

**STATE OF NEW JERSEY
DEPARTMENT OF ENVIRONMENTAL PROTECTION
DIVISION OF LAND USE REGULATION**

Mail Code 501-02A, P.O. Box 420, Trenton, New Jersey 08625-0420

Telephone: (609) 777-0454 or Fax: (609) 777-3656

www.nj.gov/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." Violation of any term, condition or limitation of this permit is a violation of the implementing rules and may subject the permittee to enforcement action.</p>		<p>Approval Date August 22, 2018</p>
		<p>Expiration Date August 21, 2023</p>
<p>Permit Number(s): 0000-15-0011.1; WFD 180001 & 180002, FHA 180001 and FWW 180002</p>	<p>Type of Approval(s): Waterfront Development Upland IP, Waterfront Development In-water IP, Flood Hazard Area IP, Freshwater Wetlands General Permit No. 10B and Water Quality Certificate</p>	<p>Enabling Statute(s): NJSA 12:3-1 et seq. NJSA 12:5-3 et seq. NJSA 13:9B et seq. NJSA 58:16A et seq. NJSA 58:10A-1 et seq. NJSA 13:1D-29 et seq. NJSA 13:1D-1 et seq.</p>
<p>Permittee: New Jersey Department of Transportation (NJDOT) c/o Ms. Amber Cheney 1035 Parkway Avenue Trenton, NJ 08625</p>	<p>Site Location: Block(s) & Lot(s): N/A Locations: City of Jersey City & Town of Kearny, Hudson County/City of Newark, Essex County</p>	
<p>Description of Authorized Activities: As part of the overall Route 1 and Route 9 Pulaski Skyway improvement project involving five (5) separate contracts (Contracts 5-9), this permit authorizes regulated activities associated with Contracts 6, 8 and 9 within the City of Jersey City (Pier 65 through Pier 61, and Pier 59 through Pier 55), the Town of Kearny (Pier 85, Pier 84, Pier 70 through 55), and the City of Newark (Pier 95 through Pier 86). The authorized activities are shown on the approved plans referenced on the last page of this permit.</p>		
<p>Prepared by: <u>Andrew Dromboski</u> Andrew Dromboski</p>	<p>Received and/or Recorded by County Clerk:</p>	
<p>If the permittee undertakes any regulated activity authorized under a permit, such action shall constitute the permittee's acceptance of the permit in its entirety as well as the permittee's agreement to abide by the permit and all conditions therein.</p>		
<p align="center">This permit is not valid unless authorizing signature appears on the last page.</p>		

SPECIAL CONDITIONS FOR A COASTAL PERMIT:

1. Landfill disruption/ disturbance to existing caps at the PJP Landfill site shall be conducted under the guidance of the NJDEP, Site Remediation Program or a Licensed Site Remediation Professional.
2. In order to protect anadromous fisheries within the Hackensack River and Passaic River, and tributaries, no grading, excavation, or construction activities is permitted within the watercourses onsite between March 1st through June 30th of each year. In addition, any activity within the 100-year floodplain or flood hazard area of these watercourses or tributaries which would introduce sediment into said watercourse or which could cause more than a minimum increase in the natural level of turbidity is also prohibited anytime, but especially during this period. The Department reserves the right to require additional soil conservation measures if it becomes evident that additional soil conservation measures are required to protect State regulated resources or to suspend all regulated activities on-site should it be determined that the permittee has not taken proper precautions to ensure continuous compliance with this condition.
3. Prior to the start of any regulated activities, the permittee shall contact Kathy Clark of the NJDEP, Endangered and Nongame Species Program (ENSP) to develop a plan to exclude peregrine falcons from nesting within the project area. A construction monitor must be utilized throughout the duration of the project of monitor the status/location of the nest. The permittee must continue to coordinate with ENSP until the completion of the project.
4. Prior to the start of any regulated activities within formerly and currently flowed tidal areas, the permittee shall obtain a tidelands instrument from the NJDEP, Bureau of Tidelands.

SPECIAL CONDITIONS FOR A FLOOD HAZARD PERMIT:

1. Any new, reconstructed, enlarged, or elevated structure within a flood hazard area shall be secured to resist flotation, collapse, and displacement due to hydrostatic and hydrodynamic forces from floodwaters.
2. The regulated activity shall not adversely affect low-flow aquatic passage in any regulated water.
3. The regulated activity shall not expose unset or raw cement to flowing water within any channel or regulated water during construction.
4. All riparian zone vegetation that is temporarily cleared, cut, and/or removed to conduct a regulated activity, access an area where regulated activities will be conducted, or otherwise accommodate a regulated activity shall be replanted immediately after completion of the regulated activity, unless prevented by seasonal weather, in which case the vegetation shall be replanted as soon as conditions permit. The vegetation to be replanted shall:
 - a. Consist of vegetation of equal or greater ecological function and value as the vegetation that was cleared, cut, or removed. For example, herbaceous vegetation may be replaced with the same type of vegetation or with trees, but the trees in forested areas must be replaced with trees of equal or greater density and ecological function and value;
 - b. Consist of native, non-invasive vegetation, except in an actively disturbed area. In an actively disturbed area, the vegetation may be replaced with the same type of vegetation that was cleared, cut, or removed, or with another kind of vegetation typical of an actively disturbed area. For example, lawn grass may be replaced with garden plants or agricultural crops; and

- c. In cases where replanting would interfere with continued access to or maintenance of a structure that is required by Federal, State, or local law, the vegetation replanted shall meet the requirements to the extent feasible.
5. The Department has determined that this project meets the requirements of the Stormwater Management rules at N.J.A.C. 7:8 without the use of any BMP's. Any future expansion or alteration of the approved site layout and/or land cover 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.
6. All excavated material shall be disposed of in a lawful manner. The material shall be placed outside of any flood hazard area, riparian zone, regulated water, freshwater/coastal wetlands and adjacent transition area, and in such a way as to not interfere with the positive drainage of the receiving area.
7. The location of any stockpiles shall be placed outside of the 10-year flood event and the stockpiles shall be broken down and removed prior to the end of construction.
8. All sediment barriers and other soil erosion control measures shall be installed prior to commencing any clearing, grading or construction onsite, and shall be maintained in proper working condition throughout the entire duration of the project.

SPECIAL CONDITIONS FOR A FRESHWATER WETLANDS PERMIT:

1. The total amount of permanent disturbance associated with this authorization shall not exceed 0.139 acres (6,080 SF) of ordinary resource value wetlands, 0.014 acres (609.8 SF) of intermediate resource value wetlands and .016 acres (697 SF) of transition area for the authorized activities shown on the approved plans.
2. The wetlands affected by this permit authorization are of Intermediate and Ordinary resource value and the standard transition area or buffer required adjacent to these wetlands is 50 feet and 0 feet, respectively. This permit includes a transition area waiver, which allows encroachment only in that portion of the transition area, which has been determined by the Department to be necessary to accomplish the regulated activities. Any additional regulated activities conducted within the standard transition area on-site shall require a separate transition area waiver from the Division. Regulated activities within a transition area are defined at N.J.A.C. 7:7A-2.3. Please refer to the Freshwater Wetlands Protection Act (N.J.S.A. 13:9B-1 et seq.) and implementing rules (N.J.A.C. 7:7A) for additional information.
3. If the permittee, before or during the work authorized, encounters a possible historic property, as described at N.J.A.C. 7:7A-19.5(1), that is or may be eligible for listing in the New Jersey or National Register, the permittee shall preserve the resource, and immediately notify the Department and proceed as directed.

MITIGATION CONDITIONS:

FRESHWATER MITIGATION PERMIT CONDITIONS BANK ONLY:

1. **Within 30 days of the issuance of this permit**, the permittee shall mitigate for the loss of 0.153 acres of emergent wetlands through the purchase of 0.153 mitigation credits from an approved wetland mitigation bank. At this time, the following bank(s) are approved to serve the project area; additional banks may be approved at any time, so please contact the Mitigation unit for the most up to date service area information if you would like additional options.
 - ***Pio Costa Wetland Mitigation Bank***
The contact for the bank is Carmen Pio Costa and he may be reached at (973) 575-1706.
 - ***MRI-3 Wetland Mitigation Bank***
The contact person for this bank is Mark Renna, Evergreen Environmental, LLC, 121 Carol Place, Wayne, NJ 07470 and he can be reached at 973-305-0643 or 973-356-7164 or by email at mrenna@evergreenenv.com.
 - ***Kane Wetland Mitigation Bank***
The contact person for the bank is Andrew Derickson; 4601 DTC Boulevard, Suite 130, Denver, CO 80237 and he can be reached at (720) 633-9676 or by email at aderickson@efg-bp.com.
2. **Within 60 days and prior to initiation of regulated activities**, the permittee shall submit proof of purchase for the amount of mitigation credits listed above to the attention of the Mitigation Unit Supervisor, NJDEP, Division of Land Use Regulation at Mail Code 501-02A, P.O. Box 420, Trenton, NJ 08625-0420.
3. In the event that mitigation credits are no longer available from the above referenced mitigation bank, the permittee shall contact the Division of Land Use Regulation, Mitigation Unit to arrange for an alternative mitigation option **prior to the initiation of regulated activities**.

INTERTIDAL/SUBTIDAL SHALLOWS MITIGATION CONDITIONS

1. **Within 30 days of the issuance of this permit**, the permittee shall mitigate for the loss of 0.788 acres of intertidal/subtidal shallows through the purchase of 0.788 mitigation credits from an approved wetland mitigation bank. At this time, the following bank(s) are approved to serve the project area; additional banks may be approved at any time, so please contact the Mitigation unit for the most up to date service area information if you would like additional options.
 - ***MRI-3 Wetland Mitigation Bank***
The contact person for this bank is Mark Renna, Evergreen Environmental, LLC, 121 Carol Place, Wayne, NJ 07470 and he can be reached at 973-305-0643 or 973-356-7164 or by email at mrenna@evergreenenv.com.
 - ***Kane Wetland Mitigation Bank***
The contact person for the bank is Andrew Derickson; 4601 DTC Boulevard, Suite 130, Denver, CO 80237 and he can be reached at (720) 633-9676 or by email at aderickson@efg-bp.com.

2. **Within 60 days and prior to initiation of regulated activities**, the permittee shall submit proof of purchase for the amount of mitigation credits listed above to the attention of the Mitigation Unit Supervisor, NJDEP, Division of Land Use Regulation at Mail Code 501-02A, P.O. Box 420, Trenton, NJ 08625-0420.
3. In the event that mitigation credits are no longer available from the above referenced mitigation bank, the permittee shall contact the Division of Land Use Regulation, Mitigation Unit to arrange for an alternative mitigation option **prior to the initiation of regulated activities**.

COASTAL MITIGATION PERMIT CONDITIONS

1. **Within 30 days of the issuance of this permit**, the permittee shall mitigate for the loss of 0.785 acres of tidal open waters through the purchase of 0.785 mitigation credits from an approved wetland mitigation bank. At this time, the following bank(s) are approved to serve the project area; additional banks may be approved at any time, so please contact the Mitigation unit for the most up to date service area information if you would like additional options.
 - ***MRI-3 Wetland Mitigation Bank***
The contact person for this bank is Mark Renna, Evergreen Environmental, LLC, 121 Carol Place, Wayne, NJ 07470 and he can be reached at 973-305-0643 or 973-356-7164 or by email at mrenna@evergreenenv.com.
 - ***Kane Wetland Mitigation Bank***
The contact person for the bank is Andrew Derickson; 4601 DTC Boulevard, Suite 130, Denver, CO 80237 and he can be reached at (720) 633-9676 or by email at aderickson@efg-bp.com.
2. **Within 60 days and prior to initiation of regulated activities**, the permittee shall submit proof of purchase for the amount of mitigation credits listed above to the attention of the Mitigation Unit Supervisor, NJDEP, Division of Land Use Regulation at Mail Code 501-02A, P.O. Box 420, Trenton, NJ 08625-0420.
3. In the event that mitigation credits are no longer available from the above referenced mitigation bank, the permittee shall contact the Division of Land Use Regulation, Mitigation Unit to arrange for an alternative mitigation option **prior to the initiation of regulated activities**.

RIPARIAN ZONE MITIGATION CONDITIONS

1. **At least 90 days prior to commencing regulated activities authorized by this permit**, the permittee shall submit a proposal to mitigate for the loss of 0.007 acres of forested riparian zone vegetation. The proposal shall be designed in accordance with the standards at N.J.A.C. 7:13-13. Activities authorized by this permit shall not begin until the permittee has obtained written approval of a mitigation plan from the Department (N.J.A.C. 7:13-13.2(b)).
2. **All mitigation shall be conducted prior to or concurrent with the regulated activity that causes the disturbance.** (N.J.A.C. 7:13-13.3(a)1). Concurrent means that at any given time, the mitigation must track at the same or greater percentage of completion as the project as a whole.

3. If the permittee is purchasing credits from a mitigation bank to satisfy a mitigation requirement, prior to the initiation of regulated activities authorized by this permit, the permittee shall submit proof of purchase for 0.007 mitigation credits from an approved wetland mitigation bank to the attention of the Mitigation Unit Supervisor, NJDEP, Division of Land Use Regulation at Mail Code 501-02A, P.O. Box 420, Trenton, NJ 08625-0420. As of the date of this permit, there are no mitigation banks serving your project area. Additional banks may be approved at any time, so please contact the Mitigation Unit for the most up to date service area information if you would like additional options.
4. If the permittee is considering conducting a creation, restoration or enhancement project, the following conditions shall apply: **Prior to the initiation of regulated activities authorized by this permit**, the permittee shall sign a Department approved conservation restriction to protect the mitigation area from future development that would remove the vegetation planted. (N.J.A.C. 7:13-13.2(g)). The conservation restriction shall conform to the format and content of the rules at N.J.A.C. 7:13-14 and the Riparian Zone Mitigation Area model located 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. A metes and bounds description shown on a map must be included within the recorded conservation restriction. Within 10 days of filing the conservation restriction, the permittee must send a copy of the conservation restriction to the attention of the Mitigation Unit Supervisor, NJDEP, Division of Land Use Regulation at Mail Code 501-02A, P.O. Box 420, Trenton, NJ 08625-0420.
5. *For creation and restoration projects*, the permittee shall obtain a secured bond or other financial surety acceptable to the Division from a firm licensed to provide such services in New Jersey. (N.J.A.C. 7:13-13.15)
6. The permittee shall monitor the riparian project for at least 5 years beginning the year after the riparian zone mitigation project has been completed (N.J.A.C. 7:13-13.12(c)). **The permittee shall submit monitoring reports to the Division of Land Use Regulation, no later than December 31st of each full monitoring year.**
 - a. All monitoring reports except the final one should include the requirements and goals of the mitigation proposal and a detailed explanation of the ways in which the mitigation has or has not achieved progress toward those goals. If mitigation has not achieved progress, the report shall also include a list of corrective actions to be implemented and a timeline for completion.
 - b. The final monitoring report must include documentation and data demonstrating that:
 - i. The goals of the riparian zone mitigation as stated in the approved riparian zone mitigation proposal and the permit conditions have been satisfied.
 - ii. At least 85 percent of the mitigation plantings have survived and that at least 85 percent of the mitigation area is established with native species similar to ones identified on the mitigation planting plan. All plant species in the mitigation area must be healthy and thriving. All trees must be at least 5 feet in height; and
 - iii. The site is less than 10 percent occupied by invasive or noxious species; and

- iv. The conservation restriction for the mitigation site has been executed and recorded.
7. If the riparian mitigation project does not meet the success criteria established above the project shall be considered a failure and the permittee shall submit a revised riparian mitigation plan. The revised plan shall be submitted within 60 days of receipt of notification from the Division indicating the riparian mitigation project was a failure.
8. If the Division determines that the riparian zone mitigation project is not constructed in conformance with the approved plan, the permittee will be notified in writing by the Department and will have 60 days to submit a proposal to indicate how the project will be corrected.
9. For preservation projects, the application shall provide documentation showing that the proposed preservation area will fully compensate in accordance with N.J.A.C. 7:13-13.13 for the loss of functions and values caused by the disturbance.

STANDARD CONDITIONS:

1. The issuance of a permit shall in no way expose the State of New Jersey or the Department to liability for the sufficiency or correctness of the design of any construction or structure(s). Neither the State nor the Department shall, in any way, be liable for any loss of life or property that may occur by virtue of the activity or project conducted as authorized under a permit.
2. The issuance of a permit does not convey any property rights or any exclusive privilege.
3. The permittee shall obtain all applicable Federal, State, and local approvals prior to commencement of regulated activities authorized under a permit.
4. A permittee conducting an activity involving soil disturbance, the creation of drainage structures, or changes in natural contours shall obtain any required approvals from the Soil Conservation District having jurisdiction over the site.
5. 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.
6. The permittee shall immediately inform the Department by telephone at (877) 927-6337 (Warn DEP Hotline) of any noncompliance that may endanger the public health, safety, and welfare, or the environment. In addition, the permittee shall inform the Division of Land Use Regulation by telephone at (609) 777-0454 of any other noncompliance within two working days of the time the permittee becomes aware of the noncompliance, and in writing within five working days of the time the permittee becomes aware 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. The written notice shall include:
 - a. A description of the noncompliance and its cause;
 - b. The period of noncompliance, including exact dates and times;
 - c. If the noncompliance has not been corrected, the anticipated length of time it is expected to continue; and
 - d. The steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

7. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the authorized activity in order to maintain compliance with the conditions of the permit.
8. The permittee shall employ appropriate measures to minimize noise where necessary during construction, as specified in N.J.S.A. 13:1G-1 et seq. and N.J.A.C. 7:29.
9. The issuance of a permit does not relinquish the State's tidelands ownership or claim to any portion of the subject property or adjacent properties.
10. The issuance of a permit does not relinquish public rights to access and use tidal waterways and their shores.
11. The permittee shall allow an authorized representative of the Department, upon the presentation of credentials, to:
 - a. 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;
 - b. Have access to and copy, at reasonable times, any records that must be kept under the conditions of the permit; and
 - c. Inspect at reasonable times any facilities, equipment, practices, or operations regulated or required under the permit. Failure to allow reasonable access under this paragraph shall be considered a violation of this chapter and subject the permittee to enforcement action.
12. The permittee and its contractors and subcontractors shall comply with all conditions, site plans, and supporting documents approved by the permit. Any noncompliance with a permit constitutes a violation of this chapter and is grounds for enforcement action under, as well as, in the appropriate case, suspension and/or termination of the permit.
13. All conditions, site plans, and supporting documents approved by a permit shall remain in full force and effect so long as the regulated activity or project, or any portion thereof, is in existence, unless the permit is modified.
14. For Coastal Permits, Flood Hazard Permits and Flood Hazard Verifications, and Freshwater Wetlands Permits, the permittee shall record the permit, including all conditions listed therein, with the Office of the County Clerk (the Registrar of Deeds and Mortgages, if applicable) of each county in which the site is located. The permit shall be recorded within 30 calendar days of receipt by the permittee, unless the permit authorizes activities within two or more counties, in which case the permit shall be recorded within 90 calendar days of receipt. Upon completion of all recording, a copy of the recorded permit shall be forwarded to the Division of Land Use Regulation at the address set forth in the rules.
15. If any condition or permit is determined to be legally unenforceable, modifications and additional conditions may be imposed by the Department as necessary to protect public health, safety, and welfare, or the environment.
16. A copy of the permit and all approved site plans and supporting documents shall be maintained at the site at all times and made available to Department representatives or their designated agents immediately upon request.

17. A permit shall be transferred to another person only in accordance with the regulations.
18. A permit can be suspended or terminated by the Department for cause.
19. The submittal of a request to modify a permit by the permittee, or a notification of planned changes or anticipated noncompliance, does not stay any condition of a permit.
20. 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.
21. The permittee shall submit written notification to the Bureau of Coastal and Land Use Compliance and Enforcement, 401 East State Street, 4th Floor, P.O. Box 420, Mail Code 401-04C, Trenton, NJ 08625, at least three working days prior to the commencement of regulated activities.
22. The permittee shall not cause or allow any unreasonable interference with the free flow of a regulated water by placing or dumping any materials, equipment, debris, or structures within or adjacent to the channel while the regulated activity(ies) is being undertaken. Upon completion of the regulated activity(ies), the permittee shall remove and dispose of in a lawful manner, all excess materials, debris, equipment, and silt fences and other temporary soil erosion and sediment control devices from all regulated areas.
23. The regulated activity shall not destroy, jeopardize, or adversely modify a present or documented habitat for threatened or endangered species, and shall not jeopardize the continued existence of any local population of a threatened or endangered species.

APPROVED PLANS:

The drawings hereby approved are sixty-three (63) sheets prepared by Greenman-Pedersen, Inc., dated April 2018, unrevised, unless otherwise noted, entitled: "NJDEP FLOOD HAZARD, FRESHWATER WETLAND, AND WATERFRONT DEVELOPMENT PLANS, CONTRACTS 6-8-9, ROUTE U.S. 1 & 9 (PULASKI SKYWAY) IN THE CITY OF NEWARK, TOWN OF KEARNY, AND CITY OF JERSEY CITY APRIL 2018".

- "KEY MAP" (Sheet 1 of 63), last revised August 2018;
- "PLAN SHEET INDEX" (Sheet 2 of 63);
- "FLOOD HAZARD AREA PERMIT PLANS" (Sheets 3 thru 20 of 63);
- "FRESHWATER WETLANDS PERMIT PLANS" (Sheets 21 thru 29 of 63);
- "WATERFRONT DEVELOPMENT PLANS" (Sheets 30 thru 40 of 63), Sheets 31, 32, 35, 37 & 39 last revised August 2018; and
- "PERMIT PLAN DETAILS" (Sheets 41 thru 63 of 63).

In accordance with N.J.A.C. 7:7A-21, any person who is aggrieved by this decision may request a hearing within 30 days of the date the decision is published in the DEP Bulletin by writing to: New Jersey Department of Environmental Protection, Office of Legal Affairs, Attention: Adjudicatory Hearing Requests, Mail Code 401-04L, P.O. Box 402, 401 East State Street, 7th Floor, Trenton, NJ 08625-0402. This request must include a completed copy of the Administrative Hearing Request Checklist found at www.state.nj.us/dep/landuse/forms. Hearing requests received after 30 days of publication notice may be denied. The DEP Bulletin is available on the Department's website at www.state.nj.us/dep/bulletin. In

addition to your hearing request, you may file a request with the Office of Dispute Resolution to engage in alternative dispute resolution. Please see the website www.nj.gov/dep/odr for more information on this process.

If you need clarification on any section of this permit or conditions, please contact the Division of Land Use Regulation's Technical Support Call Center at (609) 777-0454.

Approved By:



Joslin C. Tamagno
Environmental Supervisor, ES4
Division of Land Use Regulation
Bureau of Urban Growth and Redevelopment

8.22-18

Date

Original sent to Permittee to record

c: Ms. A. Cheney, NJDOT, Permittee
City of Jersey City Construction Official
Town of Kearny Construction Official
City of Newark Construction Official