



**STATE OF NEW JERSEY**  
**DEPARTMENT OF ENVIRONMENTAL PROTECTION**  
**DIVISION OF LAND USE REGULATION**  
 501 East State Street, Station Plaza 5, 2<sup>nd</sup> Floor  
 P.O. Box 439, Trenton, New Jersey 08625-0439  
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 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 <b>SEP 22 2010</b>
		Expiration Date <b>SEP 22 2015</b>
Permit Number/s  File No. 0900-09-0002.1 WFD 090002 (IP in water) WFD 090001 (IP upland) FWW 090001 (IP wetland) FWW 090002 (IP open water) FHA 090001 (FHA IP) FHA 090002 (Verification)	Type of Approval/s  Waterfront Development (IP In-water) Waterfront Development (IP upland) Freshwater Wetlands (IP wetlands) Freshwater Wetlands (IP open water) Water Quality Certificate Flood Hazard Area IP FHA Verification	Enabling Statute/s  NJSA 12:5-3 NJSA 13:1D-1 NJSA 13:9B-1 NJSA 58:10A-1
Applicant: Janet Fitipaldi, Manager NJDOT 1035 Parkway Avenue Trenton, NJ 08625	Owner (if different from applicant):  N/A	
<p>This permit authorizes the disturbances noted below for the replacement of the Route 7 Wittpenn Bridge over the Hackensack River (on a slightly new alignment), the reconstruction of ramp connections to/from the new bridge and local roadways, and the realignment of Fish House Road, in the Town of Kearny and City of Jersey City, Hudson County. This Freshwater Wetlands Individual Permit authorizes the disturbance of 58,501 SF (1.343 acres) of freshwater wetlands and 13,024 SF (0.299 acre) of freshwater wetland transition areas. This Freshwater Wetlands Individual Permit also includes a limited transition area waiver to allow access to the authorized activity as per N.J.A.C. 7:7A-6.1(a)(6), as well as the Department's approval of a Water Quality Certificate for these activities. This Waterfront Development Permit authorizes the disturbance of 18,164 SF (0.417 acre) of intertidal/subtidal shallows, 14,026 SF (0.322 acre) of <i>vegetated</i> intertidal/subtidal shallows, and 278,958 SF (6.404 acre) of State open water (tidal). The Flood Hazard Area Permit authorizes the disturbance of 21,447 SF (0.49 acre) of riparian zone impacts in order to construct the new bridge.</p> <p>This permit is authorized under, and in compliance with, the Rules on Coastal Zone Management, N.J.A.C. 7:7E-1.1 et seq. By issuance of this permit, the State of New Jersey does not relinquish tidelands ownership or claim to any portion of the subject property or adjacent properties. The permittee shall allow an authorized Division representative the right to inspect the construction pursuant to N.J.A.C. 7:7E-1.5(b)4.</p>		
Project Location:  Rt. 7 Whitpenn Bridge (over Hackensack River) Town of Kearny and City of Jersey City Hudson County	Received by County Clerk	
Prepared by: <i>for Amber Cheney</i> Amber Cheney, NJDOT Principal Environmental Specialist		

**This permit is not valid unless authorizing signature appears on the last page.**

## Standard Conditions:

1. **Extent of approval:** This document grants permission to perform certain activities that are regulated by the State of New Jersey. The approved work is described by the text of this permit and is further detailed by the approved drawings listed below. All work must conform to the requirements, conditions and limitations of this permit and all approved drawings. You must keep a copy of this permit and all approved drawings readily available for inspection at the work site. Approved work may be altered only with the prior written approval of the Division. If you alter the project without prior approval, or expand work beyond the description of this permit, you may be in violation of State law and may be subject to fines and penalties.
2. **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.
3. **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 Division showing the received stamp from each County Clerk within 30 days of the issuance date (or 90 days if multiple counties are involved). The Division's address and fax number are shown on the first page of this permit.
4. **Notice of Construction:** You must notify the Division in writing at least 7 days before you begin any work approved by this permit. The Division'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.
5. **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 Division for further information.)
6. **Rights of the State:** This permit is revocable and subject to modification by the State with due cause. The State may inspect the work site and may suspend construction if work does not comply with this permit. This permit does not grant property rights. The issuance of this permit shall not affect any action by the State on future applications, nor affect the title or ownership of property, nor make the State a party in any suit or question of ownership.
7. **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.

## Special Conditions:

Failure to comply with the standards herein constitutes a violation of the Freshwater Wetlands Protection Act, Coastal Zone Management Rules and/or the Flood Hazard Area Control Act and subjects the permittee to appropriate enforcement action and/or suspension or revocation of the permit. All references made herein to the "Division" shall mean the New Jersey Department of Environmental Protection, Division of Land Use Regulation.

9. This permit authorizes the disturbances noted below for the replacement of the Route 7 Wittpenn Bridge over the Hackensack River (on a slightly new alignment), the reconstruction of ramp connections to/from the new bridge and local roadways, and the realignment of Fish House Road, in the Town of Kearny and City of Jersey City, Hudson County. This Freshwater Wetlands Individual Permit authorizes the disturbance of 58,501 SF (1.343 acres) of freshwater wetlands and 13,024 SF (0.299 acre) of freshwater wetland transition areas. This Freshwater Wetlands Individual Permit also includes a limited transition area waiver to allow access to the authorized activity as per N.J.A.C. 7:7A-6.1(a)(6), as well as the Department's approval of a Water Quality Certificate for these activities. This Waterfront Development Permit authorizes the disturbance of 18,164 SF (0.417 acre) of intertidal/subtidal shallows, 14,026 SF (0.322 acre) of *vegetated* intertidal/subtidal shallows, and 278,958 SF (6.404 acre) of State open water (tidal). The Flood Hazard Area Permit authorizes the disturbance of 21,447 SF (0.49 acre) of riparian zone impacts in order to construct the new bridge
10. All necessary local, Federal, and other state approvals must be obtained by the applicant prior to the commencement of the herein-permitted activities.
11. These permits are issued in accordance with and subject to Tidelands Grant No. 0900-09-0002.1 TDG 090001 & Tidelands License No. 0900-09-0002.1 TDI 090001.
12. In order to protect the general game and anadromous fish in the Hackensack River, no construction, excavation, filling or grading, is permitted within the channel between **April 1 and June 30** of each year. Furthermore, no construction, excavation, filling or grading is permitted in the riparian zone unless the applicant demonstrates that appropriate soil erosion control measures are in place that prevent sediment from reaching the channel. All proposed measures shall meet the Standards for Soil Erosion and Sediment Control in New Jersey at N.J.A.C. 2:90. The Department reserves the right to suspend all regulated activities onsite should it be determined that the applicant has not taken proper precautions to ensure continuous compliance with this condition.
13. If a cofferdam is installed prior to the timing restriction noted in Condition No. 12 above, construction, excavation, filling or grading within the channel of the Hackensack River is permitted within confines of the cofferdam during this restricted period.
14. Dewatering of cofferdams must include properly sized temporary sediment basins or other filtering methods to adequately reduce turbidity. The stream area to receive return water discharged from dewatering activities must be encompassed by a turbidity barrier. The turbidity barrier must be located parallel to the stream banks and anchored to the shoreline to maintain free flow of the stream center. In order to avoid obstruction of stream flows or fish passage, turbidity barriers must not be placed across the stream channel.
15. In order to demonstrate compliance with the rule Public Trust Rights (N.J.A.C. 7:7E-8.11), prior to, or concurrent to construction activities, the applicant shall ensure the following public access improvements are constructed within the Town of Kearny and City of Jersey City, Hudson County:
  - a. A six-foot wide sidewalk shall be provided along the south side of the new Wittpenn Bridge, which will extend from the proposed pedestrian facilities constructed at the Newark Avenue/Charlotte Avenue/1&9T intersection in Jersey City to sidewalks constructed along Fish House Road and will provide connectivity across the Hackensack River and connectivity of the waterfronts in Kearny and Jersey City. Full width outer shoulders shall be provided in both directions along the Route 7 corridor to accommodate bicyclists.
  - b. A mid-block crosswalk with pedestrian ramps shall be installed on Fish House Road to provide a safe crossing location for pedestrians to gain access to the Hackensack River waterfront located on the east side of Fish House Road.
  - c. NJDOT shall install underground conduit and junction boxes as part of the proposed project that can be utilized as part of a signalized pedestrian crossing when warranted by pedestrian traffic.

16. All fill and other earth work on the lands encompassed within this permit authorization shall be stabilized in accordance with "Standards for Soil Erosion and Sediment Control in New Jersey" to prevent eroded soil from entering adjacent waterways or wetlands at any time during and subsequent to construction.
17. *Prior to* commencement of site clearing, grading or construction, the permittee shall erect a silt fence and a construction debris fence, such as an orange snow fence, at the limits of disturbance. These fences shall remain in place and be maintained throughout the duration of construction, and until such time as the site is stabilized.
18. 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.
19. The activities shown on the approved plans shall be constructed and/or executed in conformity with any notes and details on said plans and any conditions stipulated herein.
20. No change in plans or specifications shall be made except with the prior written permission of the Department.
21. Trees, shrubs, grasses, and other vegetation within 50 feet from top of bank of the Hackensack River shall not be disturbed for any reason, except as approved by the Department and as shown on the approved site plans. All temporary disturbances to vegetation within 50 feet of the top of bank associated with the project shall be replanted during the next appropriate planting season.
22. All excavated material must be disposed of in a lawful manner outside of any regulated flood plain, 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.
23. This permit is revocable in accordance with DEP regulations and State law.
24. The issuance of this permit shall not be deemed to affect in any way other actions by the Department on any future application.
25. The granting of this authorization shall not be construed in any way to affect the title or ownership of the property, and shall not make the Department or the State a party in any suit or question of ownership of the property.
26. A complete, legible copy of this permit shall be kept at the work site and shall be exhibited upon request of any person.
27. The permittee shall allow the Division the right to inspect the construction site.
28. This authorization is valid for five years from the date of this letter unless more stringent standards are adopted by rule prior to this date.
29. The temporary storage of equipment, materials, and refueling activities shall not be located in regulated areas of open water, wetlands, or transition areas, unless expressly approved by this permit and/or described on the approved plans.

30. Downstream areas must be protected from excess turbidity during construction. A dewatering basin must be installed for any instream work requiring dry conditions where return discharges can release turbid water downstream.
31. Any dewatering requires use of a temporary sediment basin to settle out suspended sediments. The return water is to be discharged to a point of the stream encompassed by turbidity barrier. The dewatering conduit leading into the basin is to be fitted with a sediment filter bag.
32. The upper-most 18 inches of any temporary excavation in non-stream areas is backfilled with the original soil material where feasible and otherwise with suitable material. The excavation must be backfilled to the pre-existing elevations except where steep, unstable stream bank areas may require more gradual slope gradients for stability as according to "Standards for Soil Erosion and Sediment Control in New Jersey."
33. The activity is designed so as not to interfere with the natural hydraulic characteristics of the wetlands and watershed.
34. Areas of upland and wetland excavation, such as for the access road, must be restored with native, indigenous species.
35. Disturbed stream banks must be restored with native vegetation and stabilized with the use of bioengineering materials, such as biologs, fiber matting, etc. in accordance with manufacturers recommendations. The use of a mixture of warm and cool seasonal grasses, containing at least 20% warm season grasses, should be used to stabilize the soil.
34. Consistent with the 2004 Memorandum of Agreement (MOA) between NJDOT, FHWA, and HPO, the following conditions apply:
  - a) **Recordation:** The NJDOT shall record the Wittpenn Bridge to the standards of Historic American Engineering Record (HAER). Recordation shall focus on both the individual character of the bridge as well as its setting within and relationship to the Hackensack River Lift Bridges Historic District. As part of this recordation, the NJDOT, in consultation with the SHPO, shall solicit from the public, and obtain from other accessible sources, printed, graphic, and photographic information regarding the Wittpenn Bridge, previous bridges at this general location, and navigation on the Hackensack River. The compiled information will be evaluated and (as appropriate) archivally duplicated as part of the recorded document. NJDOT will also, in accordance with archival standards and in consultation with the SHPO, photo-duplicate selected contract plans for the Wittpenn Bridge, as well as review, catalog, and archivally duplicate historic photographs and other documents in the NJDOT files related to the Wittpenn Bridge and the segment of Route 7 within the project area. The SHPO shall receive a draft copy of the recordation document for review and comment. Completion of the recordation will occur within two (2) months of getting the construction contract and prior to the initiation of any demolition or construction activity. The format, quality, and specific content of the written and photographic documentation shall be determined through consultation among FHWA, NJDOT, and the SHPO. An archival copy of the complete recordation document will be provided to the SHPO, Rutgers University Special Collections Library, and the Jersey City and Kearny Libraries.
  - b) **Design Considerations:** NJDOT, in consultation with consulting parties and consistent with Context Sensitive Design principles, shall develop a historically appropriate and compatible design for the Wittpenn bridge replacement structure. *Consultation shall included consideration of:* the design of the historic structure (as described by the recordation

documentation), and the physical setting of the bridge; the contemporary design parameters for the replacement structure; the current range of structural designs and materials that could be used at this location and an understanding of the historical relevance, as well as the desirability and feasibility, of each; how original character defining feature of the historic bridge could be visually replicated or evoked using modern structure, materials, and technologies.

To implement the above-noted design considerations, the NJDOT, in cooperation with consulting parties, will include the following activities in the design process for the replacement bridge:

1. Background Research: Research will focus on the accumulation of information about the design of the historic structure, within the contexts of the physical setting of the bridge, navigation on the Hackensack River, and Vertical Lift Bridge engineering and construction. The goal of this effort is to understand why the historic structure was built using the chosen structural and architectural elements, how the bridge compares to other contemporary Vertical Lift Bridges over New Jersey inland waterways in the historic engineering and architectural literature (e.g., Engineering News-Record, Civil Engineering, and United States Army Corps of Engineers Reports).
2. Evaluation of Appropriate Design: As a result of the background research described above, an explanation of the engineering and architectural design and character of the historic structure will be presented at either a design meeting or in a written report.
3. Engineering Summary: In order to arrive at a recommended design for the replacement structure, an engineering design summary will be prepared that will include the following information:
  - An assessment of the integrity of the extant structure (original design of the structure as compared to the features what remain).
  - An inventory and brief discussion of the design parameters for the replacement structure (including the relationship of roadway design, navigational requirements and maritime operations, and environmental protection requirements, if applicable, to bridge design parameters.
  - A discussion of the range of structural designs and materials that could be used at this location and an assessment of the historic relevance, as well as the functional desirability and feasibility, of each.
  - A discussion of how original character defining feature of the historic structure, and its technologies, can be incorporated in the new bridge's design.
4. Design Recommendation: Considering all information compiled for the engineering summary, prepare a design scheme or concept (verbal description and conceptual sketches), for a replacement structure for the Wittpenn Bridge that visually conveys the character of the historic bridge. This will include, but not be limited to, consideration of sub-and superstructure materials, configuration, tint, texture, and/or color, parapet, railing, and lighting; and landscaping (as appropriate).

The NJDOT shall submit the concept or initial design to the FHWA and SHPO for their information and review prior to convening one or more meetings, as needed, to reach a consensus on the final design and design details. Consulting parties shall also have an

opportunity to review and comment on final plans (and specifications, as relevant) prior to the initiation of bidding.

- c) **National Register Nominations:** Barring any objections from the controlling entities/owners of the below listed properties, the NJDOT will ensure that National Register nomination forms are competed for the following National Register eligible resources: The Hackensack River Lift Bridge Historic District, the New Jersey Railroad Bergen Cut Historic District, PSE&G Kearny Generating Station and the Jersey City Water Works Pipeline.
- d) **Popular Document:** The NJDOT will direct the authorship of a popular document that illustrates the historical and technological significance of the Hackensack River Lift Bridges Historic District, which should be distributed to local historical societies, libraries, schools, preservation organizations, and railroad organizations. Copies of the publication may also be posted on the NJDOT and HPO websites for wider distribution at a reasonable cost.

FRESHWATER WETLAND MITIGATION CONDITIONS:

35. Freshwater Wetland Impacts (N.J.A.C. 7:7A 15 et seq)

**Within 90 days of the date of issuance of this permit, the permittee must submit to the Division, final mitigation plans for review and approval.**

- a. Mitigate for the permanent impact to 1.28 acres of palustrine emergent freshwater wetlands through an on-site or off-site creation, restoration or enhancement project as detailed in the conditions that follow.
- b. Mitigate for the temporary impact to 0.285 acres of palustrine wetlands, 0.031 acres of state open water, and 0.299 acres of transition area through an on-site restoration project as detailed in the conditions that follow.

36. Coastal Zone Management Impacts (N.J.A.C. 7:7E-3.27)

**Within 90 days of the date of issuance of this permit, the permittee must submit to the Division, final mitigation plans for review and approval.**

- a. Mitigate for the permanent impact to 0.107 acres coastal wetlands, 0.013 acres of intertidal/subtidal shallows and 0.560 acres of state open water through an on-site or off-site creation, restoration or enhancement project as detailed in the conditions that follow.
- b. Mitigate for the temporary impact to 0.020 acres of coastal wetlands, 0.404 acres of intertidal/subtidal shallows, and 5.802 acres of state open water through an on-site restoration as detailed in the conditions that follow.

37. In accordance with the applicable regulations, the ratio of wetlands mitigated to wetlands disturbed shall be sufficient to replace the loss of ecological value from the permitted disturbance and shall be approved by the Division. The Division shall evaluate the wetlands functions and values lost as a result of the disturbance to ensure that the mitigation areas at a minimum result in the replacement of wetlands of equal ecological functions and values to those lost.

38. In accordance with N.J.A.C. 7:7A-15.8 (b), if the permittee is proposing to construct wetland creation or restoration projects, two acres of creation or restoration must be performed for each acre disturbed and the mitigation area must, in addition to this, include a standard transition area. The slope of the created transition area must be fairly flat and therefore have a slope no greater than 10:1. If the permittee is proposing to construct wetland enhancement projects, the ratio of wetlands enhanced to wetlands disturbed shall be sufficient to replace loss of ecological value from the permitted project and shall be approved by the Division.

39. In the event that there is a conflict between the permit conditions and the approved mitigation plans and proposal, the permit conditions take precedent.
40. In accordance with N.J.A.C. 7:7A 15.14 and N.J.A.C. 7:7E-3B.1, the permittee shall complete, sign and file with the County Clerk (the Registrar of Deeds and Mortgages in some counties) a conservation restriction for each of the approved mitigation projects. Conservation restrictions for the restoration of temporary impacts are not required as long as the permitted disturbance activities are permanently discontinued within six (6) months after they have begun as per NJAC 7:7A-1.4. Should the permittee be unable to restore the temporary impacts within 6 months, the permittee must notify the Division in writing with a schedule of when the restoration will be completed. Failure to notify the Division will subject the permittee to the requirement to mitigate for those formerly temporary impacts as permanent impacts. The conservation restriction shall conform to the format and content of the Wetlands Mitigation Area model conservation restriction that is available at: <http://www.nj.gov/dep/landuse/forms/index.html>. 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 completion of construction of the mitigation project. Within 10 days of filing the conservation restriction, the permittee must send a copy of the conservation restriction to the Division for verification.
41. At least thirty (30) days in advance of the start of construction of each mitigation project, the permittee shall notify the Division, in writing and by phone, for an on-site pre-construction meeting between the permittee, all relevant contractors (for example: heavy equipment operators, landscape installers, herbicide applicators), the mitigation design consultant and the Division. In addition, for each of the temporary impact restoration areas, a pre-construction meeting must also be held between the permittee, all relevant contractors, the consultant and the Division. The pre-construction meetings for the temporary impact restoration areas should allow the Division the opportunity to meet with all of the contractors that will be working within and restoring the temporarily impacted resources.
42. The mitigation design consultants must be present on-site during critical stages of construction of each mitigation project. This includes but is not limited to herbicide applications, sub-grade inspections, final grade inspections and planting inspections to ensure the intent of the mitigation design and its predicted wetland hydrology is realized in the landscape.
43. The mitigation design consultant must be present on-site during the commencement of construction of each of the mitigation projects, including each of the temporary restoration areas. This is specifically to ensure that highly invasive plants that spread by rhizomes (root pieces), particularly Japanese knotweed (*Polygonum cuspidatum*) and Common Reed (*Phragmites australis*) are carefully managed through the construction process so that these plants are not spread into new areas. This is to ensure the success of the permittee's mitigation projects by preventing invasive plant colonization rather than trying to eradicate the invasive plants after the mitigation projects have been completed. To ensure that this is done successfully will require an extra level of construction oversight. It is imperative that **all equipment tracks and tires be thoroughly cleaned** each time equipment or vehicles move from an area containing invasive species to a clean area that does not contain invasive species. In addition, *the vegetative waste material must be carefully disposed of rather than mulched and reused or stockpiled elsewhere on the site.*
44. Mitigation designs are not static documents and changes may be necessary to ensure success of the project. Should the mitigation design consultant determine that the mitigation plan as designed and approved by the Division will not achieve the proposed wetland condition due to the actual conditions encountered during construction; the mitigation design consultant must immediately notify the Division. The mitigation design consultant must propose an alternative plan to achieve the proposed wetland condition that must be approved by the Division in writing. If the Division provides the mitigation design consultant with comments on the alternative plan, the mitigation design consultant shall revise the plan to conform to the Division's comments. Solely the Division



shall make the determination as to whether or not the alternative plan as submitted conforms to the Division's comments. Any modifications to the plan that are approved by the Division must be shown on a signed and sealed revised plan. The As-Built plans required as a part of the Construction Completion Report may serve as the signed and sealed revised plans required to be submitted as part of the construction modification process described above if time constraints warrant such action and have been approved by the Division in writing.

45. In accordance with N.J.A.C 7:7A-15.16(f) and N.J.A.C 7:7E-3B, the permittee shall assume all liability for accomplishing corrective work should the Division determine that any portion of the compensatory mitigation has not been 100% successful. Remedial work may include but is not limited to re-grading and/or replanting the mitigation sites. This responsibility is incumbent upon the permittee until such time that the Division makes the finding that the mitigation projects are successful.
46. Within 5 days following final grading of each of the mitigation sites or the temporary restoration areas, soils compaction must be eliminated should compaction occur during the construction process due to heavy equipment passing over the soil. The mitigation design consultant must be present to oversee this phase for each mitigation project and confirm with the Division this activity has occurred **prior** to planting of the site.
47. Following the final grading of the mitigation sites and prior to planting, the permittee shall notify the Division, in writing and by phone, for a post-grading construction meeting between the permittee, all relevant contractors, the mitigation design consultant and the Division. The permittee must give the Division at least thirty (30) days notice prior to the date of this meeting.
48. Within 30 days following the final planting of the mitigation projects, the permittee shall submit a Construction Completion Report to the Division detailing as-built conditions (see below) and any changes to the approved mitigation plan that were made during construction. The Construction Completion Report shall contain, at a minimum, the following information:
  - a. A completed Wetland Mitigation Project Completion of Construction Form. This form is located on the Internet at <http://www.nj.gov/dep/landuse/forms/index.html> and certifies that the mitigation project has been constructed as designed and that the proposed area of wetland creation, restoration or enhancement has been accomplished;
  - b. As-Built plans which depict final grade elevations at one foot contours and include a table of the species and quantities of vegetation that were planted including any grasses or other herbaceous seed mixes that may have been used for soil stabilization purposes;
  - c. Show on the as-built plans that the boundaries of the wetland mitigation area have been visibly marked with 3 inch white PVC pipe extending 4 feet above the ground surface. The stakes must remain on the site for the entire monitoring period;
  - d. Photos of the constructed wetland mitigation project with a photo location map as well as the GPS waypoints in NJ state plane coordinates NAD 1983;
  - e. To document that the required amount of soil has been placed/replaced over the entire area of the mitigation site, provide a minimum of 6 soil profile descriptions to a depth of 20 inches. The location of each soil profile description should be depicted on the as built plan as well as provide the GPS waypoints in NJ state plane coordinates NAD 1983;
  - f. Submit soil test results demonstrating at least 8% organic carbon content (by weight) was incorporated into the A-horizon for sandy soil and for all other soil types 12% organic content or if manmade top soil was used it consisted of equal volumes of organic and mineral materials;

- g. The permittee shall post the mitigation area with permanent sign(s), which identify the site as a wetland mitigation project and 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;
  - h. The signs must also state the name of the permittee, Department's permit number along with a contact name and phone number.
49. If the Division determines that the mitigation projects are 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 projects will be corrected. The mitigation projects will not be considered complete by the Division until the permittee demonstrates that the mitigation projects are constructed in conformance with the approved plan, all soil has been stabilized and there is no active erosion.
50. In accordance with N.J.A.C 7:7A 15.16 and N.J.A.C 7:7E-3.B.5, the permittee shall monitor the mitigation projects for 5 full growing seasons if any component is a proposed forested or scrub/shrub wetland and 3 full growing seasons if solely an emergent wetland or State open water are proposed, 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 31<sup>st</sup> of each full monitoring year.
- a. All monitoring reports must include the standard items identified in the checklist entitled Wetland Mitigation Monitoring Project Checklist and the information identified below. The Wetland Mitigation Monitoring Project Checklist is located on the Internet at <http://www.nj.gov/dep/landuse/forms/index.html>.
  - b. All monitoring reports except the final one must include documentation that it is anticipated, based on field data, that the goals of the wetland mitigation project including the transition area, as stated in the approved wetland 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;
  - c. 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;
  - d. All monitoring reports except the final one must include documentation that demonstrates the proposed hydrologic regime as specified in the mitigation proposal appears to be met. If the permittee is finding problems with the mitigation project and does not anticipate the proposed hydrologic regime will be or has not been met then recommendations on how to rectify the problem must be included in the report along with a time frame within which it will be completed;
  - e. The final monitoring report must include documentation to demonstrate that the goals of the wetland mitigation project including the required transition area, as stated in the approved wetland mitigation proposal and the permit, has been satisfied. Documentation for this report will also include a field wetland delineation of the wetland mitigation project based on techniques as specified in the Federal Manual for Identifying and Delineating Jurisdictional Wetlands (1989);
  - f. The final monitoring report must include documentation the site has an 85 percent survival and 85 percent area coverage of the mitigation plantings or target hydrophytes. 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;

- g. The final monitoring report must include documentation demonstrating the site is less than 10 percent occupied by invasive or noxious species.
  - h. The final monitoring report must include documentation that demonstrates that the proposed hydrologic regime as specified in the mitigation proposal, which proves the mitigation site is a wetland has been satisfied. The documentation shall include when appropriate monitoring well data, stream gauge data, photographs and field observation notes collected throughout the monitoring period; and
  - i. The final monitoring report must include documentation that the site contains hydric soils or there is evidence of reduction occurring in the soil throughout the delineated wetlands.
51. Once the required monitoring periods have expired and the permittee has submitted the final monitoring reports, the Division will make the finding that the mitigation projects are either a success or a failure. In accordance with N.J.A.C. 7:7A-15.16 (d), each of the final monitoring reports must document the following:
- a. That the goals of the wetland mitigation project including acreage and the required transition area, as stated in the approved wetland mitigation proposal and the permit, has been satisfied.
  - b. The permittee must submit a field wetland delineation of the wetland mitigation project based on the Federal Manual for Identifying and Delineating Jurisdictional Wetlands (1989) which shows the exact acreage of State open waters, emergent, scrub/shrub and/or forested wetlands in the mitigation area;
  - c. The site has an 85 percent survival and 85 percent area coverage of the mitigation plantings or target hydrophytes which are species native to the area and similar to ones identified on the mitigation planting plan. All plant species in the mitigation area are healthy and thriving. All trees are at least five feet in height;
  - d. Documentation demonstrating the site is less than 10 percent occupied by invasive or noxious species as identified in 17(g) above.
  - e. The site contains hydric soils or there is evidence of reduction occurring in the soil; and,
  - f. The proposed hydrologic regime as specified in the mitigation proposal has been satisfied.
52. All remaining financial surety, if required, will be released concurrent with the Division notifying the permittee that the mitigation project is a success.
53. 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 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. The financial surety, if required, will not be released by the Division until such time that the permittee satisfies the success criteria.
54. In accordance with N.J.A.C. 7:7A-15.3 (b) and N.J.A.C. 7:7E-3.B, if the permittee fails to perform mitigation within the applicable time period the acreage of mitigation required shall be increased by 20% each year after the date mitigation was to begin.

## RIPARIAN ZONE MITIGATION CONDITIONS

55. Mitigate for the permanent impact to 21,474 square feet (0.49 acres) of riparian zone at a ratio of at least 2:1 and mitigate for the temporary impact to 56,196 square feet (1.29 acres) of riparian zone at a ratio of at least 1:1. **Within 90 days of the date of issuance of this permit, the permittee must submit a plan to mitigate for all Riparian zone impacts.**
56. All replanting of vegetation shall be accomplished as described below and in one or both of the following ways: (a). the applicant shall remove lawfully existing structures and/or impervious surfaces in the riparian zone, and replant the area with vegetation; and/or (b). The applicant shall plant new trees in the riparian zone in an area that is substantially devoid of trees at the time of application because the trees were removed due to previous, lawful development.
57. As per N.J.A.C. 7:13-10.2, all riparian zone mitigation must be deed restricted against future development that would remove the vegetation being planted. The conservation restriction shall conform to the format and content of the Riparian Zone Mitigation Area model conservation restriction. 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 completion of construction of the mitigation project. Within 10 days of filing the conservation restriction, the permittee must send a copy of the conservation restriction to the Division for verification.
58. As per N.J.A.C. 7:13-10.2, if the proposal is to plant an area substantially devoid of trees because the trees were removed due to previous, lawful development, at least twice the area of all cleared, cut and removed vegetation shall be replanted.
59. All replanting of riparian zone vegetation shall meet the following requirements:
- (a). All replanting shall consist of indigenous, non-invasive vegetation;
  - (b) The replanted vegetation shall be of equal or greater density as the cleared, cut or removed vegetation;
  - © The applicant shall monitor and maintain the replanted vegetation for at least three growing seasons to ensure proper establishment and survival; and
  - (d) The location, nature, area and schedule for replanted vegetation shall be shown on signed and sealed plans. No replanting required under this section shall commence without the prior approval of the Department.
60. In the event that there is a conflict between the permit conditions and the approved riparian zone mitigation plans and proposal, the permit conditions take precedent.
61. As per N.J.A.C. 7:13-10.2, the permittee shall monitor the mitigation project for at least three (3) years beginning the year after the riparian zone mitigation project has been completed. The permittee shall submit monitoring reports to the Division of Land Use Regulation no later than December 31<sup>st</sup> of each full monitoring year.
- (a). All monitoring reports except the final one must include documentation that it is anticipated, based on field data, that the goals of the riparian zone mitigation project, 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.

## FLOOD HAZARD AREA CONDITIONS:

### *BMP Operation and Maintenance:*

The applicant has submitted a maintenance manual. All BMPs must be inspected/cleaned at least 4 times per year and after every major storm totaling 1 inch of rainfall or greater. Should a permit be issued for this project, this will be made a condition of approval. The NJDOT will be responsible for all of the stormwater measure on-site except for the pump station, which will be maintained by Hudson County.

62. All excavated material and dredged spoils shall be disposed of in a lawful manner. For example, it should be placed outside of any flood hazard area, riparian zone, regulated water, freshwater wetland and adjacent transition area, and in such a way as to not interfere with the positive drainage of the receiving area.
63. The applicant shall make specific arrangements to ensure the continuous maintenance and efficient operation of all proposed stormwater management measures onsite. This includes the inspection (and cleaning where necessary) of any and all constructed swales, basins, inlets, and mechanical treatment devices at least four times per year and after every major storm totaling 1 inch of rainfall or more, the use of appropriate soil conservation practices onsite, and any other reasonable effort required to maintain the stormwater management system in good working order.
64. The Department has determined that this project meets the requirements of the Stormwater Management rules at N.J.A.C. 7:8. Any future expansion or alteration of the approved stormwater management system, which would affect water quality, increase the rate or volume of stormwater leaving the site, affect the infiltration capacity on the site, or alter the approved low impact site design, shall be reviewed and approved by the Department prior to construction. This includes any proposed changes to the discharge characteristics of any basin, the construction of new inlets or pipes that tie into the storm sewer network and/or the replacement of existing inlets or pipes with structures of different capacity.
65. Provisions of the Flood Hazard Area Verification
  - (A) This portion of the permit establishes the flood hazard area design flood elevation and the riparian zone limits onsite as shown on the approved plans. The Flood Hazard Elevation along the Hackensack River is verified to be 9.2' NAVD and the 10-year flood elevation is verified to be 6.5' NAVD. The riparian zone is verified to be 50-feet from the top of bank of the Hackensack.
  - (B) Irrespective of the expiration date of the Waterfront Development and Freshwater Wetlands permits, the Flood Hazard Area Individual Permit and Verification shall both be valid for ten years from the date of issuance of the permit.**
66. The drawings hereby approved in forty (40) plan sheets entitled, "Route 7 (1953) from West of Fish House Road to Route 1 & 9T (Charlotte Avenue), Route 1 & 9T (1953) from Route 7 (Charlotte Avenue) to West of Tonnele Circle, Contract No. 000961462, NJDEP Waterfront Development and Individual Wetland Permit, March 2009, City of Jersey City, Town of Kearny, County of Hudson," prepared by Dewberry-Goodkind, Inc.
67. In addition, twenty (20) plan sheets are also approved, prepared by Dewberry-Goodkind, certified June 17, 2009, unrevised, unless otherwise noted, entitled:

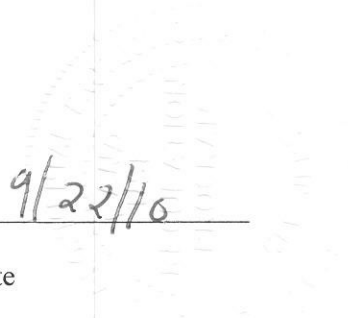
“NEW JERSEY DEPARTMENT OF TRANSPORTATION ROUTE 7 SECTION 2 CONTRACT NO. 000961462”

“FLOOD HAZARD AREA PERMIT PLANS”, sheet nos. 4 through 22 of 135, and

“CONSTRUCTION DETAILS”, sheet no. 102 of 135



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Charles Welch, Supervisor  
Roadways & Infrastructure Unit  
Bureau of Urban Growth & Redevelopment



9/22/10

\_\_\_\_\_  
Date

cc: Town of Kearny Construction Official  
City of Jersey City Construction Official  
DLUR Enforcement  
Janet Fitpaldi, NJDOT  
Jill Aspinwall, DLUR  
Jonathan Kinney, SHPO  
Rich Castagna, Bureau of Tidelands Management