




**STATE OF NEW JERSEY
DEPARTMENT OF ENVIRONMENTAL PROTECTION
DIVISION OF LAND USE REGULATION**
501 East State Street, Station Plaza 5, 2nd Floor
P.O. Box 439, Trenton, New Jersey 08625-0439
Fax: (609) 777-3656 or (609) 292-8115
www.state.nj.us/dep/landuse



PERMIT

<p>In accordance with the laws and regulations of the State of New Jersey, the Department of Environmental Protection hereby grants this permit to perform the activities described below. This permit is revocable with due cause and is subject to the limitations, terms and conditions listed below and on the attached pages. For the purpose of this document, "permit" means "approval, certification, registration, authorization, waiver, etc."</p>		Approval Date MAY 14 2008
		Expiration Date MAY 14 2013
Permit Number/s 0000-08-0003.1 FHA 080001 IP 0000-08-0003.1 FWW 080001 GP 11	Type of Approval/s Flood Hazard Area Freshwater Wetlands	Enabling Statute/s NJSA 13:1D-1 NJSA 13:9B-1 NJSA 58:10A-1 NJSA 58:16A-50, et. seq.
Applicant NJ Department of Transportation Attn: Hardev Dave 1035 Parkway Ave., P.O. Box 600 Trenton, NJ 08625		Owner (if different from applicant)
<p>Description of Authorized Activities and Limit of Disturbance</p> <p>This permit grants permission to construct three outfall structures within the banks of Weequahic Lake, in connection with stormwater system improvements along Route 22, located from M.P. 58.12 to M.P. 58.82, in the City of Newark, Essex County and the Township of Hillside, Union County. This permit also authorizes the total disturbance of 0.05 of an acre of State open water, under Freshwater Wetlands General Permit No. 11, for the construction of the three outfall structures.</p>		
Project Location Route 22 City of Newark, Essex County Township of Hillside, Union County		Received by County Clerk
Project Manager's Signature  Chingwah Liang Telephone: (609) 777-0454		
<p align="center">This permit is not valid unless authorizing signature appears on the last page.</p>		

STANDARD CONDITIONS:

1. **Acceptance of permit:** If you begin any activity approved by this permit, you thereby accept this document in its entirety and agree to adhere to all terms and conditions. If you do not accept or agree with this document in its entirety, **do not** begin construction. You are entitled to request an appeal within a limited time as detailed on the attached *Administrative Hearing Request Checklist and Tracking Form*. You may also contact the project manager shown on the first page if you have any questions or concerns about this document.
2. **Recording with County Clerk:** You must record this permit in the Office of the County Clerk for each county involved in this project. You must also mail or fax a copy of the front page of this permit to the Department showing the received stamp from each County Clerk within 30 days of the issuance date (or 90 days if multiple counties are involved). The Department's address and fax number are shown on the first page of this permit.
3. **Notice of Construction:** You must notify the Department in writing at least 7 days before you begin any work approved by this permit. The Department's address and fax number are shown on the first page of this permit. Please direct your letter to the project manager shown on the first page.
4. **Expiration date:** All activities authorized by this permit must be completed by the expiration date shown on the first page. At that time, this permit will automatically become invalid and none of the approved work may begin or continue until a replacement permit is granted. (Some coastal permits may qualify for an extension of the expiration date. Please contact the Department for further information.)
5. **Duty to comply:** The permittee, its contractors and subcontractors shall comply with all conditions of the permit, supporting documents and approved drawings. Any noncompliance with a permit constitutes a violation of this chapter, and is grounds for enforcement action pursuant to N.J.A.C. 7:13-19, as well as suspension and/or termination of the permit.
6. **Duty to reapply:** If the permittee wishes to continue an activity covered by the permit after the expiration date of the permit, the permittee must apply for and obtain a new permit.
7. **Duty to halt or reduce activity:** It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of the permit.
8. **Duty to minimize environmental impacts:** The permittee shall take all reasonable steps to prevent, minimize or correct any adverse impact on the environment resulting from activities conducted pursuant to the permit, or from noncompliance with the permit.
9. **Proper operation and maintenance:** The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used to achieve compliance with the permit. Proper operation and maintenance includes effective performance, adequate funding, adequate operator staffing and training, and adequate laboratory and process controls, including appropriate quality assurance procedures. The operation of back-up or auxiliary facilities or similar systems is only required when necessary to achieve compliance with the permit. The permittee must also properly execute any approved mitigation compensation and/or restoration proposal designed to mitigate losses caused by the permitted activity. The permittee shall maintain the authorized work areas in good condition and in accordance with the permit.
10. **Proper oversight:** The permittee shall ensure that all approved activities are undertaken using the best management practices available under the supervision and direction of an engineer at all points necessary to ensure compliance with all permit conditions.
11. **Proper site maintenance:** While the regulated activities are being undertaken, neither the permittee nor its agents shall cause or permit any unreasonable interference with the free flow of a regulated water by placing or

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dumping any materials, equipment, debris or structures within or adjacent to the channel. Upon completion or abandonment of the work, the permittee and/or its agents shall remove and dispose of in a lawful manner all excess materials, debris, equipment, silt fences and other temporary soil erosion and sediment control devices from all regulated areas.

12. **Permit actions:** A permit can be revised, suspended or terminated for cause. The filing of a request by the permittee for a revision, or a notification of planned changes or anticipated noncompliance does not stay any condition of a permit.
13. **Property rights:** A permit does not convey any property rights of any sort, or any exclusive privilege.
14. **Duty to provide information:** A copy of the general permit and other authorizing documents including all approved plans and drawings shall be maintained at the authorized site at all times and made available to Department representatives or their designated agents immediately upon request. The permittee shall also furnish to the Department within a reasonable time any information that the Department requests to determine compliance with a permit or to determine whether cause exists for suspension or termination of a permit. The permittee shall also furnish to the Department, upon request, copies of records required to be kept by the permit.
15. **Inspection and entry:** The permittee shall allow an authorized representative of the Department, at reasonable times and upon the presentation of credentials, to:
 - i. Enter upon the permittee's premises where a regulated activity is located or conducted, or where records must be kept under the conditions of the permit;
 - ii. Have access to and copy any records that must be kept under the conditions of the permit; and
 - iii. Inspect any facilities, equipment, practices or operations regulated or required under the permit. Failure to allow reasonable access under this section shall be considered a violation of this chapter and subject the permittee to enforcement action pursuant to N.J.A.C. 7:13-19.
16. **Reporting requirements:** The permittee shall provide reports to the Department as follows:
 - i. **Planned changes:** The permittee shall give notice to the Department prior to any planned physical alterations or additions to the permitted project or activity;
 - ii. **Transfers:** The permit is not transferable to any person unless the transfer is approved by the Department, pursuant to N.J.A.C. 7:13-14.1;
 - iii. **Noncompliance:** The permittee shall immediately report to the Department by telephone at (877) 927-6337 any noncompliance that may endanger health or the environment. The permittee shall report all other noncompliance to the Division of Land Use Regulation by telephone at (609) 292-0060 within two business days of the time the permittee becomes aware of the noncompliance, and in writing within five business days of the time the permittee becomes aware of the noncompliance. The written notice shall include: a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and, if the noncompliance has not been corrected, the anticipated length of time it is expected to continue; and steps taken or planned to reduce, eliminate and prevent recurrence of the noncompliance. Such notice shall not, however, serve as a defense to enforcement action if the project is found to be in violation of this chapter; and
 - iv. **Other information:** Where the permittee becomes aware that it failed to submit any relevant facts in an application, or submitted incorrect information in an application or in any report to the Department, it shall promptly submit such facts or information.
17. **Other responsibilities:** You must obtain all necessary local, Federal and other State approvals before you begin work. All work must be stabilized in accordance with the *Standards for Soil Erosion and Sediment Control in New Jersey*, and all fill material must be free of toxic pollutants in toxic amounts as defined in section 307 of the Federal Act.

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18. This approval does not in any way affect the right of the State to seek and collect monetary penalties or to take other enforcement action, should it be determined that a violation of the Flood Hazard Area Control Act or the Flood Hazard Area Control Act rules has occurred onsite.

SPECIAL CONDITIONS IN ADDITION TO THE STANDARD CONDITIONS:

19. All excavated material and dredged spoils must be disposed of in a lawful manner outside of any regulated open water, freshwater wetlands or adjacent transition areas, and in such a way as to not interfere with the positive drainage of the receiving area.
20. Any discharge of dredged or fill material shall consist of clean, suitable material free from toxic pollutants (see 40 CFR 401) in toxic amounts, and shall comply with all applicable Department rules and specifications regarding use of dredged or fill materials.
21. The applicant will be responsible for installing and maintaining a sediment barrier around all soils disturbed by construction, sufficient to prevent the sedimentation of the water.
22. Vegetation within 50 feet of the top of the bank shall only be disturbed in the areas specifically shown on the approved drawing/s. No other vegetation within 50 feet of the top of any bank onsite shall be disturbed for any reason. This condition applies to all waters onsite regardless of the contributory drainage area.
23. The time limit for backfilling and stabilizing all earth work and for the removal of all temporary fill and other appurtenances in connection with the placement of stormwater outfall structures and pipelines shall be thirty days after the commencement of construction for each section of the project along any water. However, if the construction is located within an acid producing area, the backfilling must be completed without exposing any acid producing deposits for more than eight hours.
24. Areas of temporary excavation must be restored with native, indigenous species. The bank must be restored with native vegetation and stabilized with the use of bioengineering materials, such as biologs, fiber matting, etc., unless specifically authorized otherwise under this permit.
25. In order to protect the fisheries resources within the Weequahic Lake, construction activities within the State open waters of this or any other water on site are prohibited between **April 1 thru June 30** of each year. Furthermore, any activity outside a water, which would likely introduce sediment into the water and/or increase its turbidity, is also prohibited during this period. The Department reserves the right to suspend all regulated activities on site should it be determined that the applicant has not taken proper precautions to ensure continuous compliance with this condition.
26. Any and all precautions are to be taken to prevent raw concrete, which is toxic to fish, from coming in contact with the waters of Weequahic Lake.
- 27. Provisions of Riparian Zone Mitigation**
- a. The mitigation project must be conducted prior to or concurrent with the construction of the approved project.
- b. At any given time, the mitigation must track at the same or greater percentage of completion as the project as a whole. For example, when the project is 50 percent completed, the mitigation project cannot be less than 50 percent completed.
- c. The permittee must mitigate for the loss of 0.036 acres (1,586 square feet of riparian zone vegetation through either an on-site or off-site creation, restoration or enhancement project as detailed in conditions "d." through "m."

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- d. **Within 30 days of the issuance of this permit**, for an on-site or off-site individual mitigation project, the permittee must submit a mitigation proposal to the Division of Land Use Regulation (Division) for review and approval. The mitigation proposal must include the creation, restoration and/or enhancement of an area of vegetation within the riparian zone of at least equal ecological value to the vegetation that will be lost by the authorized activity. This proposal must include a proposed construction schedule for the mitigation project. It must also show the location, density, and species of proposed plantings. **Prior to commencement of regulated activities authorized by this permit, the Division must approve of the proposed mitigation project in writing.**
- e. In the event that there is a conflict between the permit conditions and the approved mitigation plans and proposal, the permit conditions take precedent.
- f. This permit is not effective until the permittee has completed, signed and filed with the County Clerk (the Registrar of Deeds and Mortgages in some counties), the Division-approved conservation restriction for the mitigation site. This conservation restriction must contain language such that the mitigation area will be protected from disturbance or removal in perpetuity. A draft copy of the deed restriction, metes and bounds survey description, as well as a map(s) depicting the surveyed area(s) and the plan(s) that were approved within the permit must be referenced within the conservation restriction language. These items must be submitted to the Department for review and approval **prior** to filing the conservation restriction in the office of the County Clerk. The restriction shall be included on the deed, and recorded in the office of the County Clerk (the Registrar of Deeds and Mortgages in some counties), in the county wherein the lands of the mitigation project are located, within 10 days of approval of the final riparian zone mitigation proposal. Within 10 days of filing the conservation restriction, the permittee must send a copy of the conservation restriction to the Division for verification.
- g. The permittee shall assume all liability for accomplishing corrective work should the Division determine that the compensatory mitigation has not shown an 85% survival rate. Remedial work may include replanting the mitigation site. This responsibility is incumbent upon the permittee until such time that the Division makes the finding that the mitigation project is successful.
- h. The permittee shall post the mitigation area with permanent sign(s), which identify the site as a riparian zone mitigation project, that all-terrain vehicle use, motorbike use, mowing, dumping, draining, cutting and/or removal of plant materials of the property is prohibited, and that violators shall be prosecuted and fined to the fullest extent under the law. These signs must also state the name of the permittee and Department's permit number along with a contact name and phone number.
- i. If the Division determines that the mitigation project is not constructed in conformance with the approved plan, the permittee will be notified in writing and will have 60 days to submit a proposal to indicate how the project will be corrected.
- j. The permittee shall monitor the mitigation project for 3 full growing seasons beginning the year after the mitigation project has been completed. The permittee shall submit monitoring reports to the Division of Land Use Regulation no later than December 31st of each full monitoring year.
- k. All monitoring reports must include all of the following information:
 1. All monitoring reports except the final one must include documentation that it is anticipated, based on field surveys, that the goals of the riparian zone mitigation, as stated in the approved riparian zone mitigation proposal and the permit will be satisfied. If the permittee is finding problems with the mitigation project and does not anticipate the site will be a full success, then recommendations on how to rectify the problems must be included in the report with a time frame in which they will be completed;

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2. All monitoring reports except the final one must include field surveys to document that the site is progressing towards 85 percent survival and 85 percent area coverage of mitigation plantings or target hydrophytes (Target hydrophytes are non-invasive native species to the area and similar to ones identified on the mitigation planting plan). If the proposed plant community is scrub/shrub or wooded, the permittee must also demonstrate each year with data that the woody species are thriving, increasing in stem density and height each year. If the field data shows that the mitigation project is failing to meet the vegetation survival, coverage and health goals, the monitoring report should contain a discussion of steps that will be taken to rectify the problem, including a schedule of implementation;
3. All monitoring reports except the final one must include documentation of any invasive or noxious species (see below for list of species) colonizing the site and how they are being eliminated. The permittee is required to eliminate either through hand-pulling, application of a herbicide or other Department approved method any occurrence of an invasive/noxious species on the mitigation site during the monitoring period;
4. The final monitoring report must include documentation to demonstrate that the goals of the riparian zone mitigation project, as stated in the approved riparian zone mitigation proposal and the permit, has been satisfied.
5. The final monitoring report must include documentation the site has an 85 percent survival. The permittee must also document that all plant species are healthy and thriving, and if the proposed plant community contains trees, demonstrate that the trees are at least five feet in height;
6. The final monitoring report must include documentation demonstrating the site is less than 10 percent occupied by invasive or noxious species such as but not limited to (Source: Snyder, David and Sylvan R. Kaufman. 2004. An overview of nonindigenous plant species in New Jersey. New Jersey Department of Environmental Protection, Division of Parks and Forestry, Office of Natural Lands Management, Natural Heritage Program, Trenton, New Jersey. 107 pages.): *Acer platanoides* (Norway Maple), *Ailanthus altissima*, (Tree of Heaven), *Allaria petiole* (Garlic mustard), *Ampelopsis brevipedunculata* (Porecelain berry), *Artemisia biennis* (Biennial wormwood) *Artemisia vulgaris* (Mugwort or Common wormwood), *Berberis thunbergii* (Japanese barberry), *Berberis vulgaris* (Common barberry), *Carex kobomugi* (Japanese sedge), *Celastrus orbiculatus* (Asian Bittersweet), *Centaurea biebersteiniior maculosa* (Spotted knapweed), *Cirsium arvense* (Canadian thistle), *Dipsacus fillonum* (Wild teasel), *Dipsacus laciniatus* (Cut-leaf teasel), *Elaeagnus angustifolia* (Russian olive), *Elaeagnus umbellata* (Autumn olive), *Euonymus alata* (Winged spindletree), *Lespedeza cuneata* (Chinese bush-clover), *Ligustrum obtusifolium* (Japanese privet), *Ligustrum vulgare* (Common privet), *Lonicera japonica* (Japanese honeysuckle), *Lonicera morrowii* (Morrow's bush honeysuckle), *Lonicera tartarica* (Tartarian honeysuckle), *Lythrum salicaria* (Purple loosestrife), *Melilotus officinalis* (Yellow sweetclover), *Microstegium vimineum* (Japanese stiltgrass), *Myriophyllum spicatum* (Eurasian water-milfoil), *Phalaris arundinacea* (Reed canary grass), *Phragmites australis* (Common reed grass), *Polygonum cuspidatum* (Japanese knotweed), *Polygonum perfoliatum* (Mile-a-minute), *Potamogeton crispus* (Curly leaf pondweed), *Pueraria montana* (Kudzu), *Ranunculus ficaria* (Lesser celandine), *Rhamnus cathartica* (Common buckthorn), *Robinia pseudoacacia* (Black locust), *Rosa multiflora* (Multiflora rose), *Rubus phoenicolasius* (Wineberry), *Typha latifloia* (Broad-leaved cattail), *Typha angustifolia* (Narrowed leaved cattail).
1. Once the required monitoring period has expired and the permittee has submitted the final monitoring report, the Division will make the finding that the mitigation project is either a success or a failure. This mitigation project will be considered successful if the permittee demonstrates all of the following:
 1. That the goals of the riparian zone mitigation project including acreage, as stated in the approved riparian zone mitigation proposal and the permit, has been satisfied.

2. The site has an 85 percent survival and 85 percent area coverage of the mitigation plantings. All plant species in the mitigation area are healthy and thriving. All trees are at least five feet in height;
 3. The final monitoring report must include documentation demonstrating the site is less than 10 percent occupied by invasive or noxious species as indicated above.
- m. If the mitigation project is considered a failure, the permittee is required to submit a revised mitigation plan in order to meet the success criteria identified above. The plan shall be submitted within 30 days of receipt of the letter from the Division indicating the wetland mitigation project was a failure. Failure to do so will result in an Enforcement action against the permittee.

28. Provisions of the Freshwater Wetlands Statewide General Permit No. 11

This portion of the permit authorizes the disturbance 0.05 of an acre of State open water for activities associated with the construction of three outfall structures along Weequahic Lake, under General Permit No. 11. The authorization of activities under this Freshwater Wetlands Statewide General Permit includes a wetland transition area waiver for disturbance, which has been determined by the Department to be necessary to accomplish the authorized activities. Any additional disturbance of wetlands, transition areas and/or State open waters shall be considered a violation of the Freshwater Wetlands Protection Act unless the activity is exempt or a permit is obtained prior to the start of the disturbance from the Division of Land Use Regulation. In addition, this permit to conduct a regulated activity in a wetland or open water includes the Department's approval of a Water Quality Certificate for these activities.

29. This permit does not authorize the temporary use of any wetlands or transition areas beyond the limits of the proposed work other than specifically approved by this permit or as detailed by approved drawings. Such use of regulated areas applies to the storage or staging of construction materials (including debris/spoil piles), equipment, and workers' vehicles. The applicant shall direct the contractors to locate all staging and storage areas outside of wetlands and wetland buffers not approved for use by this permit.
30. The drawings hereby approved are eighteen (18) sheets prepared by PB Americas, Inc., undated and unrevised, unless otherwise noted, entitled:

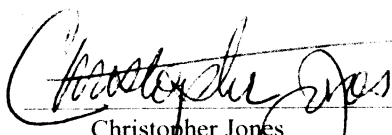
"NEW JERSEY DEPARTMENT OF TRANSPORTATION, TOWNSHIP OF HILLSIDE, UNION COUNTY AND CITY OF NEWARK, ESSEX COUNTY"

"FLOOD HAZARD AREA PERMIT PLAN", sheet nos. 2 to 7 of 12

"RIPARIAN ZONE IMPACT PLAN", sheet nos. 8 and 9 of 12

"CONSTRUCTION DETAILS", sheet nos. 10 to 12 of 12

"NEW JERSEY DEPARTMENT OF TRANSPORTATION, NJDEP WETLAND PERMIT PLANS, ROUTE 22 WEEQUAHIC PARK DRAINAGE IMPROVEMENTS, CONTRACT NO. 058024080", sheet nos. 3 to 7 of 9.



Christopher Jones
Manager
Bureau of Urban Growth and Redevelopment

5-14-08

Date