



REPLY TO  
ATTENTION OF

CERTIFIED MAIL- RETURN RECEIPT REQUESTED

**DEPARTMENT OF THE ARMY**  
PHILADELPHIA DISTRICT CORPS OF ENGINEERS  
WANAMAKER BUILDING, 100 PENN SQUARE EAST  
PHILADELPHIA, PENNSYLVANIA 19107-3390

AUG 28 2017

Regulatory Branch  
Application Section II

SUBJECT: CENAP-OP-R-2017-0064 (NWP-12, 23)  
Project Name: ROUTE 9 JOBS CREEK BRIDGE REPLACEMENT  
NJDEP#: 0301-16-0003.1  
Latitude and Longitude: 39.591977°N and 74.424586°W

Ms. Amy Kennard  
New Jersey Department of Transportation  
1035 Parkway Avenue  
Post Office Box 600  
Trenton, New Jersey 08625

Dear Ms. Kennard:

This letter is written in regard to your proposal to reconstruct the existing 18 foot wide by 46 foot long bridge with a 28 foot wide by 61 foot long State Route 9 bridge over Jobs Creek. The work includes A) the permanent discharge of dredged and/or fill materials within 0.023 acre of tidal wetlands for sheetpile bulkhead with associated backfill, B) the temporary disturbance to 0.013 acre of wetlands from sheetpile cofferdam de-watering and access; C) the temporary loss of 0.019 acre of waterway below the high tide line for temporary sheetpile cofferdam de-watering; and D) the directional drilling of approximately 420 linear feet of 8" plastic gas main beneath Jobs Creek to a depth of approximately 10 feet below mean high water (beneath 4 feet of the creek bottom). The work will also result in the creation of 0.019 acre of open waters below the mean high water line. The site is located in Bass River Township, Burlington County, New Jersey.

Under current Federal regulations, a Department of the Army permit is required for work or structures in navigable waters of the United States and/or the discharge of dredged or fill material into waters of the United States including wetlands.

**Based upon our review of the information you have provided, it has been determined that your project is approved by the existing Department of the Army Nationwide Permits 23 (NWP 23) and 12 (NWP 12) described below provided the work is conducted in compliance with the NWP general conditions, regional conditions, and the project specific special conditions.**

**NWP 23. Approved Categorical Exclusions.** Activities undertaken, assisted, authorized, regulated, funded, or financed, in whole or in part, by another Federal agency or department where: (a) That agency or department has determined, pursuant to the Council on Environmental Quality's implementing regulations for the National Environmental Policy Act (40 CFR part 1500 *et seq.*), that the activity is categorically excluded from the requirement to prepare an environmental impact statement or environmental assessment analysis, because it is included within a category of actions which neither individually nor cumulatively have a significant effect on the human environment; and

(b) The Office of the Chief of Engineers (Attn: CECW-CO) has concurred with that agency's or department's determination that the activity is categorically excluded and approved the activity for authorization under NWP 23.

The Office of the Chief of Engineers may require additional conditions, pre-construction notification, for authorization of an agency's categorical exclusions under this NWP.

***Notification:*** Certain categorical exclusions approved for authorization under this NWP require the permittee to submit a pre-construction notification to the district engineer prior to commencing the activity (see general condition 32). The activities that require pre-construction notification are listed in the appropriate Regulatory Guidance Letters.

**(Authorities:** Section 10 of the Rivers and Harbors Act of 1899 and section 404 of the Clean Water Act (Sections 10 and 404))

**Note:** The agency or department may submit an application for an activity believed to be categorically excluded to the Office of the Chief of Engineers (Attn: CECW-CO). Prior to approval for authorization under this NWP of any agency's activity, the Office of the Chief of Engineers will solicit public comment. As of the date of issuance of this NWP, agencies with approved categorical exclusions are: the Bureau of Reclamation, Federal Highway Administration, and U.S. Coast Guard. Activities approved for authorization under this NWP as of the date of this notice are found in Corps Regulatory Guidance Letter 05-07, which is available at: <http://www.usace.army.mil/Portals/2/docs/civilworks/RGLS/rgl05-07.pdf>. Any future approved categorical exclusions will be announced in Regulatory Guidance Letters and posted on this same Web site.

**NWP 12. Utility Line Activities.** Activities required for the construction, maintenance, repair, and removal of utility lines and associated facilities in waters of the United States, provided the activity does not result in the loss of greater than 1/2-acre of waters of the United States for each single and complete project.

***Utility lines:*** This NWP authorizes discharges of dredged or fill material into waters of the United States and structures or work in navigable waters for crossings of those waters associated with the construction, maintenance, or repair of utility lines, including outfall and intake structures. There must be no change in pre-construction contours of waters of the United States. A "utility line" is defined as any pipe or pipeline for the transportation of any gaseous, liquid, liquescent, or slurry substance, for any purpose, and any cable, line, or wire for the transmission for any purpose of electrical energy, telephone, and telegraph messages, and internet, radio, and television

communication. The term "utility line" does not include activities that drain a water of the United States, such as drainage tile or french drains, but it does apply to pipes conveying drainage from another area.

Material resulting from trench excavation may be temporarily sidecast into waters of the United States for no more than three months, provided the material is not placed in such a manner that it is dispersed by currents or other forces. The district engineer may extend the period of temporary side casting for no more than a total of 180 days, where appropriate. In wetlands, the top 6 to 12 inches of the trench should normally be backfilled with topsoil from the trench. The trench cannot be constructed or backfilled in such a manner as to drain waters of the United States (*e.g.*, backfilling with extensive gravel layers, creating a french drain effect). Any exposed slopes and stream banks must be stabilized immediately upon completion of the utility line crossing of each waterbody.

*Utility line substations:* This NWP authorizes the construction, maintenance, or expansion of substation facilities associated with a power line or utility line in non-tidal waters of the United States, provided the activity, in combination with all other activities included in one single and complete project, does not result in the loss of greater than 1/2-acre of waters of the United States. This NWP does not authorize discharges into non-tidal wetlands adjacent to tidal waters of the United States to construct, maintain, or expand substation facilities.

*Foundations for overhead utility line towers, poles, and anchors:* This NWP authorizes the construction or maintenance of foundations for overhead utility line towers, poles, and anchors in all waters of the United States, provided the foundations are the minimum size necessary and separate footings for each tower leg (rather than a larger single pad) are used where feasible.

*Access roads:* This NWP authorizes the construction of access roads for the construction and maintenance of utility lines, including overhead power lines and utility line substations, in non-tidal waters of the United States, provided the activity, in combination with all other activities included in one single and complete project, does not cause the loss of greater than 1/2-acre of non-tidal waters of the United States. This NWP does not authorize discharges into non-tidal wetlands adjacent to tidal waters for access roads. Access roads must be the minimum width necessary (see Note 2, below). Access roads must be constructed so that the length of the road minimizes any adverse effects on waters of the United States and must be as near as possible to pre-construction contours and elevations (*e.g.*, at grade corduroy roads or geotextile/gravel roads). Access roads constructed above pre-construction contours and elevations in waters of the United States must be properly bridged or culverted to maintain surface flows.

This NWP may authorize utility lines in or affecting navigable waters of the United States even if there is no associated discharge of dredged or fill material (See 33 CFR part 322). Overhead utility lines constructed over section 10 waters and utility lines that are routed in or under section 10 waters without a discharge of dredged or fill material require a section 10 permit.

This NWP authorizes, to the extent that Department of the Army authorization is required, temporary structures, fills, and work necessary for the remediation of inadvertent returns of drilling fluids to waters of the United States through sub-soil fissures or fractures that might occur during horizontal directional drilling activities conducted for the purpose of installing or replacing utility lines. These remediation activities must be done as soon as practicable, to restore the affected waterbody. District engineers may add special conditions to this NWP to require a remediation plan for addressing inadvertent returns of drilling fluids to waters of the United States during horizontal directional drilling activities conducted for the purpose of installing or replacing utility lines.

This NWP also authorizes temporary structures, fills, and work, including the use of temporary mats, necessary to conduct the utility line activity. Appropriate measures must be taken to maintain normal downstream flows and minimize flooding to the maximum extent practicable, when temporary structures, work, and discharges, including cofferdams, are necessary for construction activities, access fills, or dewatering of construction sites. Temporary fills must consist of materials, and be placed in a manner, that will not be eroded by expected high flows. After construction, temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The areas affected by temporary fills must be revegetated, as appropriate.

*Notification:* The permittee must submit a pre-construction notification to the district engineer prior to commencing the activity if any of the following criteria are met: (1) The activity involves mechanized land clearing in a forested wetland for the utility line right-of-way; (2) a section 10 permit is required; (3) the utility line in waters of the United States, excluding overhead lines, exceeds 500 feet; (4) the utility line is placed within a jurisdictional area (*i.e.*, water of the United States), and it runs parallel to or along a stream bed that is within that jurisdictional area; (5) discharges that result in the loss of greater than 1/10-acre of waters of the United States; (6) permanent access roads are constructed above grade in waters of the United States for a distance of more than 500 feet; or (7) permanent access roads are constructed in waters of the United States with impervious materials. (See general condition 32.)

**(Authorities:** Sections 10 and 404)

Note 1: Where the utility line is constructed or installed in navigable waters of the United States (*i.e.*, section 10 waters) within the coastal United States, the Great Lakes, and United States territories, a copy of the NWP verification will be sent by the Corps to the National Oceanic and Atmospheric Administration (NOAA), National Ocean Service (NOS), for charting the utility line to protect navigation.

Note 2: For utility line activities crossing a single waterbody more than one time at separate and distant locations, or multiple waterbodies at separate and distant locations, each crossing is considered a single and complete project for purposes of NWP authorization. Utility line activities must comply with 33 CFR 330.6(d).

Note 3: Utility lines consisting of aerial electric power transmission lines crossing navigable waters of the United States (which are defined at 33 CFR part 329) must comply with the applicable minimum clearances specified in 33 CFR 322.5(i).

Note 4: Access roads used for both construction and maintenance may be authorized, provided they meet the terms and conditions of this NWP. Access roads used solely for construction of the utility line must be removed upon completion of the work, in accordance with the requirements for temporary fills.

Note 5: Pipes or pipelines used to transport gaseous, liquid, liquescent, or slurry substances over navigable waters of the United States are considered to be bridges, not utility lines, and may require a permit from the U.S. Coast Guard pursuant to section 9 of the Rivers and Harbors Act of 1899. However, any discharges of dredged or fill material into waters of the United States associated with such pipelines will require a section 404 permit (see NWP 15).

Note 6: This NWP authorizes utility line maintenance and repair activities that do not qualify for the Clean Water Act section 404(f) exemption for maintenance of currently serviceable fills or fill structures.

Note 7: For overhead utility lines authorized by this NWP, a copy of the PCN and NWP verification will be provided to the Department of Defense Siting Clearinghouse, which will evaluate potential effects on military activities.

Note 8: For NWP 12 activities that require pre-construction notification, the PCN must include any other NWP(s), regional general permit(s), or individual permit(s) used or intended to be used to authorize any part of the proposed project or any related activity, including other separate and distant crossings that require Department of the Army authorization but do not require pre-construction notification (see paragraph (b) of general condition 32). The district engineer will evaluate the PCN in accordance with Section D, "District Engineer's Decision." The district engineer may require mitigation to ensure that the authorized activity results in no more than minimal individual and cumulative adverse environmental effects (see general condition 23).

You are advised that this verification of NWP authorization is valid until the Nationwide Permits expire on March 18, 2022, unless the NWP authorization is modified, suspended, or revoked prior to this date. In the event that the NWP authorization is modified during that time period, this expiration date will remain valid, provided the activity complies with any subsequent modification of the NWP authorization.

It is noted that CZM consistency from the State is only required for those activities in or affecting a State's coastal zone. Additionally, some of the NWPs do not involve a discharge of dredged or fill material, and as such, do not require a 401 WQC. If the State has denied the required WQC and/or not concurred with the Corps' CZM consistency determination, the NWP authorization is considered denied without prejudice until an individual project specific WQC and/or CZM approval is obtained.

**The State of New Jersey has denied 401 WQC and has not concurred with the Corps' CZM consistency during the issuance of Philadelphia District's regional conditions for NWPs 23 and 12 therefore you are being directed to seek further review by the state in which they will attach the required Federal consistency determination and certification as part of their review as applicable. This approval must be obtained in order for the activity to be authorized under the NWP and a copy provided to this office before work begins. Any project specific conditions required by the State for the WQC and/or CZM approval will automatically become part of the NWP authorization.**

The activities authorized by this NWP verification must comply with the NWP General Conditions, as applicable, in addition to any regional or case-specific conditions imposed by the division engineer or district engineer. **Your attention is drawn to Regional Conditions (c), (l), and (m) for Nationwide Permit 12.** A copy of the NWP General Conditions and the Philadelphia District 2017 NWP Regional Permit Conditions for New Jersey for which this verification is subject to, can be found at:

**General Conditions:**

<http://www.nap.usace.army.mil/Portals/39/docs/regulatory/publicnotices/2017%20Nationwide%20Permit%20General%20Conditions.pdf> ;

**Regional Conditions:**

[http://www.nap.usace.army.mil/Portals/39/docs/regulatory/publicnotices/2017\\_NJ\\_Reg\\_Cond\\_Final.pdf](http://www.nap.usace.army.mil/Portals/39/docs/regulatory/publicnotices/2017_NJ_Reg_Cond_Final.pdf) .

In instances where you are unable to access a digital copy of the 2017 NWP General conditions and/or the 2017 NWP Regional Permit Conditions for New Jersey, a hard copy will be transmitted by registered mail to you per request. It is further noted that you may request a copy by email at any time in which the NWP General Conditions and Regional Permit Conditions will be provided to you by facsimile or other electronic means per your request.

Activities which have commenced (i.e, are under construction) or are under contract to commence in reliance upon an NWP will remain authorized provided the activity is completed within twelve months of the date of an NWP's expiration, modification, or revocation, unless discretionary authority has been exercised on a case-by-case basis to modify, suspend, or revoke the authorization in accordance with 33 CFR 330.4(e) and 33 CFR 330.5 (c) or (d). Activities completed under the authorization of an NWP which was in effect at the time the activity was completed continue to be authorized by that NWP.

You should carefully note that this NWP authorization is based upon your agreement to comply with the terms and conditions of this NWP including any and all attached project specific special conditions listed below. Initiation of any authorized work shall constitute your agreement to comply with all of the NWP's conditions. You should also note that the authorized work may be subject to periodic inspections by a representative of this office. The verification of a Nationwide Permit including all general and special conditions is not subject to appeal.

**PROJECT SPECIFIC SPECIAL CONDITIONS:**

1. All work performed in association with the above noted project shall be conducted in accordance with the following:

A) a 5-page project plan set prepared by McCormick Taylor, Incorporated for New Jersey Department of Transportation and entitled "Army Corps Permit Plans, Route 9, Jobs Creek Bridge, Bridge Replacement, Contract Number 058113680, Bass River Township, Burlington County, July 2017, Scales as Indicated," EP-1 Through EP-5 of 5, Sheets 1 through 5 of 5 and

B) a single plan sheet entitled "New Jersey Department of Transportation, Profiles, Route 9, Jobs Creek Bridge, Contract Number 058113680, " P-1 of P-1, Sheet 17 of 102, un-dated, revision date 10/12/2016 for gas main placement.

2. Construction activities shall not result in the following: the permanent loss of greater than 0.023 acre of wetlands, the temporary impacts to 0.013 acre of wetlands, and 0.019 acre of temporary impacts to waterway below the high tide line.

3. Any deviation in construction methodology or project design from that shown on the above noted drawings or repair plan must be approved by this office, in writing, prior to performance of the work. This includes any changes deemed necessary by the contractor at the time of construction. All modifications to the above noted project plans shall be approved, in writing, by this office. No work shall be performed prior to written approval of this office.

4. This office shall be notified prior to the commencement of authorized work by completing and signing the enclosed Notification/ Certification of Work Commencement Form (Enclosure 1). This office shall also be notified within 10 days of the completion of the authorized work by completing and signing the enclosed Notification/Certification of Work Completion/Compliance

Form (Enclosure 2). All notifications required by this condition shall be in writing. The Notification of Commencement of work may be sent to this office by facsimile or other electronic means; all other notification shall be transmitted to this office by registered mail. Oral notifications are not acceptable. Similar notification is required each time maintenance work is to be done under the terms of this Corps of Engineers permit.

5. The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

6. To ensure compliance with Regional Condition – 4 (G-4) to protect federally listed species pursuant to Section 7 of the Endangered Species Act (ESA) under the jurisdiction of the United States Fish and Wildlife Service (USFWS) the permittee shall not perform any tree removal within the project area between April 1 through September 30 to avoid impacts to the Northern Long-Eared Bat (*Myotis septentrionalis*).

7. To insure compliance with Regional Condition – 6 (G-6) to protect Essential Fish Habitat (EFH) species, their prey species (including anadromous fisheries), and/or their habitats, the permittee shall do no in-water work between March 1 and June 30 unless such work is confined within a cofferdam constructed prior to the subject time-of-year restriction.

8. This approval does not include the placement of gas main drill pits in wetlands or waters below the high tide line.

9. This approval does not include the placement of a temporary gas main bypass system in or over regulated waters or wetlands without prior approval from this office.

Also enclosed is a pre-addressed postal card (Enclosure 3) soliciting your comments on the processing of your application. Any comments, positive or otherwise, on the procedures, timeliness, fairness, etc., may be made on this card. If you should have any questions regarding this matter, please contact David J. Caplan at 215-656-6731 or write to the above address.

Sincerely,



Edward E. Bonner  
Chief, Regulatory Branch

Enclosures

Copies Furnished:

NJDEP, LURP (Trenton, NJ)

NMFS (Sandy Hook, NJ)

USFWS (Galloway)

Mr. Tony Sabidussi, Federal Highway Administration, 840 Bear Tavern Road, Suite 202, West  
Trenton, New Jersey 08628