, primarily the flooding that closes Prime Hook Road — the only access road from their homes to Del. 1, as well as the degradation of the freshwater marsh and the saltwater impact on farmland.

Sen. Simpson said, "The greatest cause for concern is when we have this flooding. In my mind, filling those breaches is a matter of public safety."

Resident John Chirtea said he knows one person who has moved because they did not want to risk their job by not being able to get to work. The road, which often has water on it, has flooded completely at least four times this year.

"We have no other access points. We are dead in the water," he said.

And while the refuge seems poised to fix the dunes with existing sand in the marshes, Mr. Chirtea said residents would like to see the refuge pursue whatever solution is necessary, possibly even trucking sand to the area, to create a protective dune system.

"It's a dead marsh now," he said. "It's pretty sad."



The view from the Delaware Bay looking toward the marsh shows the amount of sand that has washed in since water breached the dunes system along Prime Hook National Wildlife Refuge near Milton.



In addition to assessing the Prime Hook National Wildlife Refuge to decide how to best deal with the breaches in the dune system along the Delaware Bay, federal managers are also considering a long-term plan to guide the 10,000-acre property into the future.

Submitted photos