

# DEPARTMENT OF THE ARMY PERMIT

**Permittee:** New Jersey Department of Transportation  
1035 Parkway Avenue  
Trenton, New Jersey 08625  
(906) 530-3385

**Permit Number:** NAN-2017-01454

**Date Issued:** APR 10 2018

**Issuing Office:** U.S. Army Corps of Engineers, New York District

NOTE: The term "you" and its derivatives, as used in this permit, means the permittee or any future transferee. The term "this office" refers to the appropriate district or division office of the Corps of Engineers having jurisdiction over the permitted activity or the appropriate official of that office acting under the authority of the commanding officer.

You are authorized to perform work in accordance with the terms and conditions specified below.

## Project Description:

The regulated activities authorized by this Department of the Army Permit for the 2-mile Route 1 & 9T New Road project include the discharge of approximately 5,900 cubic yards of fill material into 2.202 acres of waters of the United States to facilitate the construction and installation of the following:

1. Two 12-foot wide lanes (one in each direction), each with a 15-foot wide outside shoulder, and a 10-foot wide earthen berm extending along each side of the new road (1.095 impact acres);
2. Four new bridge structures (0.095 impact acres):
  - a. Structure 1 – New Jersey Transit Main Rail Line (87 linear feet);
  - b. Structure 2 – New Jersey Transit Wye Track (157 linear feet);
  - c. Structure 3 – New road viaduct of the existing New Jersey Transit Main Rail Line and Norfolk Southern Croxton Yard (2,419 linear feet); and
  - d. Structure 4 – A new single span (prestressed concrete slab bridge over an existing drainage ditch by Secaucus road (32 linear feet);
3. Eight retaining walls ranging from 560 to 4,315 linear feet in length (0.074 impact acres);
4. A new outfall structure (0.0001 impact acres);
5. The widening of County Road (0.163 impact acres);
6. The filling of approximately 4,400 linear feet of an existing open unnamed drainage ditch (0.522 impact acres) situated along the U.S. Postal Service Bulk Mail Facility;
7. The relocation of approximately 560 linear feet of the open unnamed drainage ditch (0.055 impact acres) situated along the U.S. Postal Service Bulk Mail Facility; and
8. The reconfiguration of Secaucus Avenue (0.198 impact acres).

**PERMITTEE: New Jersey Dept. of Transportation**  
**PERMIT NO.: NAN-2017-01454**

A total of approximately 2.63 acres of waters of the United States shall be temporarily disturbed as part of the proposed new road construction activities. Upon completion of the road installation activities, all temporarily disturbed waters of the United States, including wetlands, shall be restored to preconstruction conditions and planted with native hydrophytic vegetation where appropriate.

All work shall be performed in accordance with the attached drawings and special conditions (A) through (H) which are hereby made part of this permit, and the New Jersey Department of Environmental Protection Permit No. 0906-15-0010.1, CDT 170001, 0906-15-0010.1 FHA 170001, incorporating the Section 401 Water Quality Certificate, which are hereby made a part of this permit.

**Project Location: IN: Penhorn Creek (Hackensack River Watershed)**

**AT: City of Jersey City and Town of Secaucus, Hudson County, NJ**

**Permit Conditions:**

**General Conditions:**

1. The time limit for completing the work authorized ends on APR 10 2021. If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least one month before the above date is reached.
2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.
3. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and state coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.
4. If you sell the property associated with this permit, you must obtain the signature of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.
5. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit. For your convenience, a copy of the certification is attached if it contains such conditions.

**PERMITTEE: New Jersey Depart. Of Transportation**  
**PERMIT NO.: NAN-2017-01454**

**6. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.**

**Special Conditions:**

**(A) Prior to commencing any work in waters of the United States authorized by this permit, the permittee shall provide the New York District Corps of Engineers with written verification that a total of 2.5 wetland mitigation credits have been purchased from a federally approved wetland mitigation bank within the Hackensack Meadowlands to compensate for the 2.202 acres of permanent unavoidable impacts to waters of the United States associated with the "Route 1 & 9T New Road" project. This verification document shall be submitted to the following address:**

**Chief, Regulatory Branch  
New York District, U.S. Army Corps of Engineers  
Jacob K. Javits Federal Building  
26 Federal Plaza, 19<sup>th</sup> Floor  
New York, New York 10278-0090**

**(B) 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 U.S. Army 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.**

**(C) The permittees and their designated contractors shall be responsible for, and shall comply with, all of the conditions and stipulations contained within the attached New Jersey Department of Environmental Protection Water Quality Certification dated February 6, 2018 (Permit No. 0906-15-0010.1, CDT 170001, 0906-15-0010.1 FHA 170001), and all amendments, thereto.**

**(D) The permittee and their contractors shall ensure that no work or disturbance occurs to the existing and federally approved Norfolk Southern Railway Company wetland mitigation site known as the "Croxtton Wye Wetland Mitigation" site situated along the Norfolk Southern Railway Company Wye Track. A copy of the "Croxtton Wye Wetland Mitigation" site Conservation Easement and associated drawings of the mitigation site is attached.**

**(E) A complete copy of this permit, including its drawings, special conditions and any amendments shall be maintained at the work site whenever work is being performed. The permittee shall assure that all contractors, subcontractors and other personnel performing the permitted work are fully aware of the permit's terms and conditions.**

**PERMITTEE: New Jersey Dept. of Transportation**  
**PERMIT NO.: NAN-2017-01454**

**(F) The permittee shall undertake the authorized activities in a manner aimed at reducing impacts upon the general environment. In addition, the permittee shall not stockpile fill or other materials in a manner conducive to erosion, or in areas likely to cause high turbidity runoff during storm events. The permittee shall use all practicable measures during construction (e.g. silt fences, hay bales, erosion control netting, vegetative stabilization) to stabilize all exposed soils immediately upon the completion of each phase of the grading activities in all areas, and appropriate temporary fencing shall be installed around all on-site wetlands and waters of the United States not authorized herein to be impacted and other sensitive ecological areas during construction periods, to prevent equipment and personnel from entering these areas.**

**(G) The permittee shall restore all temporarily disturbed wetlands and waters of the United States to preconstruction conditions and plant the areas with native hydrophytic vegetation where appropriate.**

**(H) The permittee shall respond to all reasonable requests for information from the New York District Corps of Engineers, and provide necessary field support during field investigations and permit compliance inspections. Any representative of the Corps of Engineers shall be granted authorization to access the site for the purpose of site inspections.**

**Further Information:**

**1. Congressional Authorities: You have been authorized to undertake the activity described above pursuant to:**

**(X) Section 10 of the Rivers and Harbors Act of 1899 (33 U.S. Code 403).**

**(X) Section 404 of the Clean Water Act (33 U.S. Code 1344).**

**( ) Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413).**

**2. Limits of this authorization:**

**a. This permit does not obviate the need to obtain other Federal, state, or local authorizations required by law.**

**b. This permit does not grant any property rights or exclusive privileges.**

**c. This permit does not authorize any injury to the property or rights of others.**

**d. This permit does not authorize interference with any existing or proposed Federal project.**

**3. Limits of Federal Liability: In issuing this permit, the Federal Government does not assume any liability for the following:**

- a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.
- b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.
- c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.
- d. Design or construction deficiencies associated with the permitted work.
- e. Damage claims associated with any future modification, suspension, or revocation of this permit.

**4. Reliance on Applicant's Data:** The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.

**5. Reevaluation of Permit Decision:** This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:

- a. You fail to comply with the terms and conditions of this permit.
- b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (See 4 above).
- c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you to comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measures ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

**6. Extensions:** General Condition 1 establishes a time limit for the completion of the activity authorized by this permit. Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the Corps will normally give favorable consideration to a request for an extension of this time limit.

PERMITTEE: New Jersey Dept. of Transportation  
PERMIT NO.: NAN-2017-01454

Your signature below, as permittee, indicates that you accept and agree to comply with the terms and conditions of this permit.

Eli D. Lambert III  
(PERMITTEE)

3/28/18  
(DATE)

*Eli D. Lambert III*  
New Jersey Department of Transportation  
Assistant Commissioner  
Capital Program Management

This permit becomes effective when the Federal official, designated to act for the Secretary of the Army, has signed below.

Christopher S. Asbery  
(DISTRICT ENGINEER)

APR 10 2018  
(DATE)

**For and in behalf of**

Thomas D. Asbery  
Colonel, U.S. Army  
District Engineer

When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below. A copy of the permit signed by the transferee should be sent to this office.

\_\_\_\_\_  
(TRANSFEREE)

\_\_\_\_\_  
(DATE)

**PRELIMINARY JURISDICTIONAL DETERMINATION (PJD) FORM**

**BACKGROUND INFORMATION**

**A. REPORT COMPLETION DATE FOR PJD:** December 15, 2017

**B. NAME AND ADDRESS OF PERSON REQUESTING PJD:** New Jersey Dept. of Transportation,  
1035 Parkway Avenue, Trenton, New Jersey 08625

**C. DISTRICT OFFICE, FILE NAME, AND NUMBER:** New York District, U.S. Army Corps of Engineers,  
New Jersey Dept. of Transportation, NAN-2017-01454-WCA

**D. PROJECT LOCATION(S) AND BACKGROUND INFORMATION:** The New Jersey Department of Transportation (NJDOT), has requested Department of the Army authorization to discharge approximately 6,000 cubic yards of fill material into approximately 2.202 acres of waters of the United States to facilitate the construction and installation of a new approximately two (2) mile mixed use roadway consisting of two 12-foot wide lanes with associated 15-foot outside shoulders that would extend from St. Pauls Avenue in Jersey City to Secaucus Avenue in Secaucus, Hudson County, New Jersey. The proposed new roadway would extend within and over waters of the United States and wetlands associated with Penhorn Creek, a tributary of the Hackensack River, a navigable water way.

**(USE THE TABLE BELOW TO DOCUMENT MULTIPLE AQUATIC RESOURCES AND/OR AQUATIC RESOURCES AT DIFFERENT SITES)**

State: New Jersey County/parish/borough: Hudson City: Jersey City and Secaucus

Center coordinates of site (lat/long in degree decimal format): Lat.: 40.7541 Long.: -74.0582

Universal Transverse Mercator:

Name of nearest waterbody: Penhorn Creek (Hackensack River Watershed).

**E. REVIEW PERFORMED FOR SITE EVALUATION (CHECK ALL THAT APPLY):**

X Office (Desk) Determination. Date: December 15, 2017

Field Determination. Date(s):

Site number	Latitude (decimal degrees)	Longitude (decimal degrees)	Estimated amount of aquatic resource in review area (acreage and linear feet, if applicable)	Type of aquatic resource (i.e., wetland vs. non-wetland waters)	Geographic authority to which the aquatic resource "may be" subject (i.e., Section 404 or Section 10/404)
1	40.7541	-74.0582	5 acres	wetland	Section 10 and Section 404

- 1) The Corps of Engineers believes that there may be jurisdictional aquatic resources in the review area, and the requestor of this PJD is hereby advised of his or her option to request and obtain an approved JD (AJD) for that review area based on an informed decision after having discussed the various types of JDs and their characteristics and circumstances when they may be appropriate.
  
- 2) In any circumstance where a permit applicant obtains an individual permit, or a Nationwide General Permit (NWP) or other general permit verification requiring "pre-construction notification" (PCN), or requests verification for a non-reporting NWP or other general permit, and the permit applicant has not requested an AJD for the activity, the permit applicant is hereby made aware that: (1) the permit applicant has elected to seek a permit authorization based on a PJD, which does not make an official determination of jurisdictional aquatic resources; (2) the applicant has the option to request an AJD before accepting the terms and conditions of the permit authorization, and that basing a permit authorization on an AJD could possibly result in less compensatory mitigation being required or different special conditions; (3) the applicant has the right to request an individual permit rather than accepting the terms and conditions of the NWP or other general permit authorization; (4) the applicant can accept a permit authorization and thereby agree to comply with all the terms and conditions of that permit, including whatever mitigation requirements the Corps has determined to be necessary; (5) undertaking any activity in reliance upon the subject permit authorization without requesting an AJD constitutes the applicant's acceptance of the use of the PJD; (6) accepting a permit authorization (e.g., signing a proffered individual permit) or undertaking any activity in reliance on any form of Corps permit authorization based on a PJD constitutes agreement that all aquatic resources in the review area affected in any way by that activity will be treated as jurisdictional, and waives any challenge to such jurisdiction in any administrative or judicial compliance or enforcement action, or in any administrative appeal or in any Federal court; and (7) whether the applicant elects to use either an AJD or a PJD, the JD will be processed as soon as practicable. Further, an AJD, a proffered individual permit (and all terms and conditions contained therein), or individual permit denial can be administratively appealed pursuant to 33 C.F.R. Part 331. If, during an administrative appeal, it becomes appropriate to make an official determination whether geographic jurisdiction exists over aquatic resources in the review area, or to provide an official delineation of jurisdictional aquatic resources in the review area, the Corps will provide an AJD to accomplish that result, as soon as is practicable. This PJD finds that there "may be" waters of the U.S. and/or that there "may be" navigable waters of the U.S. on the subject review area, and identifies all aquatic features in the review area that could be affected by the proposed activity, based on the following information:



**SUPPORTING DATA. Data reviewed for PJD (check all that apply)**

Checked items should be included in subject file. Appropriately reference sources below where indicated for all checked items:

- Maps, plans, plots or plat submitted by or on behalf of the PJD requestor:  
Map: NJ Dept. of Transportation Permit Application submittal September 28, 2017.
- Data sheets prepared/submitted by or on behalf of the PJD requestor.
  - Office concurs with data sheets/delineation report.
  - Office does not concur with data sheets/delineation report. Rationale: \_\_\_\_\_
- Data sheets prepared by the Corps: \_\_\_\_\_
- Corps navigable waters' study: \_\_\_\_\_
- U.S. Geological Survey Hydrologic Atlas: \_\_\_\_\_
  - USGS NHD data.
  - USGS 8 and 12 digit HUC maps.
- U.S. Geological Survey map(s). Cite scale & quad name: Weehawken, NJ
- Natural Resources Conservation Service Soil Survey. Citation: NRCS Soil Survey, Figure 6
- National wetlands inventory map(s). Cite name: USFWS NWI Map, Figure 9
- State/local wetland inventory map(s): NJDEP Mapped Wetlands, Figure 5
- FEMA/FIRM maps: FEMA Map, Figure 4
- 100-year Floodplain Elevation is: \_\_\_\_\_.(National Geodetic Vertical Datum of 1929)
- Photographs:  Aerial (Name & Date): Aerial Photograph, Figure 3.  
or  Other (Name & Date): Permit Application dated September 28, 2017.
- Previous determination(s). File no. and date of response letter: \_\_\_\_\_
- Other information (please specify): \_\_\_\_\_

**IMPORTANT NOTE: The information recorded on this form has not necessarily been verified by the Corps and should not be relied upon for later jurisdictional determinations.**

CANNON.JAMES.H.12289 Digitally signed by CANNON.JAMES.H.122890042  
40042 DN: c=US, o=U.S. Government, ou=DoD, ou=EPG,  
ou=ISA, ou=CANNON.JAMES.H.122890042  
Date: 2017.10.17 09:58:03 -0400

\_\_\_\_\_  
Signature and date of  
Regulatory staff member  
completing PJD

\_\_\_\_\_  
Signature and date of  
person requesting PJD  
(REQUIRED, unless obtaining  
the signature is impracticable)<sup>1</sup>

<sup>1</sup> Districts may establish timeframes for requestor to return signed PJD forms. If the requestor does not respond within the established time frame, the district may presume concurrence and no additional follow up is necessary prior to finalizing an action.

# DEPARTMENT OF THE ARMY PERMIT

**Permittee:** New Jersey Department of Transportation  
1035 Parkway Avenue  
Trenton, New Jersey 08625  
(906) 530-3385

**Permit Number:** NAN-2017-01454

**Date Issued:** \_\_\_\_\_

**Issuing Office:** U.S. Army Corps of Engineers, New York District

NOTE: The term "you" and its derivatives, as used in this permit, means the permittee or any future transferee. The term "this office" refers to the appropriate district or division office of the Corps of Engineers having jurisdiction over the permitted activity or the appropriate official of that office acting under the authority of the commanding officer.

You are authorized to perform work in accordance with the terms and conditions specified below.

## Project Description:

The regulated activities authorized by this Department of the Army Permit for the 2-mile Route 1 & 9T New Road project include the discharge of approximately 5,900 cubic yards of fill material into 2.202 acres of waters of the United States to facilitate the construction and installation of the following:

1. Two 12-foot wide lanes (one in each direction), each with a 15-foot wide outside shoulder, and a 10-foot wide earthen berm extending along each side of the new road (1.095 impact acres);
2. Four new bridge structures (0.095 impact acres):
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  - b. Structure 2 – New Jersey Transit Wye Track (157 linear feet);
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**PERMITTEE: New Jersey Dept. of Transportation**  
**PERMIT NO.: NAN-2017-01454**

**A total of approximately 2.63 acres of waters of the United States shall be temporarily disturbed as part of the proposed new road construction activities. Upon completion of the road installation activities, all temporarily disturbed waters of the United States, including wetlands, shall be restored to preconstruction conditions and planted with native hydrophytic vegetation where appropriate.**

**All work shall be performed in accordance with the attached drawings and special conditions (A) through (H) which are hereby made part of this permit, and the New Jersey Department of Environmental Protection Permit No. 0906-15-0010.1, CDT 170001, 0906-15-0010.1 FHA 170001, incorporating the Section 401 Water Quality Certificate, which are hereby made a part of this permit.**

**Project Location: IN: Penhorn Creek (Hackensack River Watershed)**

**AT: City of Jersey City and Town of Secaucus, Hudson County, NJ**

**Permit Conditions:**

**General Conditions:**

- 1. The time limit for completing the work authorized ends on \_\_\_\_\_ . If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least one month before the above date is reached.**
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**PERMITTEE: New Jersey Depart. Of Transportation**  
**PERMIT NO.: NAN-2017-01454**

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**Special Conditions:**

**(A) Prior to commencing any work in waters of the United States authorized by this permit, the permittee shall provide the New York District Corps of Engineers with written verification that a total of 2.5 wetland mitigation credits have been purchased from a federally approved wetland mitigation bank within the Hackensack Meadowlands to compensate for the 2.202 acres of permanent unavoidable impacts to waters of the United States associated with the "Route 1 & 9T New Road" project. This verification document shall be submitted to the following address:**

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New York District, U.S. Army Corps of Engineers  
Jacob K. Javits Federal Building  
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**(B) 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 U.S. Army 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.**

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**(D) The permittee and their contractors shall ensure that no work or disturbance occurs to the existing and federally approved Norfolk Southern Railway Company wetland mitigation site known as the "Croxton Wye Wetland Mitigation" site situated along the Norfolk Southern Railway Company Wye Track. A copy of the "Croxton Wye Wetland Mitigation" site Conservation Easement and associated drawings of the mitigation site is attached.**

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**(G) The permittee shall restore all temporarily disturbed wetlands and waters of the United States to preconstruction conditions and plant the areas with native hydrophytic vegetation where appropriate.**

**(H) The permittee shall respond to all reasonable requests for information from the New York District Corps of Engineers, and provide necessary field support during field investigations and permit compliance inspections. Any representative of the Corps of Engineers shall be granted authorization to access the site for the purpose of site inspections.**

**Further Information:**

**1. Congressional Authorities: You have been authorized to undertake the activity described above pursuant to:**

**(X) Section 10 of the Rivers and Harbors Act of 1899 (33 U.S. Code 403).**

**(X) Section 404 of the Clean Water Act (33 U.S. Code 1344).**

**( ) Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413).**

**2. Limits of this authorization:**

**a. This permit does not obviate the need to obtain other Federal, state, or local authorizations required by law.**

**b. This permit does not grant any property rights or exclusive privileges.**

**c. This permit does not authorize any injury to the property or rights of others.**

**d. This permit does not authorize interference with any existing or proposed Federal project.**

**3. Limits of Federal Liability: In issuing this permit, the Federal Government does not assume any liability for the following:**

**PERMITTEE: New Jersey Depart. Of Transportation**  
**PERMIT NO.: NAN-2017-01454**

- a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.
- b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.
- c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.
- d. Design or construction deficiencies associated with the permitted work.
- e. Damage claims associated with any future modification, suspension, or revocation of this permit.

**4. Reliance on Applicant's Data:** The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.

**5. Reevaluation of Permit Decision:** This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:

- a. You fail to comply with the terms and conditions of this permit.
- b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (See 4 above).
- c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you to comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measures ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

**6. Extensions:** General Condition 1 establishes a time limit for the completion of the activity authorized by this permit. Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the Corps will normally give favorable consideration to a request for an extension of this time limit.

**PERMITTEE: New Jersey Dept. of Transportation**  
**PERMIT NO.: NAN-2017-01454**

**Your signature below, as permittee, indicates that you accept and agree to comply with the terms and conditions of this permit.**

\_\_\_\_\_  
**(PERMITTEE)**

\_\_\_\_\_  
**(DATE)**

**New Jersey Department of Transportation**

**This permit becomes effective when the Federal official, designated to act for the Secretary of the Army, has signed below.**

\_\_\_\_\_  
**(DISTRICT ENGINEER)**

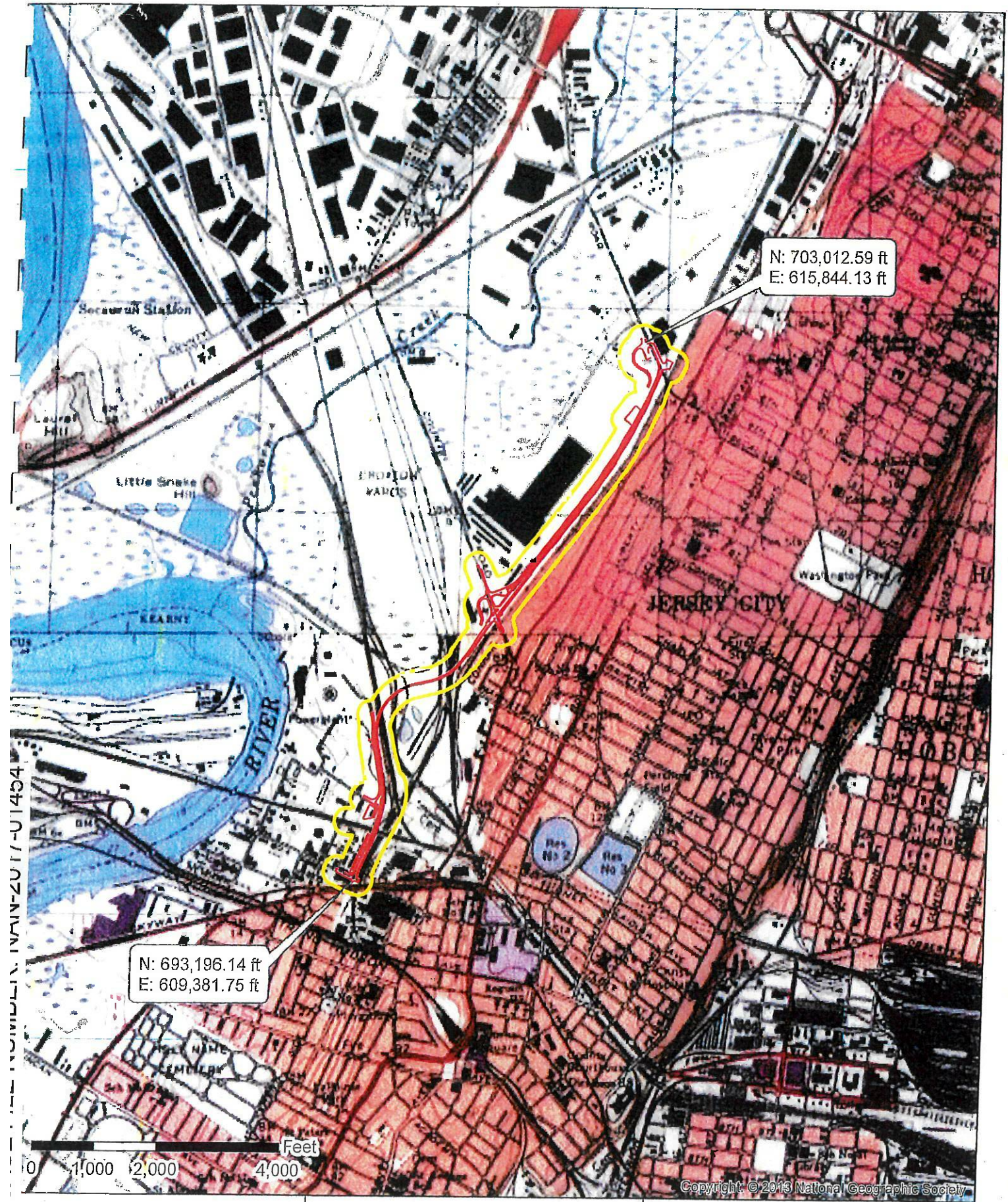
\_\_\_\_\_  
**(DATE)**

**Thomas D. Asbery**  
**Colonel, U.S. Army**  
**District Engineer**

**When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below. A copy of the permit signed by the transferee should be sent to this office.**

\_\_\_\_\_  
**(TRANSFEREE)**

\_\_\_\_\_  
**(DATE)**

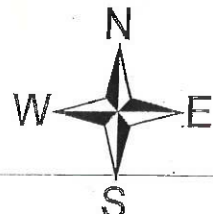


**Legend**

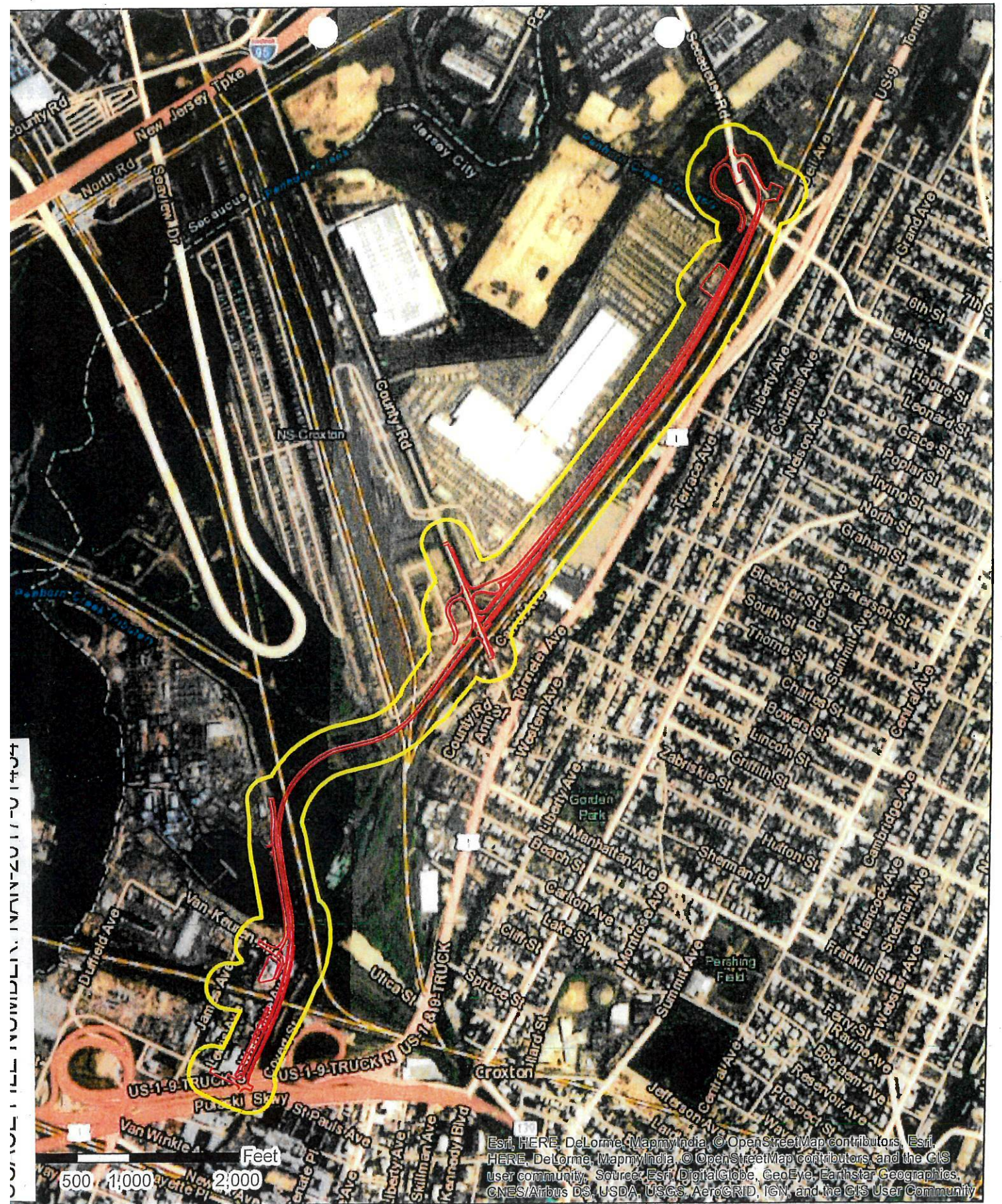
- Proposed Improvements
- Study Area

**FIGURE 1 - USGS Location**

Figure 1 of 20







- Legend**
- Proposed Improvements
  - Study Area

**FIGURE 3 - Aerial Location**

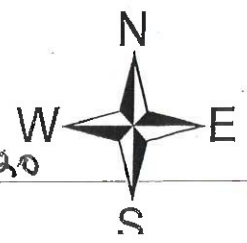


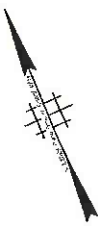
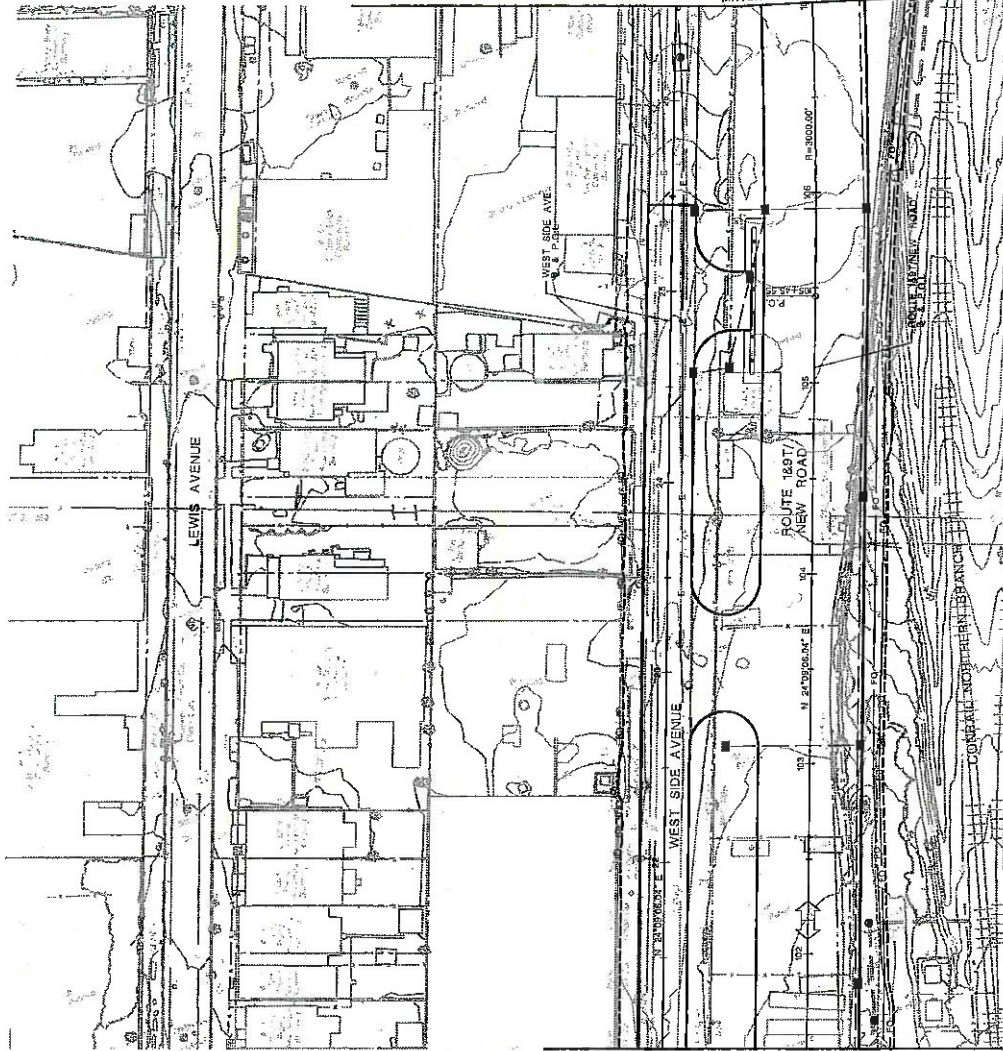
Figure 2 of 20



USACE FILE NUMBER: NAN-2017-01454

CITY OF JERSEY CITY

COUNTY OF HUDSON



NEW JERSEY DEPARTMENT OF TRANSPORTATION

**USACE PERMIT PLANS**

ROUTE 1897/NEW ROAD  
CONTRACTS 1, 2 & 3  
CONTRACT NOS. 000188000,  
000188010 & 000188020

5/4/2017  
3  
270

NO.	DESCRIPTION	DATE	BY
1	IMPROVED PLAN CLARITY	12/20/2017	

NO WATERS OF THE U.S. AREA IMPACTS THIS SHEET

Figure 4 of 20

USACE FILE NUMBER: NAN-2017-01454

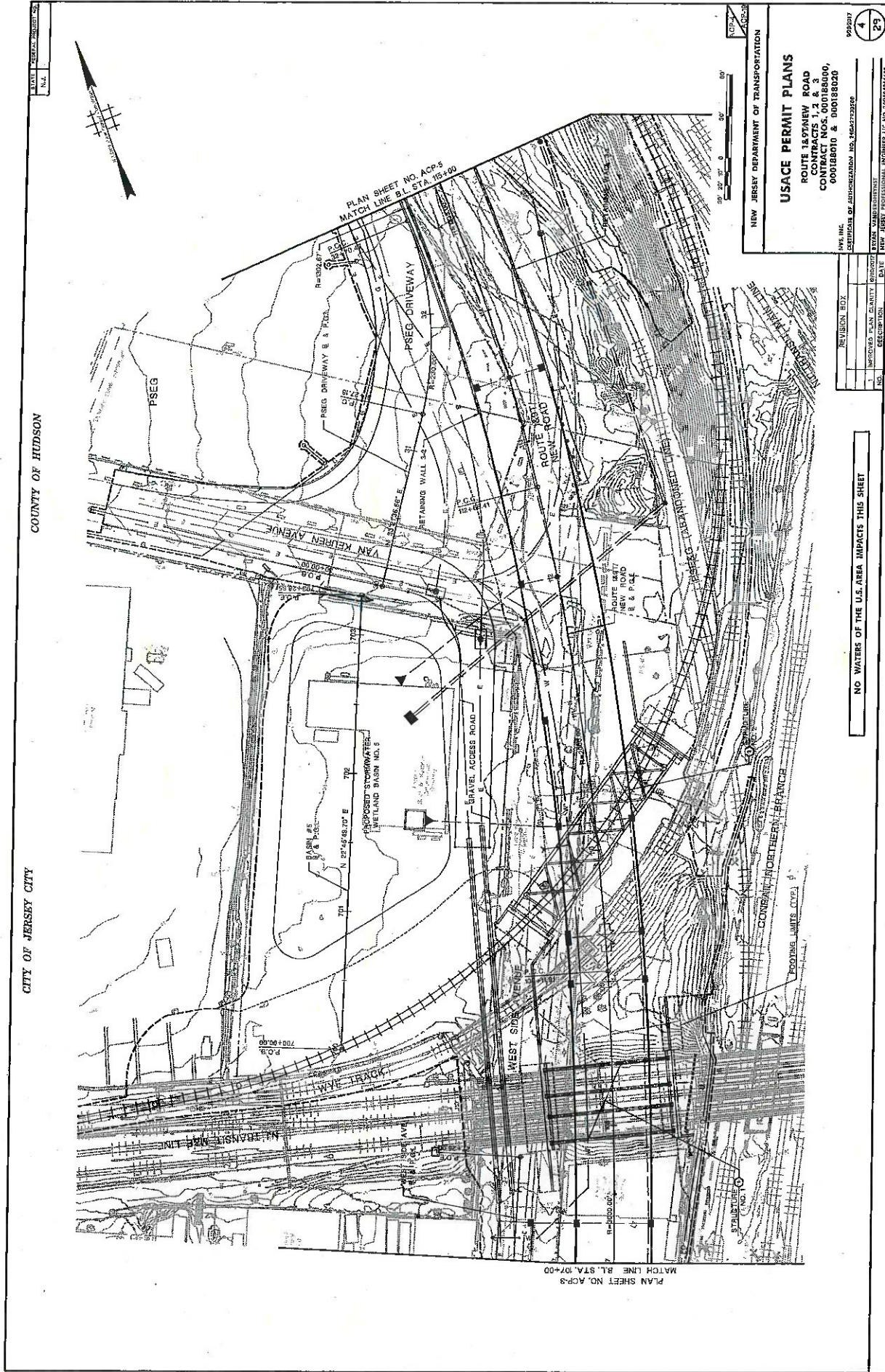


Figure 5 of 20

USACE FILE NUMBER: NAN-2017-01454

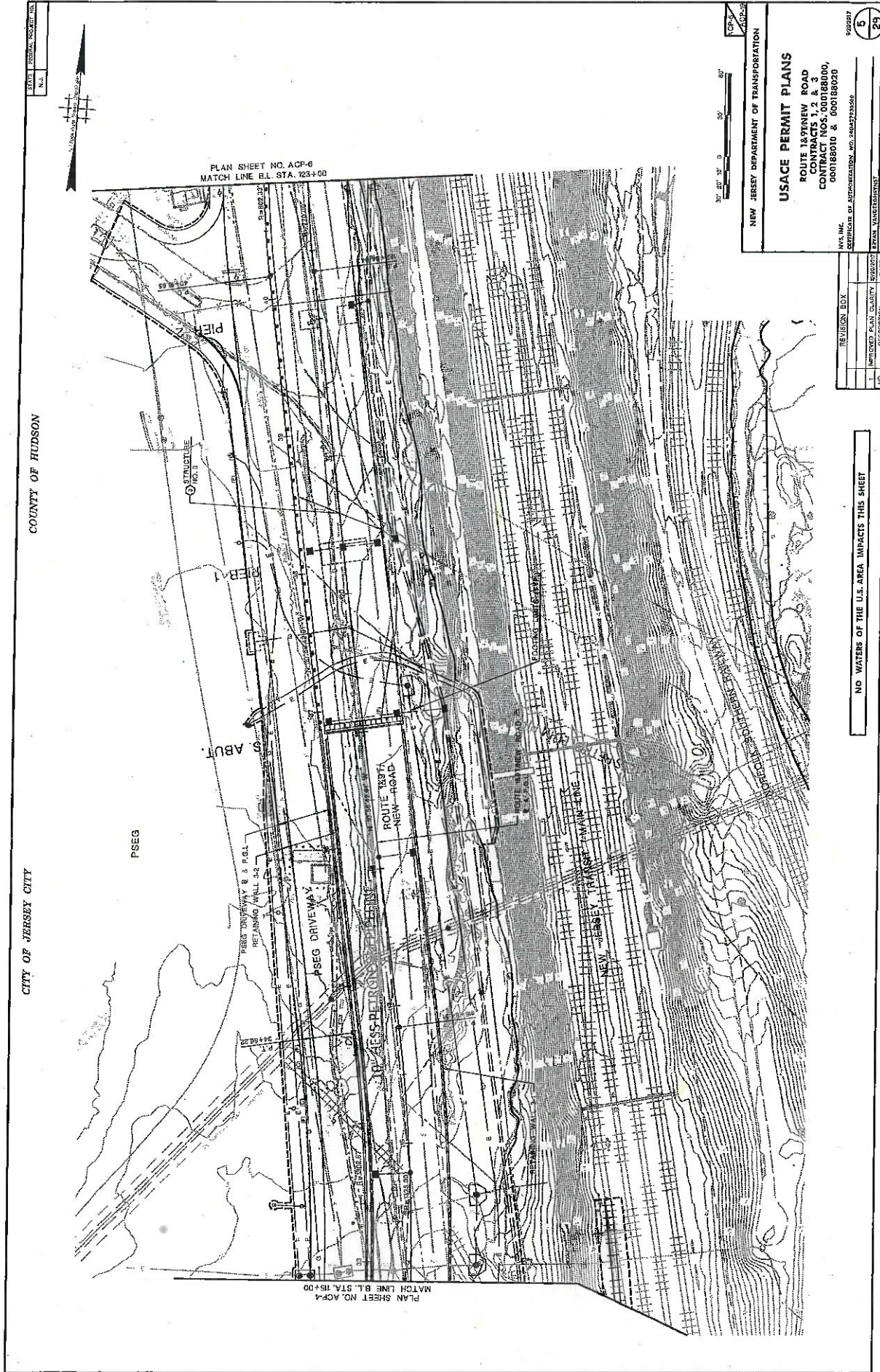


Figure 6 of 20

USACE FILE NUMBER: NAN-2017-01454

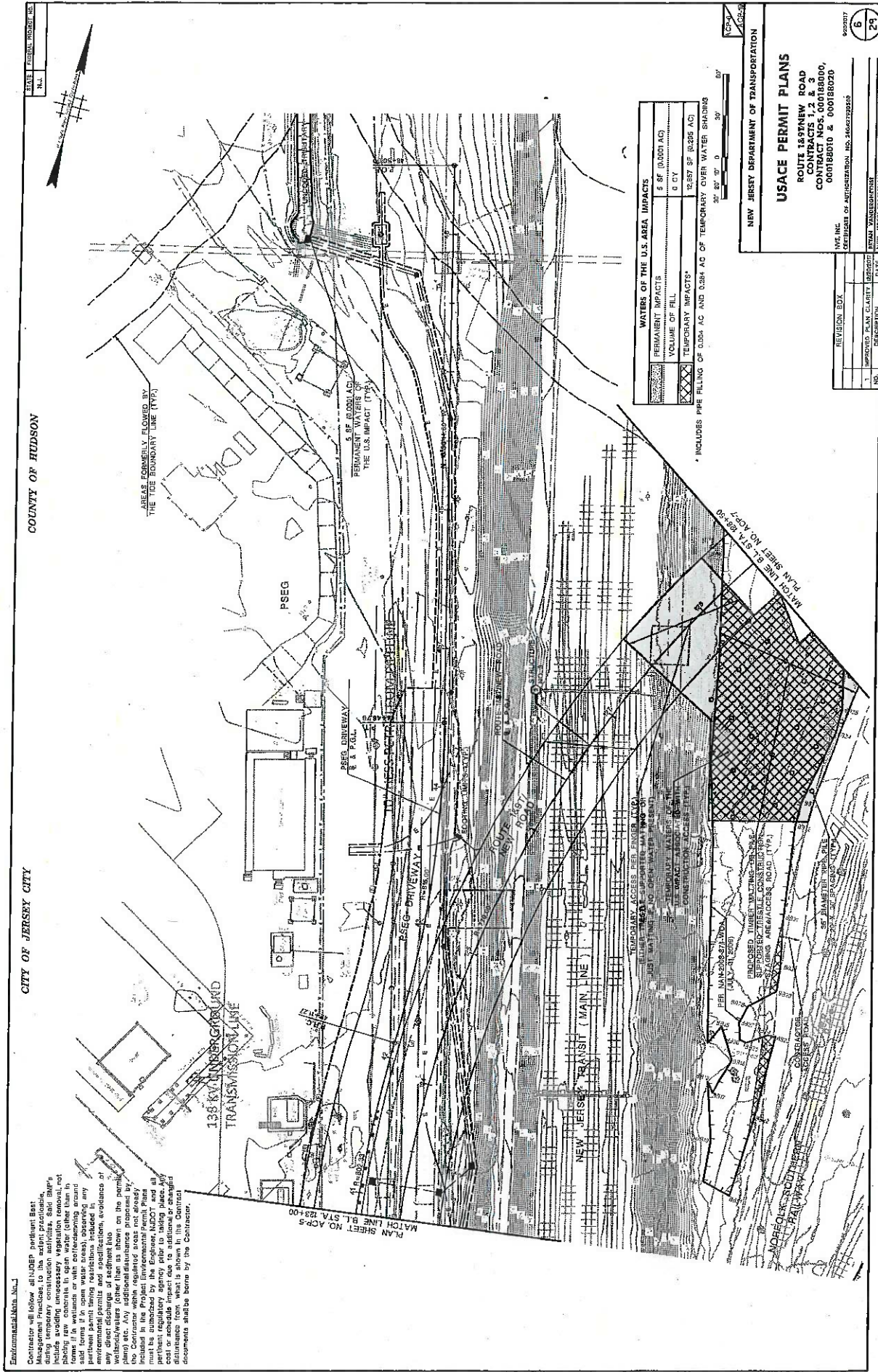


Figure 7 of 20

CITY OF JERSEY CITY

COUNTY OF HUDSON



WATERS OF THE U.S. AREA IMPACTS	
PERMANENT IMPACTS	1,122 SF (0.026 AC)
VOLUME OF FILL	320 CY
TEMPORARY IMPACTS*	9,789 SF (0.224 AC)

\* INCLUDES PIPE TRENCHES OF 48\"/>

**Environmental Note No. 1**  
 Contractor will follow all NJDEP permit Best Management Practices to the extent practicable, during temporary construction activities. Includes avoiding unnecessary vegetation removal, not placing saw concrete in open water (other than in pits or with construction around pits) or in any form of open water, and other measures to avoid impacts on wetlands, streams, and riparian areas. Avoidance of environmental impacts and specializations, avoidance of wetlands, streams, and riparian areas on the permit area. Any additional disturbances proposed by the contractor within regulated areas not already authorized by the Engineer, NJDOT and all permit regulatory agency prior to taking place. Any additional impact due to additional or changed documents shall be borne by the Contractor.

NEW JERSEY DEPARTMENT OF TRANSPORTATION

**USACE PERMIT PLANS**  
 ROUTE 149 TURNPIKE ROAD  
 CONTRACT NOS. 000188000,  
 000188010 & 000188020

NEW JERSEY DEPARTMENT OF TRANSPORTATION  
 990007

DATE: 7/29/17

NO.	DESCRIPTION	DATE
1	IMPROVED PLAN CLARITY	7/29/17

Figure 8 of 20

USACE FILE NUMBER: NAN-2017-01454

CITY OF JERSEY CITY

COUNTY OF HUDSON



**Environmental Plan, Inc.**  
 Contractor will follow all USACE wetland Best Management Practices to the extent practicable, during temporary construction activities. Said BMP's shall include, but not be limited to, erosion control, placing row covers to prevent vegetation removal, not forming of wetlands or with confining around any soil forms if in open water areas, observing any environmental permits and regulations in accordance with any direct discharge of sediment into wetlands/waterways (other than as shown on the permit) and any other requirements as may be required by the Contractor with regulatory agencies not included in the Project Environmental Permit Plans. All work shall be authorized by the Engineer, NJDOT and all other agencies having jurisdiction. The Contractor shall pay the cost of any additional or changed disturbance from what is shown in the Contract documents shall be borne by the Contractor.

NEW JERSEY DEPARTMENT OF TRANSPORTATION  
**USACE PERMIT PLANS**  
 ROUTE 18/29 NEW ROAD  
 CONTRACTS 1, 2 & 3  
 CONTRACT NOS. 000188000,  
 000188010 & 000188020  
 AUTHORITY OF AUTHORIZATION NO. 200402000000  
 DATE: 08/29/07  
 8  
 29

NO.	REVISION	DATE	DESCRIPTION
1	IMPROVED PLAN QUALITY	08/29/07	

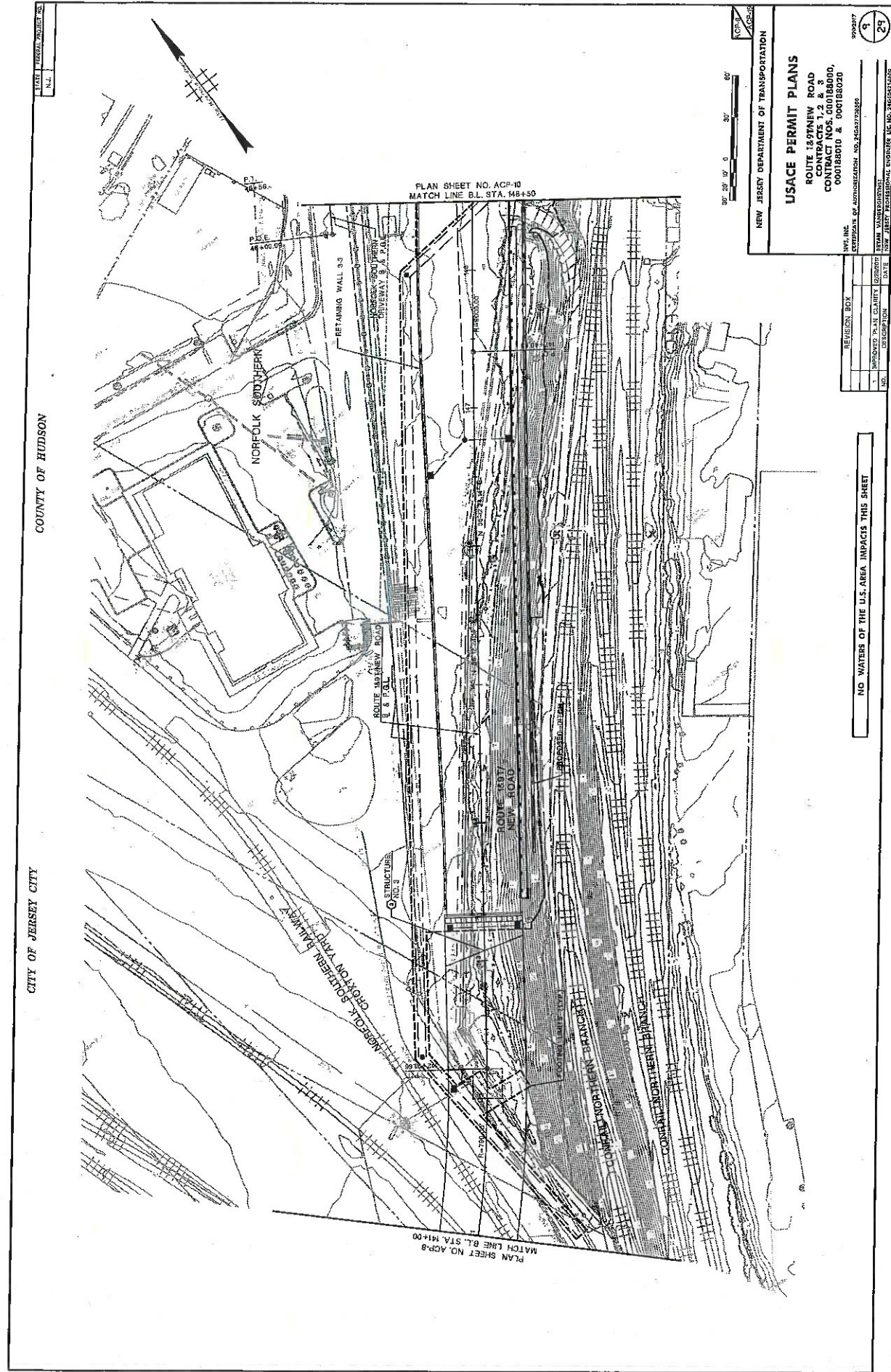
WATERS OF THE U.S. AREA IMPACTS	PERMANENT IMPACTS	TEMPORARY IMPACTS*
303 SF (0.06 AC)	303 SF (0.06 AC)	3,222 SF (0.38 AC)
58 CY	58 CY	58 CY

\* INCLUDES PIPE FILLING OF 0.024 AC AND 0.237 AC OF TEMPORARY OVER WATER SWAGING

Figure 9 of 20



USACE FILE NUMBER: NAN-2017-01454



CITY OF JERSEY CITY

COUNTY OF HUDSON

NO.	REVISION	DATE	BY	CHECKED
1	IMPROVED PLAN CLARITY			

NO. 9

DATE: 2/9

NEW JERSEY DEPARTMENT OF TRANSPORTATION

USACE PERMIT PLANS  
 ROUTE 187 NEW ROAD  
 NEWARK, NJ  
 CONTRACT NOS. 000188000,  
 000188010 & 000188020

NO. INC. 12345  
 CONTRACT NO. ADMINISTRATION 100-240001739800  
 DRAWING TITLE: PERMIT PLANS  
 DATE: 1/2017  
 NEW JERSEY DEPARTMENT OF TRANSPORTATION  
 DESIGN DIVISION

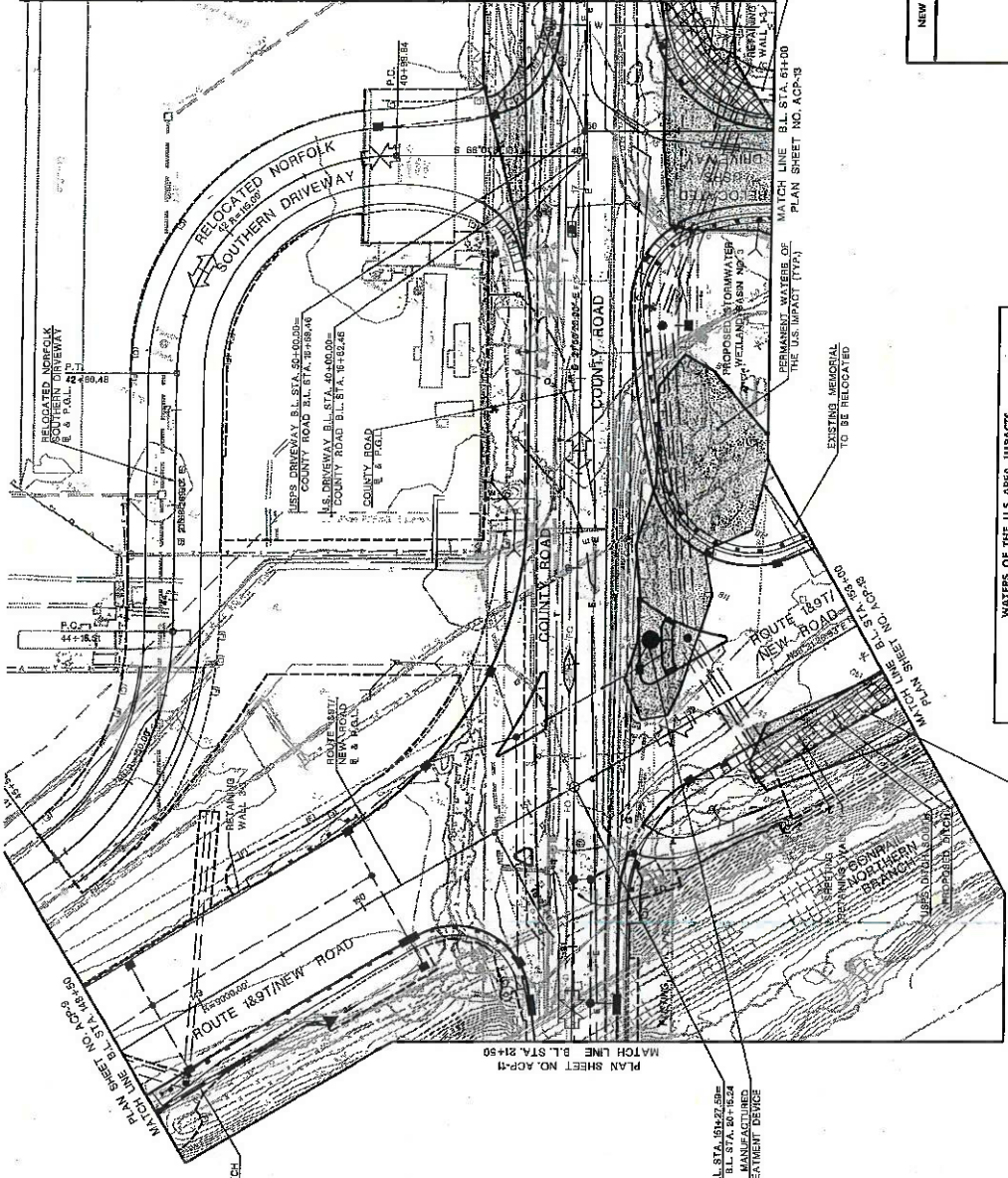
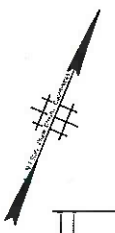
Figure 10 of 20

NO WATERS OF THE U.S. AREA IMPACTS THIS SHEET

CITY OF JERSEY CITY

COUNTY OF HUDSON

STATE: NEW JERSEY  
 COUNTY: HUDSON  
 PROJECT NO.: 17-01454



NEW JERSEY DEPARTMENT OF TRANSPORTATION

**USACE PERMIT PLANS**  
 ROUTE 1891 NEW ROAD  
 COUNTY ROAD  
 CONTRACT NOS. 000188000,  
 000188010 & 000188020

DATE: 10/25/2017  
 DRAWN BY: J. J. [unreadable]  
 CHECKED BY: J. J. [unreadable]  
 PROJECT NO.: 17-01454

WATERS OF THE U.S. AREA IMPACTS	
PERMANENT IMPACTS	3,623 SF (0.213 AC)
VOLUME OF FILL	451 CY
TEMPORARY IMPACTS	2,148 SF (0.051 AC)

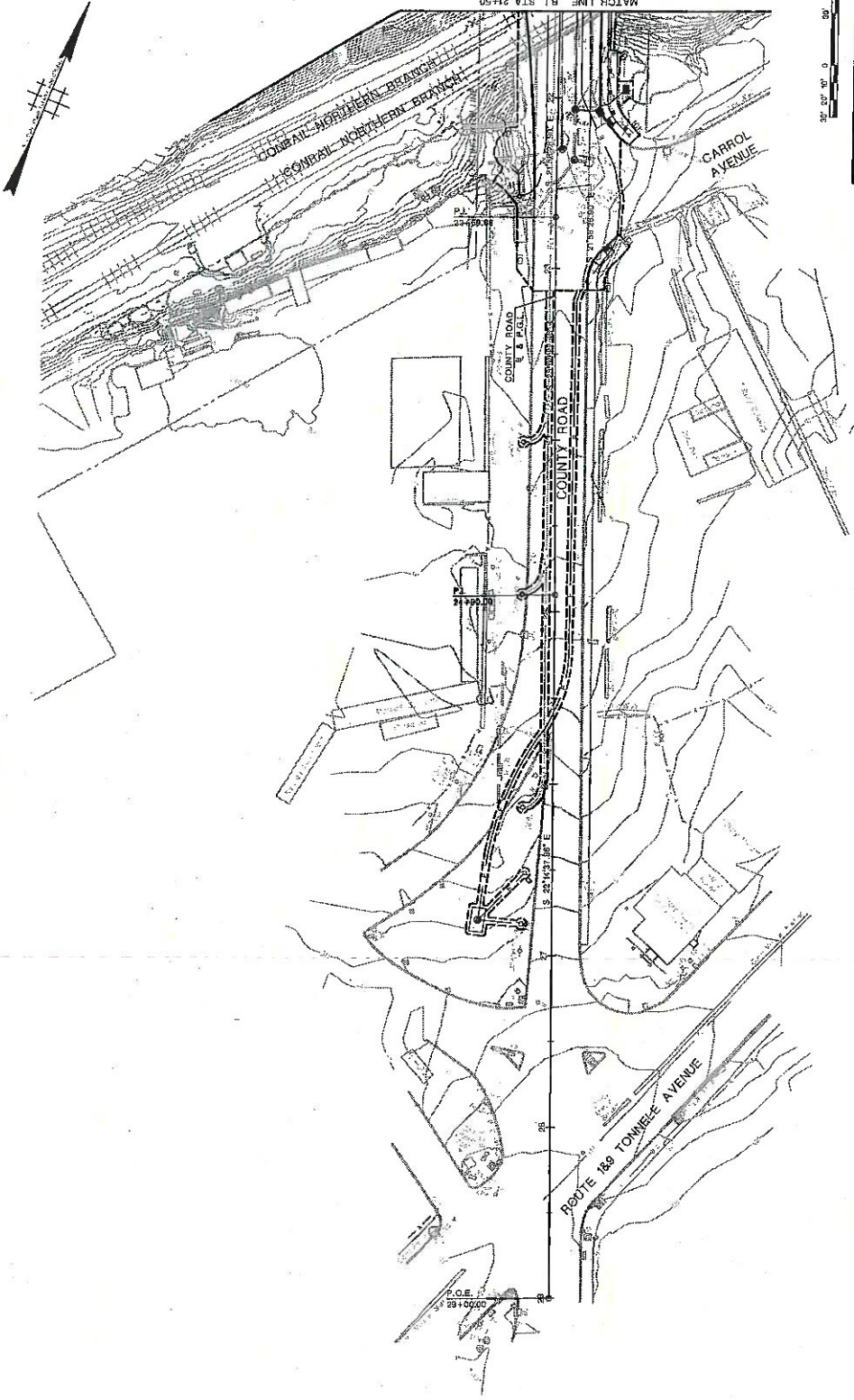
NO.	DESCRIPTION	DATE
1	IMPACTED AND CLARITY	10/25/2017

Figure 11 of 20

USACE FILE NUMBER: NAN-2017-01454

CITY OF JERSEY CITY

COUNTY OF HUDSON



NEW JERSEY DEPARTMENT OF TRANSPORTATION

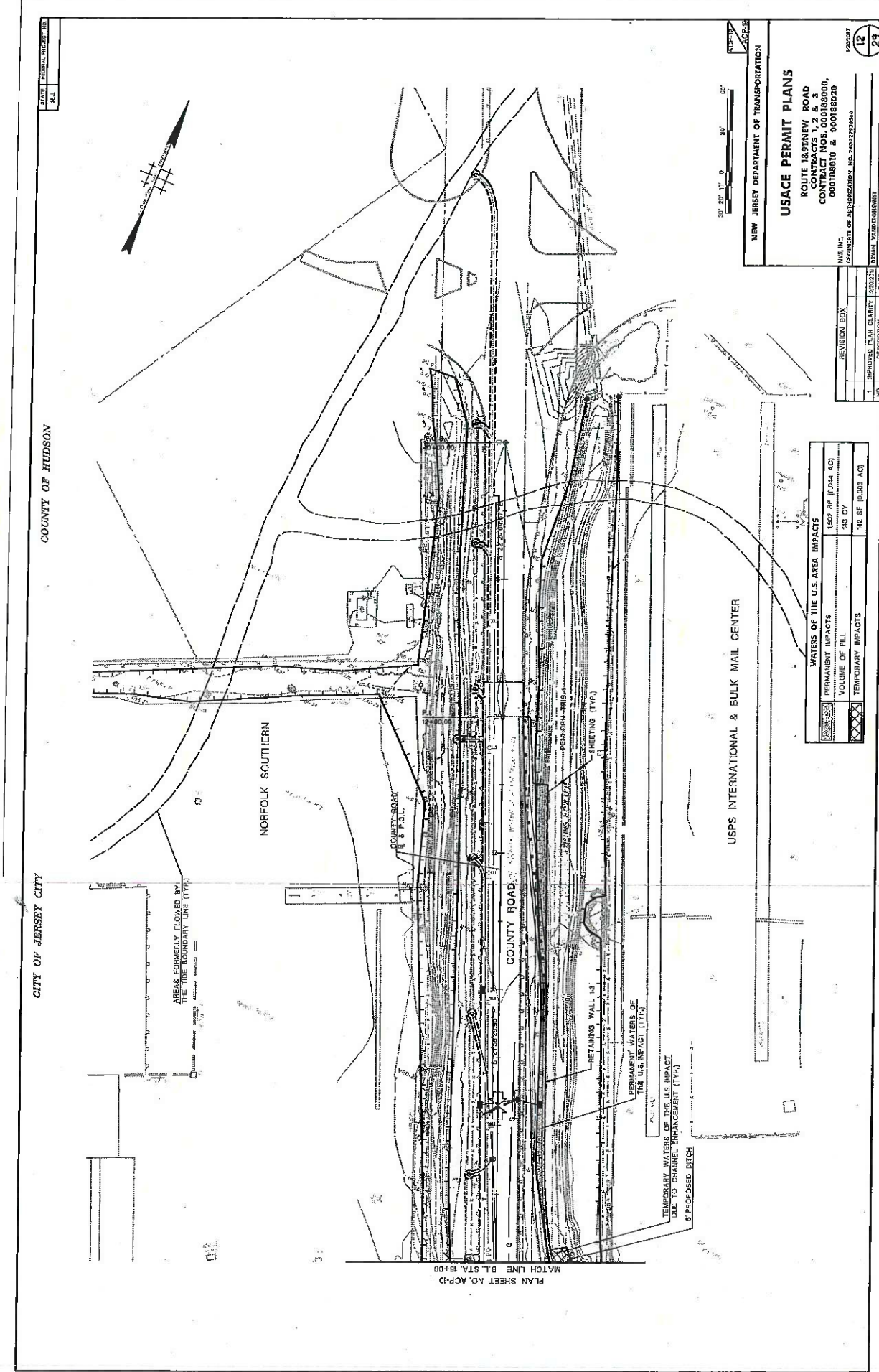
**USACE PERMIT PLANS**  
 ROUTE 138/NEW ROAD  
 COUNTY OF HUDSON  
 CONTRACT NOS. 000188000,  
 000188010 & 000188020

NO.	REVISION BOX	DATE
1	IMPROVED PLAN & UTILITY DIAGRAM	

NO WATERS OF THE U.S. AREA IMPACTS THIS SHEET

Figure 12 of 20

USACE FILE NUMBER: NAN-2017-01454



CITY OF HUDSON

CITY OF JERSEY CITY

STATE: NEW JERSEY  
 COUNTY: HUDSON

NEW JERSEY DEPARTMENT OF TRANSPORTATION  
**USACE PERMIT PLANS**  
 ROUTE 1507 NEW ROAD  
 CONTRACT NOS. 000188000,  
 000188010 & 000188020  
 DATE: 12/29/17

WATERS OF THE U.S. AREA IMPACTS	
PERMANENT IMPACTS	1002 SF (0.024 AC)
VOLUME OF FILL	513 CY
TEMPORARY IMPACTS	190 SF (0.005 AC)

NO.	DESCRIPTION	DATE
1	IMPROVED PLAN CLARITY	12/29/17

PLAN SHEET NO. ACP-10  
 MATCH LINE B.L. STA. 18+00

Figure 13 of 20

USACE FILE NUMBER: NAN-2017-01454

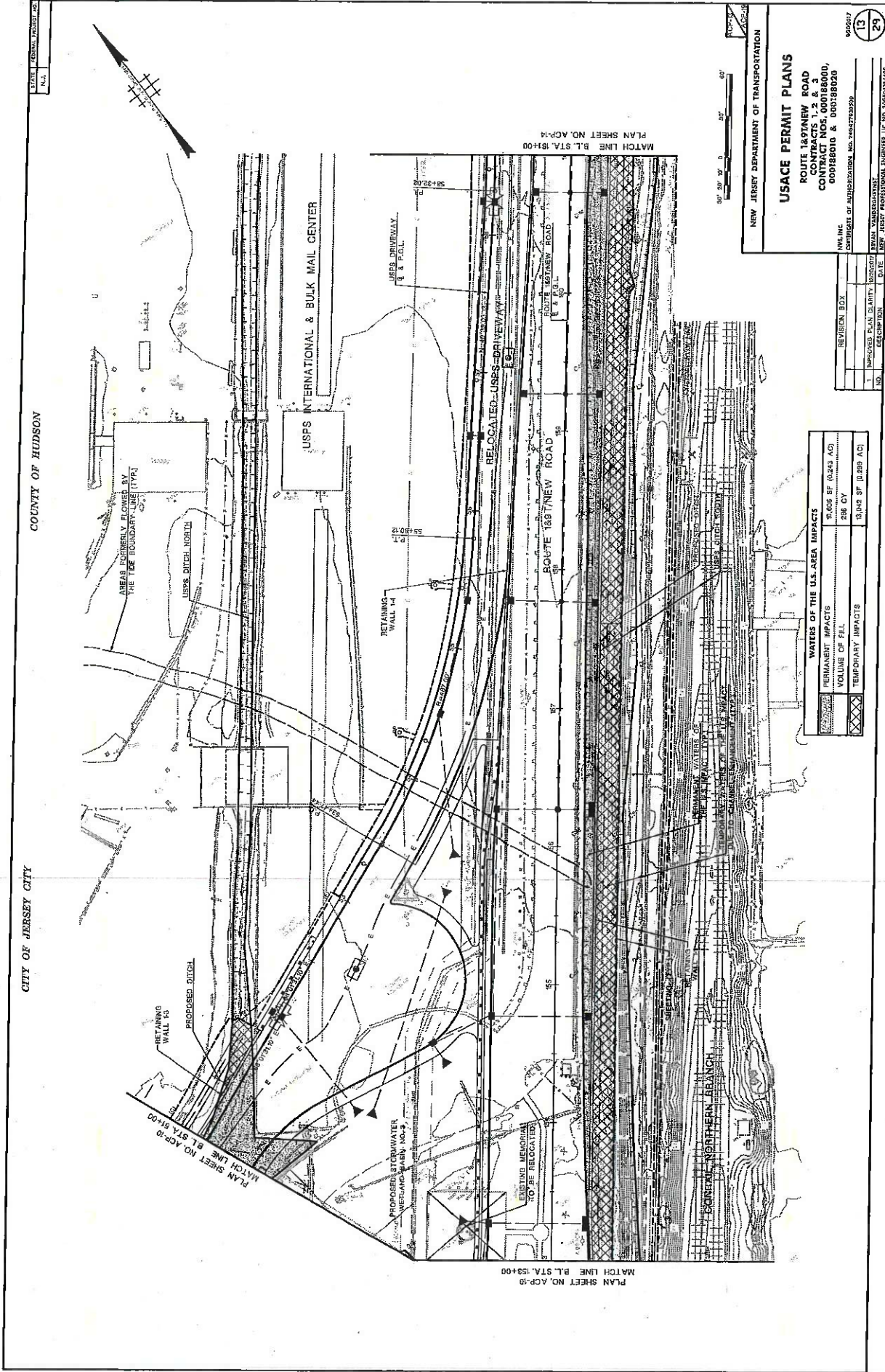
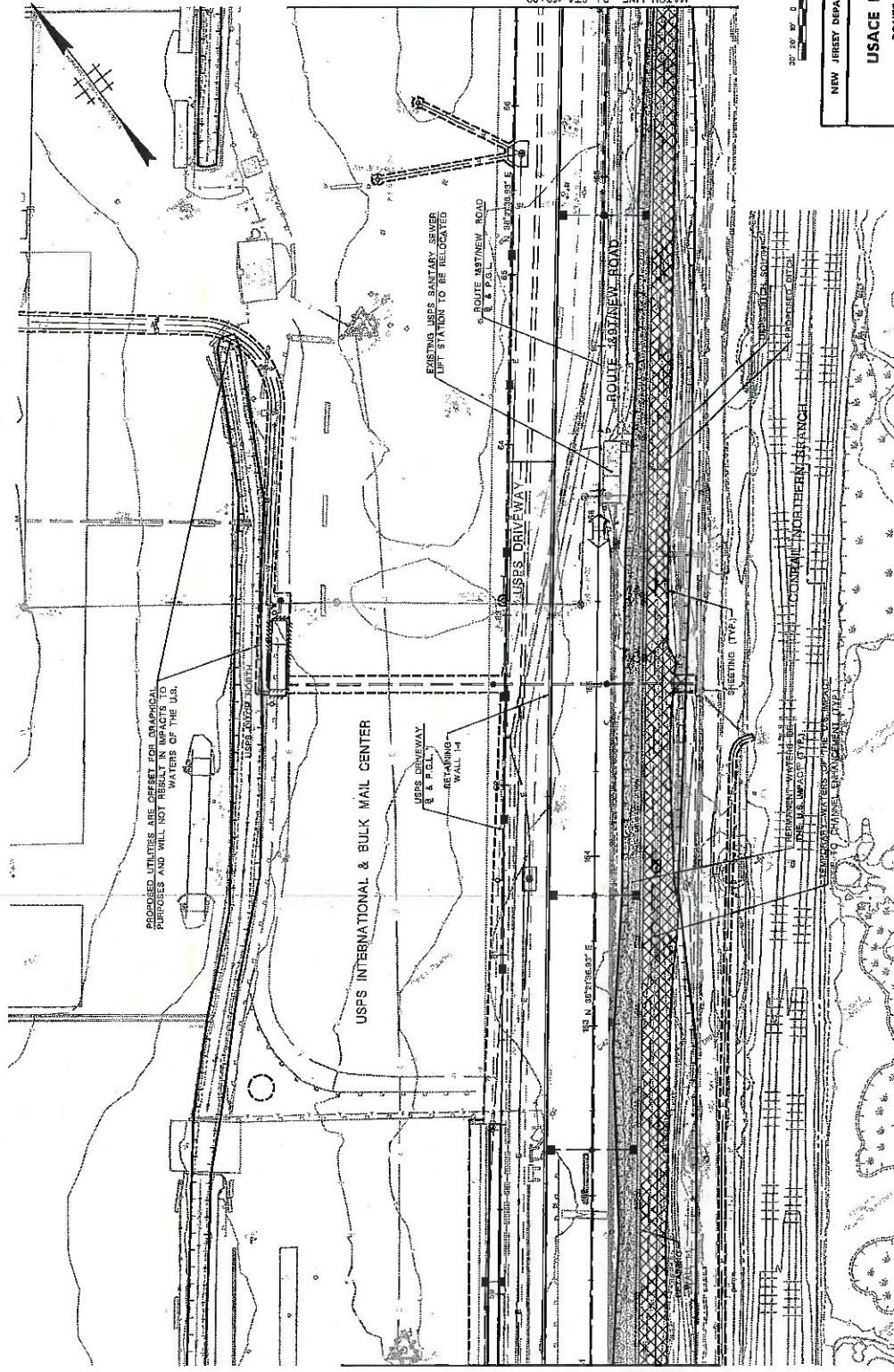


Figure 14 of 20

CITY OF JERSEY CITY

COUNTY OF HUDSON



PERMANENT IMPACTS	9,285 SF (0.21 AC)
VOLUME OF FILL	546 CY
TEMPORARY IMPACTS	11,064 SF (0.25 AC)

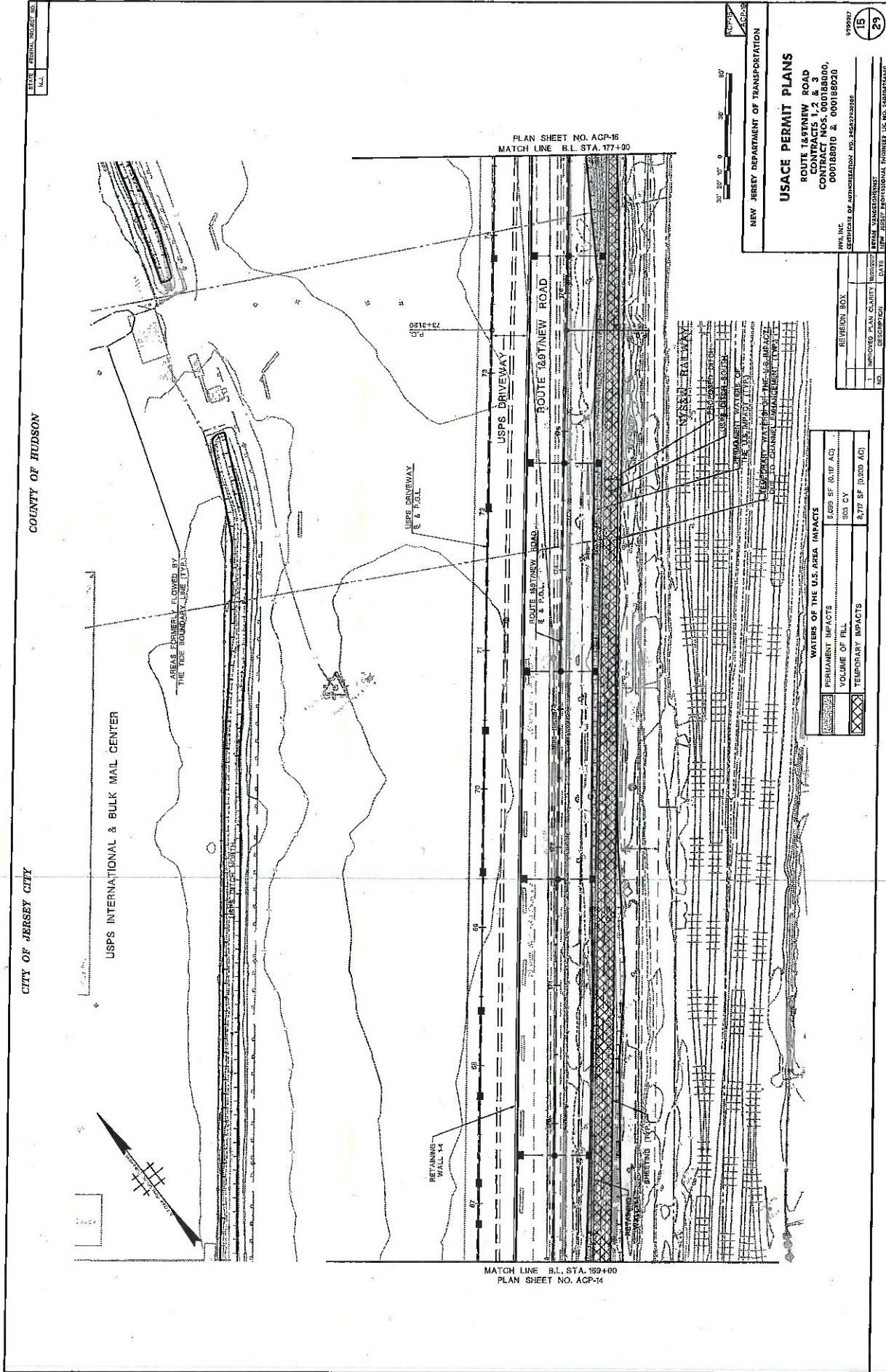
NO.	DESCRIPTION	DATE
1	REVISED PLAN CLARITY	8/20/17
2	REVISED BOX	8/20/17

**USACE PERMIT PLANS**  
**ROUTE 146/162 NEW ROAD**  
 CONTRACTS 1, 2 & 3  
 CONTRACT NOS. 00018R000,  
 00018R010 & 00018R020  
CERTIFICATE OF AUTHORIZATION NO. 2462285039

DATE: 8/20/17  
 DRAWN BY: M. B. BARNETT  
 CHECKED BY: J. J. BARNETT  
 PROJECT NO.: 14  
 SHEET NO.: 29

Figure 15 of 20

USACE FILE NUMBER: NAN-2017-01454



CITY OF HUDSON

CITY OF JERSEY CITY

USPS INTERNATIONAL & BULK MAIL CENTER

AREAS FORMERLY FLOWN BY THE TIDE BOUNDARY LINE TYPE

USPS DRIVEWAY & P.O.L.

MATCH LINE B.L. STA. 169+00  
PLAN SHEET NO. ACP-14

PLAN SHEET NO. ACP-16  
MATCH LINE B.L. STA. 177+00



NEW JERSEY DEPARTMENT OF TRANSPORTATION

**USACE PERMIT PLANS**  
ROUTE 187/NEW ROAD  
CONTRACTS 1 & 2  
CONTRACT NOS. 000188000,  
000188010 & 000188020

DATE: 02/20/07

NO.	DESCRIPTION	DATE
1	IMPROVED PLAN CLARITY	02/20/07

NO.	DESCRIPTION	DATE
1	IMPROVED PLAN CLARITY	02/20/07

NO.	DESCRIPTION	DATE
1	IMPROVED PLAN CLARITY	02/20/07

NO.	DESCRIPTION	DATE
1	IMPROVED PLAN CLARITY	02/20/07

NO.	DESCRIPTION	DATE
1	IMPROVED PLAN CLARITY	02/20/07

NO.	DESCRIPTION	DATE
1	IMPROVED PLAN CLARITY	02/20/07

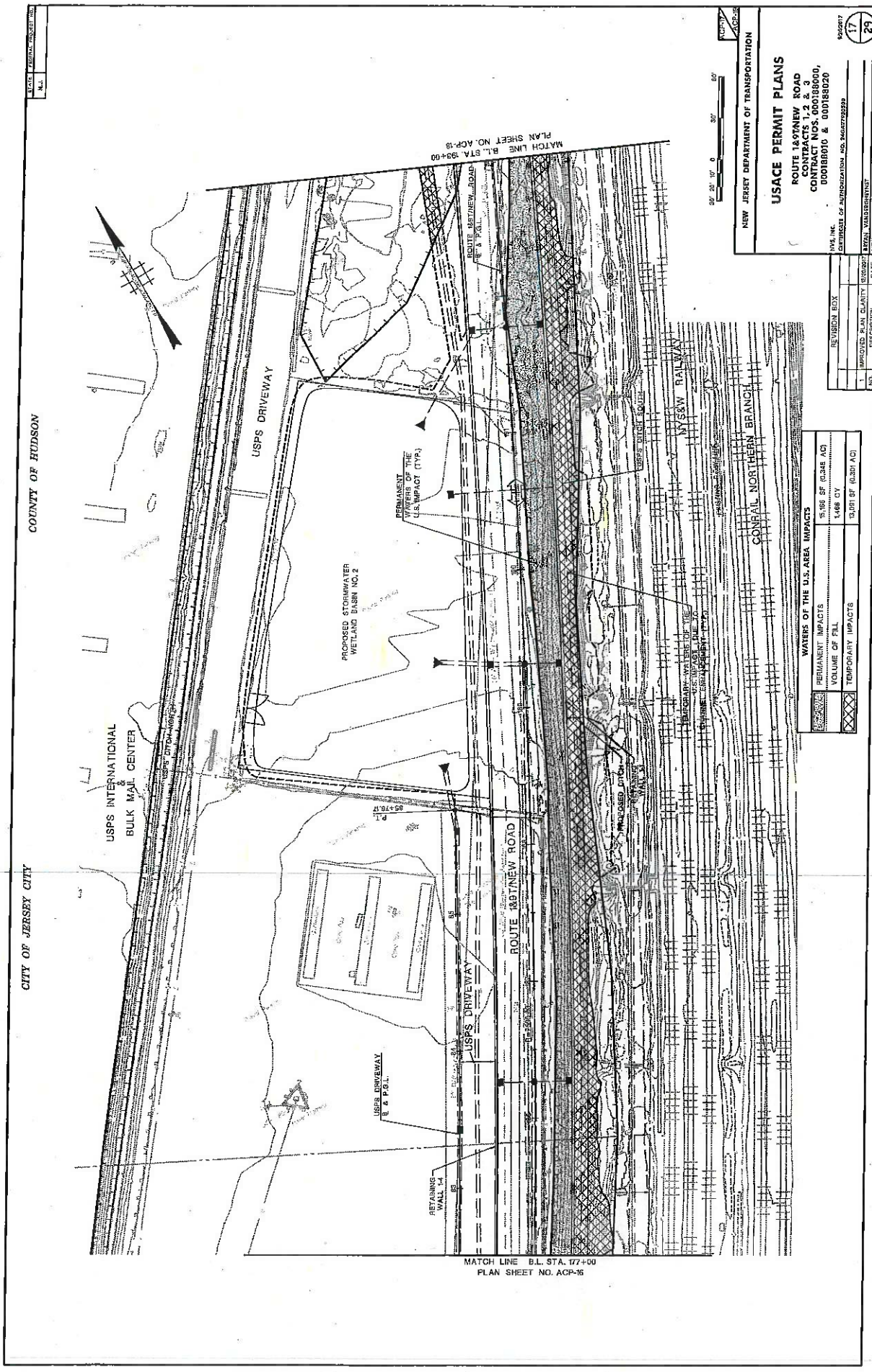
NO.	DESCRIPTION	DATE
1	IMPROVED PLAN CLARITY	02/20/07

NO.	DESCRIPTION	DATE
1	IMPROVED PLAN CLARITY	02/20/07

Figure 16 of 20







COUNTY OF HUDSON

CITY OF JERSEY CITY

**USACE PERMIT PLANS**  
 ROUTE 180T NEW ROAD  
 CONTRACT NOS. 000180000,  
 000180010 & 000180020

NEW JERSEY DEPARTMENT OF TRANSPORTATION

DATE: 05/20/2017  
 PROJECT NO.: 17-029

WATERS OF THE U.S. AREA IMPACTS	
PERMANENT IMPACTS	5,566 SF (0.128 AC)
VOLUME OF FILL	1,468 CY
TEMPORARY IMPACTS	13,081 SF (0.301 AC)

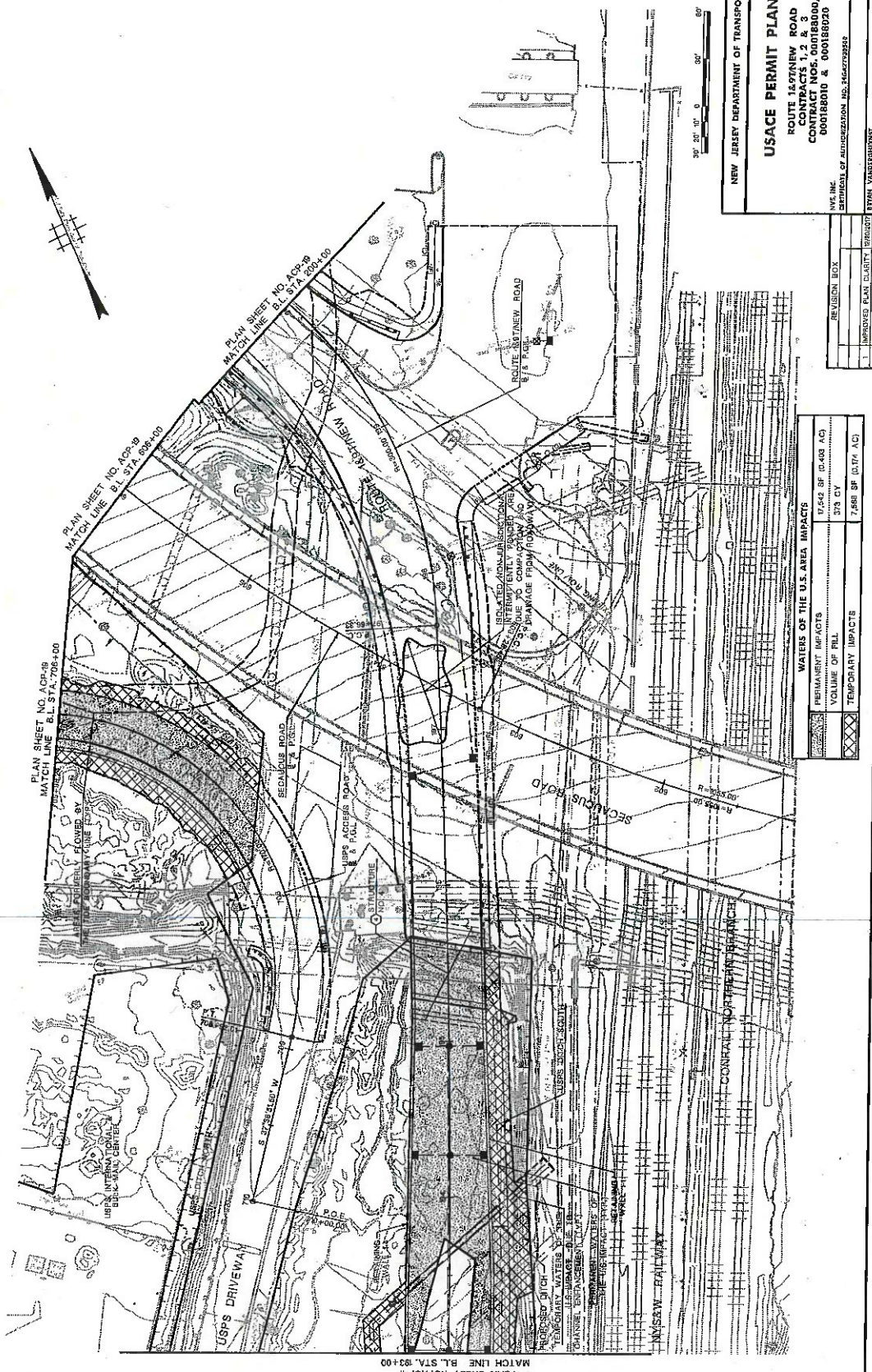
Figure 18 of 20

USACE FILE NUMBER: NAN-2017-01454

CITY OF JERSEY CITY

COUNTY OF HUDSON

SCALE: 1" = 40' (VERTICAL SCALE 1" = 20')



NEW JERSEY DEPARTMENT OF TRANSPORTATION

**USACE PERMIT PLANS**

ROUTE 150 PARK ROAD  
 CONTRACT NO. 150-000000  
 CONTRACT NO. 00018020 & 00018020

DATE: 08/14/17  
 DRAWN BY: J. J. [unreadable]  
 CHECKED BY: [unreadable]  
 DESIGNED BY: [unreadable]

WATERS OF THE U.S. AREA IMPACTS	
PERMANENT IMPACTS	7,542 SF (0.48 AC)
VOLUME OF FILL	373 CY
TEMPORARY IMPACTS	7,488 SF (0.17 AC)

REVISION BOX	
NO.	DESCRIPTION
1	IMPROVED PLAN CLARITY (ENHANCED)

18  
29

Figure 19 of 20

USACE FILE NUMBER: NAN-2017-01454

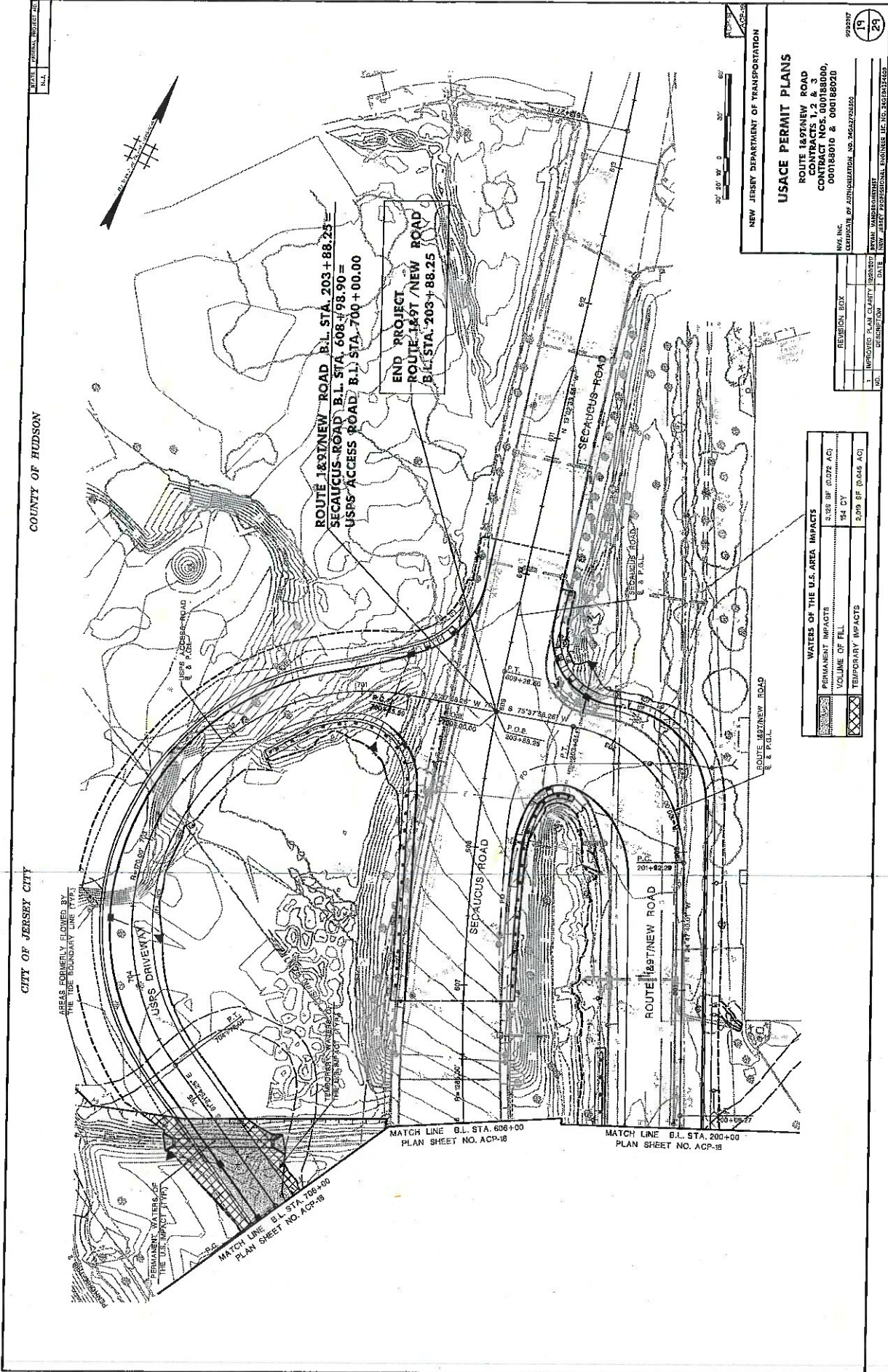


Figure 20 of 20

## NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND REQUEST FOR APPEAL

Applicant: N. J. Dept. of Transportation	File Number: NAN-2017-01454	Date: <b>MAR 07 2018</b>
Attached is:		See Section below
X	INITIAL PROFFERED PERMIT (Standard Permit or Letter of permission)	A
	PROFFERED PERMIT (Standard Permit or Letter of permission)	B
	PERMIT DENIAL	C
	APPROVED JURISDICTIONAL DETERMINATION	D
X	PRELIMINARY JURISDICTIONAL DETERMINATION	E

**SECTION I - The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found at <http://www.usace.army.mil/Missions/CivilWorks/RegulatoryProgramandPermits/appeals.aspx> or Corps regulations at 33 CFR Part 331.**

**A: INITIAL PROFFERED PERMIT: You may accept or object to the permit.**

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **OBJECT:** If you object to the permit (Standard or LOP) because of certain terms and conditions therein, you may request that the permit be modified accordingly. You must complete Section II of this form and return the form to the district engineer. Your objections must be received by the district engineer within 60 days of the date of this notice, or you will forfeit your right to appeal the permit in the future. Upon receipt of your letter, the district engineer will evaluate your objections and may: (a) modify the permit to address all of your concerns, (b) modify the permit to address some of your objections, or (c) not modify the permit having determined that the permit should be issued as previously written. After evaluating your objections, the district engineer will send you a proffered permit for your reconsideration, as indicated in Section B below.

**B: PROFFERED PERMIT: You may accept or appeal the permit**

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **APPEAL:** If you choose to decline the proffered permit (Standard or LOP) because of certain terms and conditions therein, you may appeal the declined permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

**C: PERMIT DENIAL: You may appeal the denial of a permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.**

**D: APPROVED JURISDICTIONAL DETERMINATION: You may accept or appeal the approved JD or provide new information.**

- **ACCEPT:** You do not need to notify the Corps to accept an approved JD. Failure to notify the Corps within 60 days of the date of this notice, means that you accept the approved JD in its entirety, and waive all rights to appeal the approved JD.
- **APPEAL:** If you disagree with the approved JD, you may appeal the approved JD under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

**E: PRELIMINARY JURISDICTIONAL DETERMINATION: You do not need to respond to the Corps regarding the preliminary JD. The Preliminary JD is not appealable. If you wish, you may request an approved JD (which may be appealed), by contacting the Corps district for further instruction. Also you may provide new information for further consideration by the Corps to reevaluate the JD.**

**SECTION II - REQUEST FOR APPEAL or OBJECTIONS TO AN INITIAL PROFFERED PERMIT**

**REASONS FOR APPEAL OR OBJECTIONS:** (Describe your reasons for appealing the decision or your objections to an initial proffered permit in clear concise statements. You may attach additional information to this form to clarify where your reasons or objections are addressed in the administrative record.)

**ADDITIONAL INFORMATION:** The appeal is limited to a review of the administrative record, the Corps memorandum for the record of the appeal conference or meeting, and any supplemental information that the review officer has determined is needed to clarify the administrative record. Neither the appellant nor the Corps may add new information or analyses to the record. However, you may provide additional information to clarify the location of information that is already in the administrative record.

**POINT OF CONTACT FOR QUESTIONS OR INFORMATION:**

If you have questions regarding this decision and/or the appeal process you may contact:

Mr. Stephan A. Ryba  
Chief, Regulatory Branch (CENAN-OP-R)  
NY District, U.S. Army Corps of Engineers  
26 Federal Plaza, Room 1937  
New York, NY 10278-0090  
Telephone number: 917-790-8512

If you only have questions regarding the appeal process you may also contact:

Mr. James W. Haggerty  
Regulatory Program Manager (CENAD-PD-OR)  
U.S. Army Corps of Engineers  
Fort Hamilton Military Community  
General Lee Avenue, Building 301  
Brooklyn, New York 11252-6700  
Telephone number: 347-370-4650

**RIGHT OF ENTRY:** Your signature below grants the right of entry to Corps of Engineers personnel, and any government consultants, to conduct investigations of the project site during the course of the appeal process. You will be provided a 15 day notice of any site investigation, and will have the opportunity to participate in all site investigations.

\_\_\_\_\_  
Signature of appellant or agent.

Date:

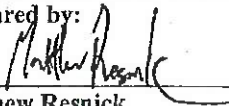
Telephone number:



**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



DEPARTMENT

<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>		Approval Date <b>FEB 06 2018</b>
		Expiration Date <b>FEB 05 2023</b>
<b>Permit Number(s):</b>  0906-15-0010.1 CDT170001 0906-15-0010.1 FHA170001	<b>Type of Approval(s):</b>  HMC Water Quality Certificate Flood Hazard Area Individual Permit	<b>Enabling Statute(s):</b>  NJSA 12:5-3 et seq. WFD; NJSA 58:16A et seq. FHACA; NJSA 58:10A-1 et seq. WPCA; NJSA 58:11A-1 et seq. WQPA;
<b>Permittee:</b> New Jersey Department of Transportation Amber Cheney 1035 Parkway Ave Trenton, NJ 08625	<b>Site Location:</b> Block(s) & Lot(s): [N/A, N/A] Municipality: Jersey City County: Hudson	
<b>Description of Authorized Activities:</b> <p>The construction of Route 1&amp;9 New Road, extending from St. Paul's Avenue to Secaucus Road, in Jersey City, Hudson County within the New Jersey Hackensack Meadowlands District. The activities also include but are not limited to the replacement of two bridge structures passing over the NJ Transit M&amp;E Line and the NJ Transit Wye Tracks, a new viaduct structure to carry Route 1&amp;9 New Road over the NJ Transit Mainline and Norfolk Southern's Croxton Yard, a new bridge structure over the terminus of the Unnamed tributary to Penhorn Creek 2, the relocation of the United States Postal Service(USPS) Ditch South, the construction of three stormwater management basins, retaining walls to support the new road, improvements to West Side Road, County Road and Secaucus Avenue, and the relocation of existing utility lines.</p> <p>This project will result in the permanent impacts of 1.578 acres of freshwater wetlands and 0.624 acres of open water ditches to construct the Route 1&amp;9/New Road and for the relocation USPS Ditch South. Additionally, 1.501 acres of wetlands and 1.130 acres of open water ditches will be temporarily impacted to construct the Route 1&amp;9/New Road and will be restored following completion of the project.</p> <p>This permit is authorized under and in compliance with the Rules on Coastal Zone Management, N.J.A.C. 7:7-1.1 et seq., as amended through June 20, 2016, and Flood Hazard Area Rules, 7:13-1.1 et seq., as amended through December 18, 2017. 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</p>		
<b>Prepared by:</b>  Matthew Resnick	<b>Received and/or Recorded by</b> <b>County Clerk:</b>	
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.		
<b>This permit is not valid unless authorizing signature appears on the last page.</b>		

**SPECIAL CONDITIONS FOR A FLOOD HAZARD PERMIT:**

1. **Material Disposal:** All excavated material and dredge 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.
2. 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.
3. Construction may only be performed in the dry or de-watered conditions. No work may be performed in the wet.
4. Construction equipment shall not be stored, staged or driven within any channel, freshwater wetland or transition area, unless expressly approved by this permit and/or described on the approved plans.
5. 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.
6. In order to protect anadromous fish within Penhorn Creek, Penhorn Creek unnamed tributaries 1 and 2, and the USPS Ditches North and South, no grading, construction or clearing is permitted within any watercourse onsite between March 1<sup>st</sup> through June 30<sup>th</sup> of any calendar year. Furthermore, any activity outside a watercourse, which would likely introduce sediment into the watercourse and/or increase its turbidity, is also prohibited during this period. 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. If in-water sediment control measures are installed prior to the timing restrictions stated above, construction within the sediment control measures may proceed during the restricted period(s).
7. De-watering of cofferdams must include properly sized temporary sediment basins or other filtering methods to reduce turbidity. The stream area to receive return water discharged from cofferdams must be encompassed by a turbidity barrier.
8. The regulated activity shall not expose unset or raw cement to flowing water within any channel or regulated water during construction.
9. Vegetation within 150 feet of the top of the bank shall only be disturbed in the areas specifically shown on the approved drawing/s. No other vegetation within 50 feet of the top of any stream bank onsite shall be disturbed for any reason. This condition applies to all channels onsite regardless of the contributory drainage area.
10. 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, or affect the infiltration capacity on the site, 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.

11. The permittee 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, and inlets devices at least four times per year and after every major storm totaling 1 inch of rainfall or more, the inspection and cleaning of all mechanical treatment devices in accordance with their certification letters (downloadable at [www.njstormwater.org/treatment.html](http://www.njstormwater.org/treatment.html)), the use of appropriate soil conservation practices onsite, and any other reasonable effort required to maintain the stormwater management system in good working order.
12. The proposed roadway will not be constructed above the flood hazard elevation. As such, it will be overtopped by floodwaters and become inaccessible to emergency vehicles or other vehicular traffic during larger flood events. The Department of Environmental Protection shall not be held responsible for any property damage, safety risk or inconvenience that may result from such flooding.
13. The hydrologic and hydraulic analysis used for this permit shall not be used to obtain a flood hazard area verification for any properties located within the watershed covered by this permit. Should a verification be sought for any purpose in the future, new hydrologic and hydraulic analyses shall be required.
14. This permit does not permit the stockpiling of any hazardous material. Should such material require stockpiling, the applicant shall obtain another permit from the Division of Land Use Regulation prior to stockpiling.

**PROVISIONS OF THE HACKENSACK MEADOWLANDS WATER QUALITY CERTIFICATE:**

1. The authorized activity involves the permanent impacts of 1.578 acres of freshwater wetlands and 0.624 acres of open water ditches to construction the Route 1&9 New Road and relocate the USPS Ditch South. Additionally, 1.501 acres of wetlands and 1.130 acres of open water ditches will be temporarily impacted to construct the Route 1&9/New Road. All work is located entirely within the Hackensack Meadowlands District area. These disturbances would meet the requirements of the Freshwater Wetlands Protection Act Rules for an Individual Permit. Therefore, a Water Quality Certificate will be issued for these activities.
2. For any excavated area in freshwater wetlands and/or State open waters, the excavation shall be backfilled to the preexisting elevation, the uppermost 18 inches of the excavation shall be backfilled with the original topsoil material if feasible, the area above the excavation shall be replanted, in accordance with applicable BMPs, with indigenous wetlands species.
3. Any pipes laid through wetlands, transition areas, or State open waters shall be properly sealed so as to prevent leaking or infiltration, designed so as not to form a path for groundwater to be discharged or drained from the wetland, and shall be placed entirely beneath the pre-existing ground elevation unless the applicant shows that placing some or all of the pipe above ground would be more environmentally beneficial.



**STATE HISTORIC PRESERVATION OFFICE SPECIAL CONDITIONS:**

1. Prior to project implementation, the permittee shall ensure that effects to historic and archaeological resources shall be resolved through consultation between the New Jersey Historic Preservation Office; the Federal Highway Administration as the lead Federal agency; any consulting parties, and the permittee pursuant to Section 106 of the National Historic Preservation Act and its implementing regulations at 36 CFR §800. Upon completion of Section 106 Consultation, the permittee shall provide the Division of Land Use Regulation a copy of Section 106 comments together with a statement of how the comments have been incorporated into the project, pursuant to N.J.A.C. 7:7A-19.5(n).
2. If project circumstances change so that consultation under Section 106 of the National Historic Preservation Act is no longer necessary, the permittee shall consult with the Division of Land Use Regulation and the New Jersey Historic Preservation Office to ensure the provisions of N.J.A.C. 7:7A-5.7(b)(5) are met, prior to project implementation.
3. For any historic and archaeological resources identified within the project site that are not subject to review pursuant to Section 106, the permittee shall consult with the Division of Land Use Regulation and the New Jersey Historic Preservation Office to ensure that the provisions of N.J.A.C. 7:7A-5.7(b)(5) are met, prior to project implementation.
4. The permittee shall ensure that all phases of archaeological survey and reporting shall meet with the *Secretary of the Interior's Standards and Guidelines for Archaeology and Historic Preservation*, 1983 and the archaeological survey and reporting rules at N.J.A.C. 7:4-8.4 through 8.5. Evaluations to determine the National Register eligibility of archaeological sites must be in keeping with the National Park Service's 2000 National Register Bulletin, *Guidelines for Evaluating and Registering Archeological Properties*. The individual(s) conducting the work will need to meet the relevant Secretary of the Interior's Professional Qualifications Standards for archaeology and historic architecture (48 FR 44738-9).
5. Architectural survey must be in keeping with the Office's 1999 *Guidelines for Architectural Survey* (<http://www.nj.gov/dep/hpo/1identify/survarcht.htm>) with reporting conforming to the rules at N.J.A.C. 7:4-8.6. Evaluations to determine the National Register eligibility of historic properties must be in keeping with the National Park Service's National Register Bulletin, *How to Apply the National Register Criteria for Evaluation*. Recommendations for avoidance of impacts to historic properties must conform to The Secretary of the Interior's *Standards for the Treatment of Historic Properties*.

**FRESHWATER WETLAND MITIGATION PERMIT CONDITIONS:**

1. The permittee shall mitigate for the temporary disturbance of 2.631 acre of emergent wetlands and the permanent loss of 2.202 acres of emergent wetlands through an on-site or off-site creation, restoration or enhancement project or with the purchase of credits from a mitigation bank serving the appropriate watershed management area in accordance with the mitigation hierarchy. (N.J.A.C. 7:7A-11 et seq). Additionally, the permittee shall submit a restoration plan for areas of temporary disturbance to the Mitigation Unit for review and approval. The restoration plan shall consist of native vegetation and depict all seed mixes to be used within the temporarily impacted wetlands.
2. At least 90 days prior to the initiation of regulated activities authorized by this permit, the permittee shall submit a mitigation proposal to the Division of Land Use Regulation (Division) for

review and approval. 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. 7:7A-11.6(a)).

3. All mitigation shall be conducted prior to or concurrent with the construction of the approved project (N.J.A.C. 7:7A-11.3(a)). 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.
4. If the permittee fails to perform mitigation within the applicable time period the acreage of mitigation required shall be increased by 20 percent each year after the date mitigation was to begin (N.J.A.C. 7:7A-11.3(c)).
5. If the applicant is considering obtaining land to satisfy a mitigation requirement, the Department strongly recommends that the permittee obtain the Division's conceptual review and approval of any land being considered as a potential mitigation area.
6. 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 2.202\_ of 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.

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.

Kane Wetland Mitigation Bank – Andrew Derickson, (303) 521-0851 or at [aderickson@efg-bp.com](mailto:aderickson@efg-bp.com)

MRI 3 Mitigation Bank – Contact Mark Renna of Evergreen Environmental, LLC at 973-305-0643 or 973-356-7164 or at [mrenna@evergreenenv.com](mailto:mrenna@evergreenenv.com)

7. If the permittee is considering conducting a creation, restoration or enhancement project, the following conditions shall apply:
  - a. Prior to the initiation of regulated activities authorized by this permit the permittee shall submit a final design of the mitigation project for approval and include all of the items listed on the checklist entitled Checklist for Completeness: Creation, Restoration or Enhancement for a Freshwater Wetland Mitigation Proposal located at <http://www.nj.gov/dep/landuse/forms/index.html>.
  - b. Prior to the completion of the mitigation project, the permittee shall complete, sign and file with the County Clerk (the Registrar of Deeds and Mortgages in some counties), a conservation restriction that meets the requirements of N.J.A.C. 7:7A-12.1. The conservation restriction shall include the wetland and required transition area and 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 applicant is required to include a metes and bounds description shown on a map. Within 180 days of the issuance of the mitigation approval, the recorded conservation restriction shall be provided to the Mitigation Unit, NJDEP Division of Land Use Regulation for verification. (N.J.A.C. 7:7A-12.1 et. seq.)

- c. The permittee shall notify the Mitigation Unit at the Division of Land Use Regulation in writing at least 30 days prior to the start of construction of the wetland mitigation project to arrange an on-site pre-construction meeting among the permittee, the contractor, the consultant and the Division.
- d. To ensure the intent of the mitigation design and its predicted wetland hydrology is realized in the landscape, the mitigation designer shall be present on-site during all critical stages of mitigation construction and during the restoration of any temporarily impacted areas. Critical stages of construction include but are not limited to herbicide applications, earthmoving activities, planting, and inspections.
- e. The permittee shall be responsible for ensuring that best management practices are used throughout construction to control the spread and colonization of highly invasive plants. Specifically, all equipment, especially tracks and tires, must be thoroughly cleaned every time equipment or vehicles move from an area containing invasive plants or from off-site to the mitigation area. In addition, soil containing root fragments and above-ground vegetative material from invasive plants shall be carefully managed during earthmoving activities and disposed of at a suitable off site location rather than mulched and reused or stockpiled elsewhere on the site. For information on the specific species that are considered to be invasive, please refer to the Invasive Plant Atlas at <http://www.invasiveplantatlas.org/index.html>.
- f. If changes to the mitigation design are necessary to ensure success of the project as a result of on-site conditions, the mitigation designer shall immediately notify the Division in writing and submit an alternative plan which achieves the proposed wetland conditions. The Division shall review the plan in accordance with N.J.A.C. 7:7A-11.7. Any modifications to the plan that are reviewed and 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 plan 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.
- g. **Within 30 days of final grading of the mitigation site and prior to planting**, the permittee shall notify the Mitigation Unit at the Division of Land Use Regulation in writing to arrange a post-grading construction meeting among the permittee, contractor, consultant and the Division.
- h. **Within 60 days following the final planting of the mitigation project**, 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 (N.J.A.C. 7:7A-11.12 et. seq.). The Construction Completion Report shall contain, at a minimum, the following information:
  - i. A completed Wetland Mitigation Project Completion of Construction Form. This form is located 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;
  - ii. 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 that may have been used for soil stabilization purposes; and

- iii. 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.
- i. **Within 30 days following final planting of the mitigation project**, the permittee shall post the mitigation area with permanent signs 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 is prohibited and that violators shall be prosecuted and fined to the fullest extent under the law. The signs must also state the name of the permittee, a contact name and phone number, and the Department's permit number.
- j. The permittee shall monitor **all freshwater wetland and transition area projects** for a minimum of 5 years, unless otherwise stipulated within the approved mitigation proposal, beginning the first full growing season 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 (N.J.A.C. 7:7A-11.12(g)). All monitoring reports must include the standard items identified in the checklist entitled, "Wetland Mitigation Monitoring Project Checklist", which can be found at <http://www.nj.gov/dep/landuse/forms/index.html>.
- k. Once the required monitoring period has expired and the permittee has submitted the final monitoring report, the Division will make the finding that the mitigation project is either a success or a failure. This mitigation project will be considered successful if the permittee demonstrates all of the following:
  - i. 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 have been satisfied. The permittee shall 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;
  - ii. 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 must be healthy and thriving and all trees must be at least five feet in height;
  - iii. The site has less than 10 percent coverage by invasive or noxious species.
  - iv. The site contains hydric soils or there is evidence of reduction occurring in the soil; and,
  - v. The proposed hydrologic regime as specified in the mitigation proposal has been satisfied.
- l. The permittee is responsible for assuming all liability for any corrective work necessary to meet the success criteria established above (N.J.A.C. 7:7A-11.12(i)). The Division will notify the permittee in writing if the mitigation project is considered to be a failure. Within 30 days of notification, the permittee shall submit a revised mitigation plan to meet the success criteria identified above for Division review and approval. The financial surety, if required, will not be

released by the Division until such time that the permittee satisfies the success criteria as stipulated above.

**RIPARIAN ZONE MITIGATION CONDITIONS:**

1. **Within 60 days of the issuance of this permit**, the permittee shall submit a proposal to mitigate for the temporary disturbance of 1.37 acres of herbaceous riparian vegetation as well as the permanent loss of 0.247 acres of forested and 2.183 acres herbaceous 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)). Additionally, the permittee shall submit a restoration plan for areas of temporary disturbance to the Mitigation Unit for review and approval. The restoration plan shall consist of native vegetation and depict all seed mixes to be used within the temporarily impacted wetlands and invasive species control measures. The permittee shall continue to consult with the Mitigation Unit in order to design an approvable restoration plan for both temporary and permanent impacts to riparian zone vegetation.
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. 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.
3. **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.
4. 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 31<sup>st</sup> 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.
5. 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.
6. 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.

#### 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 under.
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 One hundred eighty two, (182) sheets prepared by the HNTB Corporation, dated and revised as noted below, entitled:

"NEW JERSEY DEPARTMENT OF TRANSPORTATION, ROUTE 1&9T/NEW ROAD, CONSTRUCTS 1, 2 & 3, CONTRACT NOS. 000188000, 000188010 & 000188020", dated September 20, 2017, revised as noted;

- FLOOD HAZARD AREA PLANS, sheet 1, drawing FHA-1, last revised December 12, 2017,
- FLOOD HAZARD AREA PLANS, sheets 2 and 4 through 18, drawing FHA-2 through FHA-18, last revised November 14, 2017,
- FLOOD HAZARD AREA PLANS, sheet 3, last revised January 12, 2018
- USACE PERMIT PLANS, sheets 1 through 19, drawings ACP-1 through ACP-19,
- CONSTRUCTION DETAILS, sheets 1 and 2, drawings CD-1, CD-2, last revised January 12, 2018,
- CONSTRUCTION DETAILS, sheets 3, drawings CD-3,



“NEW JERSEY DEPARTMENT OF TRANSPORTATION, BUREAU OF STRUCTURAL ENGINEERING, ROUTE 1&9/NEW ROAD, ST. PAULS AVENUE TO SECAUCUS ROAD, CONTRACT NO. 000028042, CITY OF JERSEY CITY, COUNTY OF HUDSON,” prepared by David N. Murray of the HNTB Corporation, dated September 20, 2017”

- GENERAL PLAN & ELEVATION, sheet 1,
- GENERAL PLAN & ELEVATION, sheet 13;

“NEW JERSEY DEPARTMENT OF TRANSPORTATION, BUREAU OF STRUCTURAL ENGINEERING, ROUTE 1&9/NEW ROAD, ST. PAULS AVENUE TO SECAUCUS ROAD, CONTRACT NO. 00018800, CITY OF JERSEY CITY, COUNTY OF HUDSON,” prepared by Richard J. Schaefer, of the HNTB Corporation, dated September 20, 2019”

- GENERAL PLANS & ELEVATION 1, sheet B-30 of B-71,
- GENERAL PLANS & ELEVATION 2, sheet B-31 of B-71,
- GENERAL PLANS & ELEVATION 3, sheet B-32 of B-71,
- GENERAL PLANS & ELEVATION 4, sheet B-33 of B-71,
- GENERAL PLANS & ELEVATION 5, sheet B-34 of B-71,
- GENERAL PLANS & ELEVATION 6, sheet B-35 of B-71,
- GENERAL PLANS & ELEVATION 7, sheet B-36 of B-71,
- GENERAL PLANS & ELEVATION 8, sheet B-37 of B-71,
- GENERAL PLANS & ELEVATION 9, sheet B-38 of B-71,
- GENERAL PLANS & ELEVATION 10, sheet B-39 of B-71,
- GENERAL PLANS & ELEVATION 11, sheet B-40 of B-71,
- TYPICAL RETAINING WALL SECTIONS, sheet B-41 of B-71
- GENERAL PLANS & ELEVATION 1, sheet B-42 of B-71,
- GENERAL PLANS & ELEVATION 2, sheet B-43 of B-71,
- GENERAL PLANS & ELEVATION 3, sheet B-44 of B-71,
- GENERAL PLANS & ELEVATION 4, sheet B-45 of B-71,
- GENERAL PLANS & ELEVATION 5, sheet B-46 of B-71,
- GENERAL PLANS & ELEVATION 6, sheet B-47 of B-71,
- TYPICAL RETAINING WALL SECTIONS, sheet B-48 of B-71

“STATE OF NEW JERSEY DEPARTMENT OF TRANSPORTATION, ROUTE 1&9/NEW ROAD, FROM COUNTY ROAD TO SECAUCUS ROAD CONTRACT #1, CONTRACT NO. 000188000”

- CONSTRUCTION PLANS, pages C-1 through C-10,
- DRAINAGE PLANS, pages D-1 through D-10,
- PROFILES, pages P-1 through P-8,
- CROSS SECTIONS, pages X-1 through X-65,

“STATE OF NEW JERSEY DEPARTMENT OF TRANSPORTATION, ROUTE 1&9/NEW ROAD, FROM COUNTY ROAD TO SECAUCUS ROAD CONTRACT #2, CONTRACT NO. 000028042”

- CONSTRUCTION PLANS, pages C-1 through C-5,
- DRAINAGE PLANS, pages D-1 through D-5
- PROFILES, pages P-1 through P-X

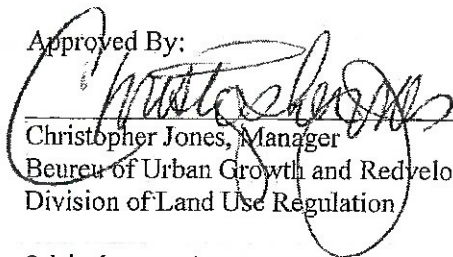
“STATE OF NEW JERSEY DEPARTMENT OF TRANSPORTATION, ROUTE 1&9/NEW ROAD, FROM COUNTY ROAD TO SECAUCUS ROAD CONTRACT #3, CONTRACT NO. 000188020”

- CONSTRUCTION PLANS, pages C-1 through C-9,
- DRAINAGE PLANS, pages D-1 through D-9
- PROFILES, pages P-1 through P-X

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, 7<sup>th</sup> 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](http://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](http://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](http://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:

  
\_\_\_\_\_  
Christopher Jones, Manager  
Bureau of Urban Growth and Redevelopment  
Division of Land Use Regulation

2/6/18  
\_\_\_\_\_  
Date

Original sent to Agent to record  
c: Permittee  
Construction Official

Prepared by: \_\_\_\_\_  
NJDEP File No.: 0906-06-0005.2 CDT 070001 WOC  
USACE File No.: NAN-2008-193-WCA

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RECEIVED  
AND  
RECORDED  
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07/09/2008 02:39P  
WILLIE L. FLODG  
HUDSON COUNTY  
REGISTER OF DEEDS  
Receipt No. 451726

**GRANT OF CONSERVATION RESTRICTION/EASEMENT**  
(Mitigation Site Area)

This Grant of Conservation Restriction/Restriction is made this 3<sup>rd</sup> day of July, 2008, by Norfolk Southern Railway Company, who has offices at 1200 Peachtree Street, NE Box 7-142, County of Fulton, Atlanta, Georgia, hereinafter referred to as "Grantor", in favor of the State of New Jersey Department of Environmental Protection, hereinafter referred to as the "Grantee".

**WITNESSETH:**

WHEREAS, the Grantor is the owner in fee simple of certain real property located in the Jersey City, County of Hudson, New Jersey, designated as Lot(s) 12, 13, 16, Block 1200 on the official Tax Map of the Jersey City, County Clerk or, for Parcel 15, Recorder's Deed Book Number 1713, Page Number 144; for Parcel 18, Recorder's Deed Book Number 55, Page Number 140; for 3/4 of Parcel 24, Recorder's Deed Book Number 339, Page Number 2; and for 1/4 of Parcel 24, Recorder's Deed Book Number 336, Page Number 5 (hereinafter collectively, "the Property"); and

WHEREAS, the Grantor has obtained a Water Quality Certificate NJDEP File No.0906-06-0005.2 in accordance with Clean Water Act, 33 U.S.C. § 1341 pursuant to the Freshwater Wetlands Protection Act, N.J.S.A. 13:9B-1, the Coastal Zone Management Rules, N.J.A.C. 7:7E, Coastal Permit Program Rules, N.J.A.C. 7:7, and the Freshwater Wetlands Protection Act Rules, N.J.A.C. 7:7A, for a land use development, attached hereto as Exhibit A and referred to hereafter as DEP Permit and a United States Army Corps of Engineers (USACE) permit, USACE Permit File No. NAN-2008-193-WCA, pursuant to the Rivers and Harbors Act of 1899, 33 U.S.C. 403, the Clean Water Act, 33 U.S.C. § 1344, and regulations at 33 C.F.R. § 320-331, attached hereto as Exhibit B and referred to as the USACE Permit; and

WHEREAS, the DEP Permit and USACE Permit issued to the Grantor are conditioned upon the Grantor's recording of a Grantee and USACE approved conservation restriction/easement, pursuant to N.J.A.C. 7:7A-15.2 and 33 U.S.C. § 1344 (i) for the mitigation site area (hereinafter the "Restricted Area" or "mitigation site area") as shown on a plan, entitled Croxton Wye Wetland Mitigation, Mitigation Boundaries, prepared by Norfolk Southern Railway Company, dated April 7, 2008, attached hereto as Exhibit C, (hereinafter the "Plan"), and more particularly described on a legal description of the Restricted Area, attached hereto as Exhibit D; and

WHEREAS, wetlands play a significant role in the maintenance of environmental quality on a community, regional, statewide, and national level; and

WHEREAS, wetland mitigation site areas are a significant natural area and are an integral portion of a wetlands ecosystem; and

WHEREAS, the Grantor, having the authority to do so, intends to construct a wetland mitigation project, known as The Croxton Mitigation Site, at the wetland mitigation site; and

DA Permit No:  
- NAN-2008-00193-WCA

EK=08560 PG:00102

Norfolk Southern Railway Co.  
Croxton Wye Wetland Mitigation Conservation Easement

*[Handwritten initials]*

WHEREAS, the Grantee and the USACE desires to preserve the wetland mitigation site area in its enhanced state, so as to preserve and protect wetlands, open waters, and resident animal and plant species on the Restricted Area, including the air space and subsurface forever in its natural state; and

WHEREAS, the Grantee is authorized by N.J.S.A. 13:1D-9 to formulate comprehensive policies for the conservation of the natural resources, to promote environmental protection and prevent pollution of the environment of the State by N.J.S.A. 13:9A and N.J.S.A. 13:9B, and is authorized by N.J.S.A. 13:8B-3 to acquire and enforce conservation restrictions; and USACE policy provides for protection of aquatic resources in perpetuity pursuant to Regulatory Guidance Letter 02-02; and

WHEREAS, the Grantor, having the authority to do so, intends to enter into this Conservation Restriction in order to grant to the Grantee a Conservation Restriction / Easement on the Property to restrict subsequent development of the Restricted Area.

NOW THEREFORE, in consideration for the issuance of the Permits and for valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and the facts recited above and the terms, conditions and restrictions contained herein, the Grantor hereby agrees that the Property shall be subject in perpetuity to the following conveyances, covenants and restrictions in favor of the Grantee and the USACE:

1. Grantor hereby conveys, transfers, assigns and grants to the Grantee a Conservation Restriction /Easement with respect to that portion of the Property as designated as the Restricted Area shown in Exhibit C and as described in Exhibit D.
2. Paragraphs 27, 28 and 29 below shall only be considered by the Grantee and the USACE in cases where the Grantee and USACE have determined that the modifications are in the public interest.
3. Except as necessary (1) to carry out wetland/stream and/or buffer restoration, enhancement and/or establishment in keeping with the mitigation plan of the permit or banking instrument as approved by USACE; or, (2) protect or enhance wildlife or aesthetics, (3) to fence the property to keep out livestock, domestic animals, trespassers, or for protection or enhancement of the property; or, (4) to carry out management and maintenance of the property as approved in writing by the USACE the Grantor shall ensure that the following activities shall not occur within the Restricted Area, with the exception of those activities that are specifically a construction or maintenance component of the mitigation plan approved as part of the DEP Permits or USACE Permits:
  - (a) Removal, excavation, or disturbance of the soil;
  - (b) Dumping or filling with any materials;
  - (c) Installation of structures;
  - (d) Placement of pavement or other impervious surface;
  - (e) There shall be no removal, destruction or cutting of trees or plants, planting of trees or plants, introduction of non-native animals and plants, grazing of domestic animals, or disturbance or change in the natural habitat in any manner, except as provided in par. 8. (c) below.

- (f) The use of fertilizers, herbicides or pesticides that are not specifically approved under the wetlands mitigation plan;
- (g) Taking any action to alter the hydrology of the Restricted Area;
- (h) Any other activities constituting a regulated activity under the Freshwater Wetlands Protection Act, N.J.S.A. 13:9B-1 et seq. or N.J.A.C. 7:7A-2.2 (a) and 2.2 (b), as amended ("Regulated activities in freshwater wetlands and State open waters"). Any other activities constituting a regulated activity under N.J.A.C. 7:7A- 2.6, as amended, ("Regulated activities in transition areas"); or
- (i) Any other activities constituting a regulated activity under the Rivers and Harbors Act of 1899, 33 U.S.C. 403, the Clean Water Act, 33 U.S.C. 1344 or USACE Regulations at 33 C.F.R. Parts 320-331 as amended.

4. The Restricted Area, including its air space and its subsurface, and any portion thereof shall not be included as part of the gross area of other property not subject to this Conservation Restriction / Easement for the purpose of determining density, lot coverage, or open space requirements, under otherwise applicable laws, regulations or ordinances controlling land use and building density.

5. There shall be no other acts or uses detrimental to the preservation of the Restricted Area, including its air space and it's subsurface in their natural state as a valuable component of a wetlands ecosystem.

6. The Grantor shall mark the boundaries of the Restricted Area using unobtrusive, permanent visual markers in a manner of the Grantee's and the USACE choosing, and to the Grantee's and the USACE satisfaction, within 30 days of recording this Grant. Grantor shall thereafter maintain such markers in good conditions. Examples include fence post, pipe in the ground, and survey markers.

7. This Conservation Restriction / Easement shall be a burden upon and shall run with the Property, and shall bind Grantor, its successors and assigns, in perpetuity. The Grantor shall give notice of this Conservation Easement/Restriction to all holders of any easements in the Restricted Area within 30 days of recording by the County Clerk or Recorder.

8. It is the purpose of this Conservation Restriction / Easement to assure that the Restricted Area will be maintained as such and to prevent any disturbance or development to that portion of the Property except as provided in this Conservation Restriction / Easement. To carry out this purpose, the following rights are granted to Grantee, and to the USACE as third-party rights of enforcement, by this Conservation Restriction / Easement:

- (a) To enter upon the Property in a reasonable manner and at reasonable times so as to assure compliance with the provisions of this Conservation Restriction / Easement;
- (b) In addition to the exercise of any other statutory or common law right, to enjoin any activity on, or use of, the Restricted Area that is inconsistent with the purpose of this Conservation Restriction / Easement and to enforce the restoration of such areas or features of the Restricted Area that may be damaged by inconsistent activity or use;
- (c) The right, but not the obligation, to monitor the condition of the rare plant and animal populations, plant communities, and natural and/or constructed habitats on the

Restricted Area, and to manage them, if necessary, for their continued survival and quality on the Restricted Area. Such activities shall be in accordance with management practices of the Department of Environmental Protection, which may include, but not be limited to, mowing, fencing, trapping, prescribed burning, but these practices shall not be inconsistent with the maintenance or monitoring obligations under the (reference the appropriate mitigation proposal or permit condition) approving the mitigation. Prior to conducting any activity under this subsection, DEP shall obtain the approval of the USACE and provide at least ten days advance notice to the Grantor by the methods described in Section 15.

- (d) Grantee and USACE acknowledge that the Property may contain natural and unnatural hazardous and dangerous conditions that may not be obvious or known, acknowledges that any DEP or USACE personnel shall enter the Property solely for the purposes set forth in this Section 8, agree that such personnel shall be made aware of the risk to health and property from such conditions and voluntarily assume such risk.

9. Grantor shall provide the Grantee and the USACE telephonic and written notice of any transfer or change in ownership of any portion of the Restricted Area, including but not limited to the name and address of the new owner, and including but not limited to any later-formed condominium association, at least one month prior to the day of the signing of those documents accomplishing the actual transfer or change in ownership.

10. In addition to, and not in limitation of, any other rights of the Grantee or the USACE hereunder or at law or in equity, if the Grantee or the USACE determines that a breach, default or violation ("Violation") of this Conservation Restriction / Easement has occurred or that a Violation is threatened, the Grantee or the USACE shall give written notice to Grantor of such Violation, setting forth the specifics thereof, and demand corrective action sufficient to cure the Violation. If the Grantor fails to cure the Violation after receipt of notice thereof from the Grantee or USACE, or under circumstances where the Violation cannot reasonably be cured within a time period dictated by the Grantee or USACE fails to begin curing such Violation within the time period dictated by the Grantee or USACE, or fails to continue diligently to cure such Violation until finally cured, the Grantee or the USACE may bring an action at law or in equity in a court of competent jurisdiction:

- (a) to enjoin and/or cure such Violation,
- (b) to enter upon the Restricted Area and to take action to terminate and/or cure such Violation and or to cause the restoration of that portion of the Easement Areas affected by such Violation to the condition that existed prior thereto, or
- (c) to seek or enforce such other legal and/or equitable relief or remedies as the Grantee deems necessary or desirable to ensure compliance with the terms, conditions, covenants, obligations and purpose of this Conservation Restriction / Easement.

11. If the Grantee or the USACE, in either agency's lawful discretion, determines that circumstances require immediate action to prevent or mitigate significant damage to the Restricted Area with respect to the purposes of this Conservation Restriction / Easement, the Grantee or the USACE may pursue its remedies under paragraph 10 above immediately following notice to Grantor or without waiting for the period provided for cure to expire. The Grantee's or the USACE's rights under this paragraph shall apply equally in the event of either actual or threatened Violations of the

terms of this Conservation Restriction / Easement. Grantor agrees that the Grantee's remedies at law for any Violation of the terms of this Conservation Restriction / Easement are inadequate and that the Grantee shall be entitled to the injunctive relief described in this paragraph, both prohibitive and mandatory, in addition to such other relief to which the Grantee or USACE may be entitled, including specific performance. The above language shall in no event be interpreted to derogate or diminish the Grantee's rights and powers under the laws of the State of New Jersey for the protection of public health, safety and welfare.

12. Enforcement of the terms of this Conservation Restriction / Easement shall be at the discretion of the Grantee or the USACE and any forbearance by the Grantee or the USACE to exercise its rights under this Conservation Restriction / Easement in the event of any Violation by Grantor shall not be deemed or construed to be a waiver by the Grantee of such term or of any subsequent Violation or of any of the Grantee's rights under this Conservation Restriction / Easement. No delay or omission by the Grantee or the USACE in the exercise of any right or remedy upon any Violation by Grantor shall impair such right or remedy or be construed as a waiver of such right or remedy.

13. Grantor agrees to reimburse the Grantee or the USACE for any reasonable costs as provided by law incurred by the Grantee in enforcing the terms of this Conservation Restriction / Easement against Grantor, and including, without limitation, the reasonable costs of suit and attorneys' fees.

14. Subject to the provisions of paragraph 21 of this Grant, the Grantee and the USACE reserve the right to transfer, assign, or otherwise convey this Conservation Restriction / Easement to any other entity or person to facilitate the operation of the Restricted Area.

15. Any notice, demand, request, consent, approval or communication under this Conservation Restriction / Easement shall be sent by certified mail, return receipt requested or reliable overnight courier, addressed as follows:

To Grantor:

AVP – Real Estate  
Norfolk Southern Railway Company  
1200 Peachtree Street  
Atlanta, GA 30309

With a copy to:

Engineer Environmental Operations  
4600 Deer Path Road  
Ste 106 RM 148  
Harrisburg, PA 17110

To the Grantee:

State of New Jersey  
Department of Environment Protection  
Division of Land Use Regulation  
And its successors and assigns

As of this date of this Conservation Restriction / Easement, Grantee's address for the purposes of notice is:

501 East State Street  
P.O. Box 439  
Trenton, NJ 08625-0439  
Attention: Director, Division of Land Use Regulation  
(609) 984-3444

In addition, any notice relating to paragraph 9 shall be addressed as follows:

To the Department:

State of New Jersey  
Department of Environmental Protection  
Coastal and Land Use Compliance and Enforcement  
And its successors and assigns

As of the date of this Conservation Restriction / Easement, Grantee's address for the purposes of notice relating to paragraph 9 is:

401 East State Street  
P.O. Box 422  
Trenton, NJ 08625-0422  
Attention: Manager, Coastal and Land Use Compliance and Enforcement  
(609) 984-4587

Finally, any notice related to paragraph 9 shall be addressed as follows:

United States Army Corps of Engineers  
Philadelphia District  
Regulatory Branch  
The John Wanamaker Building  
100 Penn Square East  
Philadelphia, Pennsylvania 19107  
Attention: Chief, Regulatory Branch

OR:

United States Army Corps of Engineers  
New York District  
Regulatory Branch  
Room 1937, 26 Federal Plaza  
New York, NY 10278-0090  
Attention: Chief, Regulatory Branch

16. A party may change the address or person to whom notices to it are required to be given by notice given in the manner above provided.

17. The Grantor reserves to itself, its successors and assigns, all rights as owners of the Property, including the right to engage in all uses of the Restricted Area not inconsistent with the purpose of this Conservation Restriction / Easement, and the right to manage the Restricted Area in accordance with the (choose applicable statute(s)) Wetlands Act of 1970, N.J.S.A. 13:9A, the Freshwater Wetlands



Protection Act, N.J.S.A. 13:9B-1, the Rivers and Harbors Act of 1899, 33 U.S.C. 403, the Clean Water Act, 33 U.S.C. 1344, and (choose applicable rule(s)) the Coastal Zone Management Rules, N.J.A.C. 7:7E, Coastal Permit Program Rules, N.J.A.C. 7:7, the Freshwater Wetlands Protection Act Rules, N.J.A.C. 7:7A and the USACE Regulations at 33 CFR 320-330. The Grantor further reserves to itself, its successors and assigns, all other rights and defenses including those rights accruing from its ownership of the Property including but not limited to the exclusive possession of the property, the right to transfer or assign their interest in the same, the right to take action necessary to prevent erosion on the Property, to protect the property from losing its conservation values and functions, or to protect public health or safety; and the right to use the property in any manner not prohibited by this Conservation Restriction/Easement and which would not defeat or diminish the conservation purpose of this Conservation Easement.

18. This instrument conveys no additional right of access by the general public to any portion of the Property. It is expressly understood and agreed that this covenant does not necessarily grant or convey to members of the general public, any rights of ownership, interest in, or use of the protected property unless so designated by the owner for such purpose.

19. The Grantor agrees to bear all costs and liabilities of any kind related to the operation, upkeep and maintenance of the Restricted Area, including any required fencing of the Restricted Area, as stated or shown in Exhibits A or B.

20. The Grantor agrees that the terms, conditions, restrictions and purposes of this Conservation Restriction / Easement will be inserted in any subsequent deed, subdivision deed, lease, sub-lease or other legal instrument by which the Grantor divests itself of any interest in any portion of the Property. Notwithstanding the failure of the Grantor to include the terms and restrictions of this instrument, it shall run with the land and be binding on all heirs, successors and assigns.

21. The Grantee agrees that it will assign its rights under this Conservation Restriction / Easement only to another governmental body or a charitable conservancy, and only in accordance with N.J.S.A. 13:8B-1 et seq. and N.J.S.A. 13:9B-1 et seq.

22. Notwithstanding anything contained herein to the contrary, any modification or termination of this Conservation Restriction / Easement shall require the prior written approval of the Grantee and the USACE, their successors or assigns.

23. This Conservation Restriction / Easement shall survive any merger of the fee and restriction interest in the Restricted Area.

24. In the event of a conflict between this Conservation Restriction / Easement and the final plans and specifications approved by the Grantee or the USACE in writing pursuant to either agency's Permit, the latter shall govern.

25. Taxes, Liens, Insurance.

- (a) Grantor retains all responsibilities and shall bear all costs and liabilities of any kind related to the ownership, operation, upkeep and maintenance of the Property and Restricted Area. Grantor shall keep the Property and Restricted Area free of any liens arising out of any work performed for, materials furnished to, or obligations incurred by Grantor.

- (b) The Grantor agrees to pay any real estate taxes or other assessments levied on the Property and Restricted Area. If the Grantor becomes delinquent in payment of said taxes or assessments, such that a lien against the land is created, the Grantee, at its option, shall, after written notice to the Grantor, have the right to purchase and acquire the Grantor's interest in said Property and Restricted Area or to take such other actions as may be necessary to protect the Grantee's interest in the Restricted Area and to assure the continued enforceability of this Conservation Restriction / Easement.
- (c) Nothing in this Conservation Restriction / Easement limits Grantor's rights with respect to the property's status or use as security, collateral, or subject to mortgage or similar financial instrument or encumbrance.

26. Miscellaneous.

- (a) Unless superseded by federal law, the laws of the State of New Jersey shall govern the interpretation and performance of this Conservation Restriction / Easement.
- (b) If any provision of this Conservation Restriction / Easement or the application thereof to any person or circumstance is found to be invalid, the remainder of the provisions of this Conservation Restriction / Easement, or the application of such provision to persons or circumstances other than those as to which it is found to be invalid, as the case may be, shall not be affected thereby.
- (c) This Conservation Restriction / Easement and the Permit set forth the entire agreement of the parties with respect to the Conservation Restriction / Easement and supersede all prior discussions, negotiations, understandings or agreements relating to the easement, all of which are merged herein. No alteration or variation of this Conservation Restriction / Easement shall be valid or binding unless contained in a writing executed by the parties hereto.
- (d) Should there be more than one Grantor, the obligations imposed by this Conservation Restriction / Easement upon each Grantor shall be joint and several.
- (e) The covenants, terms, conditions and restrictions of this Conservation Restriction / Easement shall be binding upon, and inure to the benefit of, the parties hereto and all parties having or acquiring any right, title or interest in any portion of the Property, including holders of subdivision deeds, and shall continue as a servitude running in perpetuity with the Property.
- (f) The captions in this Conservation Restriction / Easement have been inserted solely for convenience of reference and are not a part of this Conservation Restriction / Easement and shall have no effect upon construction or interpretation.
- (g) Execution of this Conservation Restriction / Easement does not constitute a waiver of the rights or ownership interest of the State of New Jersey in public trust property.
- (h) This Conservation Restriction / Easement may be executed in any number of counterparts, all of which, taken together, shall constitute one and the same instrument.

27. The Grantor may undertake modifications of the Restricted Area that are approved by the Grantee and the USACE in writing prior to commencement of the modification. The Grantee and the USACE may approve a modification under the following conditions and with the following documentation:

- (a) The modification results in an increased level of protection of the regulated resource; or
- (b) The modification results in equivalent areas of resources protected; and
- (c) The modification does not compromise the original protected resource.

28. If the Grantee and the USACE approves any modification, the Grantor shall amend this instrument by preparing and submitting to the Grantee and USACE for review and approval:

- (a) A revised plan and metes and bounds description for the area to be preserved under the modified Conservation Restriction / Easement (hereinafter the "Modification Documents"); and
- (b) An Amended Conservation Restriction / Easement that reflects the modifications to the original Conservation Restriction / Easement, the justification for the modification and that also includes the deed book and page of the title deed for the property or properties subject to the modified Conservation Restriction / Easement set forth in the Modification Documents.

29. The Grantor shall record the documents listed in paragraph 28, above, in the same manner and place as this original Conservation Restriction / Easement was recorded.

30. This Grant of Conservation Restriction / Easement may only be removed pursuant to N.J.S.A. 13:8B-1 et seq. or as otherwise provided by law or upon agreement by the parties.

31. Pursuant to N.J.A.C. 7:7A-15.14 (c) each owner of the Property is required to notify the county and/or municipality of the Conservation Restriction / Easement whenever any application for a local approval involving this Property is submitted.

TO HAVE AND TO HOLD unto the State of New Jersey, Department of Environmental Protection, its successors and assigns forever. The covenants, terms, conditions, restrictions and purposes imposed with this Conservation Restriction / Easement shall not only be binding upon the Grantor but also upon its agents, personal representatives, assigns and all other successors to it in interest, and shall continue as a servitude running in perpetuity with the Property.

*[signature page follows]*

IN WITNESS WHEREOF, the Grantor has set its hand and seal on the day and year first above written, and directs that this instrument be recorded in the office of the Hudson County Clerk or Recorder.

GRANTOR:  
NORFOLK SOUTHERN RAILWAY COMPANY

Initial address for notices:

To Grantor:  
AVP - Real Estate  
Norfolk Southern Railway Company  
1200 Peachtree Street  
Atlanta, GA 30309

With a copy to:  
Engineer Environmental Operations  
4600 Deer Path Road  
Ste 106 RM 148  
Harrisburg, PA 17110

By: *F. Blair Wimbush*  
(Signature)

Name: F. Blair Wimbush

Title: Vice President

ATTEST:

\_\_\_\_\_, Secretary  
(Seal)

STATE OF Virginia  
COUNTY OF Norfolk  
City

Be it remembered that on this 3<sup>rd</sup> day of July, 2008, before me, the subscriber, a Notary Public of Virginia, personally appeared: F. Blair Wimbush, and he thereupon acknowledged that he signed the foregoing instrument (in such capacity, that the seal affixed to said instrument is the corporate seal of said corporation), and that said instrument is the voluntary act of deed of said person (or corporation, made by virtue of authority from its Board of Directors).

Sharilyn F Flottman #7020313

A Notary Public of Virginia

My Commission Expires: January 31, 2010



Attachments:

1. Exhibit A: Water Quality Certificate NJDEP File No.0906-06-0005.2 (in accordance with Clean Water Act, 33 U.S.C. § 1341 pursuant to the Freshwater Wetlands Protection Act, N.J.S.A. 13:9B-1, the Coastal Zone Management Rules, N.J.A.C. 7:7E, Coastal Permit Program Rules, N.J.A.C. 7:7, and the Freshwater Wetlands Protection Act Rules, N.J.A.C. 7:7A.
2. Exhibit B: United States Army Corps of Engineers (USACE) permit, USACE Permit File No. NAN-2008-193-WCA, pursuant to the Rivers and Harbors Act of 1899, 33 U.S.C. 403, the Clean Water Act, 33 U.S.C. § 1344, and regulations at 33 C.F.R. § 320-331.
3. Exhibit C: Graphic depiction of Restricted Area.
4. Exhibit D: Metes and Bounds description of Restricted Area

01860-23973

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

P.O. Box 439, Trenton, New Jersey 08625-0439  
Fax: (609) 777-3656 or (609) 292-8115  
www.state.nj.us/dep/landuse



PERMIT

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.	Approval Date <b>MAR 13 2008</b>
	Expiration Date <b>MAR 13 2013</b>

Permit Number(s) 0906-06-0005.2 CDT 070001 WQC	Type of Approval(s) Water Quality Certificate	Enabling Statute(s) N.J.S.A. 12:5-3 N.J.S.A. 58:10A
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Applicant  Norfolk Southern Railway Company, Attn: Mark Dewberry 1200 Peachtree Street Building Box 7-142 Atlanta, GA 30309	Site Location  Block: 1200 Lots: 12, 13, 15, 16, 18, 34A City of Jersey City, Hudson County
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**Description of Authorized Activities and Limit of Disturbance**


Norfolk Southern Railway Company will install a connection track (Wye Track) to facilitate the turn around of train engine cars in preparation for a westbound destination. The connection track will be approximately 1,041 linear feet disturbing 0.28 of an acre of freshwater wetlands located within the Hackensack Meadowlands District. The subject site is located within the City of Jersey City, Hudson County, and consists of Block 1200; Lots 12, 13, 15, 16, 18 and 34A.

This permit is authorized under, and in compliance with the following Rules on Coastal Zone Management, N.J.A.C. 7:7E-1.1 et seq., specifically: *Wetlands*: 7:7E-3.27, and *Hackensack Meadowlands District* 7:7E-3.45.

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.

The permittee must mitigate for the loss of 0.28 of an acre of palustrine emergent wetlands through either an on-site or off-site creation, restoration or enhancement project as described in conditions 12 through 32.

Prepared by

  
Kimberly Kerkowska  
Senior Geologist

THIS PERMIT IS NOT EFFECTIVE AND NO CONSTRUCTION APPROVED BY THIS PERMIT, OR OTHER REGULATED ACTIVITY, MAY BE UNDERTAKEN UNTIL THE APPLICANT HAS SATISFIED ALL PRE-CONSTRUCTION CONDITIONS AS SET FORTH IN THIS PERMIT.

Received or Recorded by County Clerk

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

STANDARD CONDITIONS:

1. **Extent of approval:**
  - a. 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 herein. All work must conform to the requirements, conditions and limitations of this permit and all approved drawings.
  - b. 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. Approved work may be altered only with the prior written approval of the Department.
  - c. You must keep a copy of this permit and all approved drawings readily available for inspection at the work site.
2. **Acceptance of permit:** If you begin any activity approved by this permit, you thereby accept this document in its entirety, and the responsibility to comply with the 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*.
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 Department showing the received stamp from each County Clerk within 30 days of the issuance date.
4. **Notice of Construction:** You must notify the Department in writing at least 7 days before you begin any work approved by this permit by submitting the attached construction report. The Construction Reports are also available at [www.nj.gov/dep/landuse/](http://www.nj.gov/dep/landuse/).
5. **Expiration date:** All activities authorized by this permit must be completed by the expiration date shown on the first page unless otherwise extended by the Division. 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 permits may qualify for an extension of the expiration date. Please contact the Department for further information.)
6. **Rights of the State:**
  - a. This permit is revocable and subject to modification by the State with due cause.
  - b. Representatives from the State have the statutory authority to enter and inspect this site to confirm compliance with this permit and may suspend construction or initiate enforcement action if work does not comply with this permit.
  - c. 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 IN ADDITION TO THE STANDARD CONDITIONS:

8. The permittee shall immediately inform the Department of any unanticipated adverse effects on the environment not described in the application or in the conditions of this permit.

9. Consistency with the Areawide Water Quality Management Plan

The Division of Land Use Regulation has not reviewed this application for consistency with the Areawide Water Quality Management Plan and the issuance of this permit shall not be construed as an approval of any wastewater management plan for this project or site. There shall be no construction of any sewage generating structures unless and until the proposed development has been found to be consistent with the appropriate areawide water quality management plan.

10. All necessary local, Federal, and other State approvals must be obtained by the applicant prior to the commencement of the herein permitted activities. Approvals from the following may be required: US Army Corps of Engineers, for the proposed connector track.
11. The drawings hereby approved are two (2) sheets prepared by Norfolk Southern Railway Company, both dated December 22, 2005 and last revised as noted below:

"LOCATION: JERSEY CITY, NJ, TITLE: PROPOSED WYE TRACK BTWN RUNNER & 3<sup>RD</sup> CONNECTOR PLAN VIEW," Sheet 2 of 11, last revised November 11, 2007; and

"LOCATION: JERSEY CITY, NJ, TITLE: PROPOSED WYE TRACK BTWN RUNNER & 3<sup>RD</sup> CONNECTOR PROPOSED TRACK TO SERVE GATEWAY TRANSFER WETLAND IMPACTS DETAIL," Sheet 2A of 10, last revised September 28, 2007.

**MITIGATION PERMIT CONDITIONS:**

Failure to comply with the standards herein constitutes a violation of the Freshwater Wetlands Protection Act and subjects the permittee to appropriate enforcement action and/or suspension or revocation of the permit. This permit is not effective for the purpose of conducting regulated activities authorized by this permit until the following special conditions are satisfied:

12. Mitigation must be done prior to or concurrent with the regulated activity. 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. For example, when the project is 50 percent completed, the mitigation project cannot be less than 50 percent completed.
13. The mitigation proposal must be submitted to the Division prior to the initiation of regulated activities authorized by this permit. Mitigate for the loss of 0.28 acres of palustrine emergent wetlands through either an on-site or off-site creation, restoration or enhancement project as detailed in condition numbers 14 through 29.
14. Within 30 days of the issuance of this permit, for an on-site or off-site individual mitigation project, the permittee must submit a mitigation proposal for both permanent and temporary impacts to the Division of Land Use Regulation (Division) for review and approval. The mitigation proposal must include the creation, restoration and/or enhancement of an area of freshwater wetlands of equal ecological value to those that will be lost by the authorized activity. This proposal must include a proposed construction schedule for the mitigation project. The mitigation proposal for temporary impacts must include a restoration plan. Prior to commencement of regulated activities authorized by this permit, the Division must approve of the proposed mitigation project in writing. Failure to comply with items a. and b. below will subject the permittee to appropriate enforcement action.
- a. Within 30 days of the issuance of this permit submit for review and approval a conceptual plan showing the location and proposed hydrology of the mitigation site for both permanent and temporary impacts.



- b. Within 30 days of receiving Division approval of the conceptual mitigation proposal, the permittee must submit a final design of the mitigation project for both permanent and temporary impacts and include all the items listed on the checklist entitled Checklist for Completeness: Creation, Restoration or Enhancement for a Freshwater Wetland Mitigation Proposal located on the Internet at <http://www.nj.gov/dep/landuse/forms/index.html>.
15. In the event that there is a conflict between the permit conditions and the approved mitigation plans and proposal, the permit conditions take precedent.
16. The use of lime and broadcast fertilization is not permitted in wetland areas.
17. Within 30 days of final design plan approval pursuant to 14b. above and in accordance with N.J.A.C. 7:7A-15.13, obtain a secured bond, or other financial surety acceptable to the Division including an irrevocable letter of credit or money in escrow, that shall be sufficient to hire an independent contractor to complete and maintain the proposed mitigation should the permittee default. The financial surety for the construction of the mitigation project shall be posted in an amount equal to 115 percent of the estimated cost of the construction. In addition, financial surety to assure the success and maintenance of the mitigation project shall be posted in an amount equal to 30 percent of the estimated cost of construction. The Division will review the financial surety annually and the permittee shall adjust the surety to reflect current economic factors. If a governmental body is performing the mitigation the need for financial assurance is waived.
18. This permit is not effective until the permittee has completed, signed and filed with the County Clerk (the Registrar of Deeds and Mortgages in some counties), the Division approved conservation restriction for the mitigation site. An example copy of the Wetlands Mitigation Area Model Deed/Conservation Restriction is located on the Internet at <http://www.nj.gov/dep/landuse/forms/index.html>. A draft copy of the deed restriction must be submitted to the Department for review and approval prior to filing the conservation restriction in the office of the County Clerk. The restriction shall be included on the deed, and recorded in the office of the County Clerk (the Registrar of Deeds and Mortgages in some counties), in the county wherein the lands of the mitigation project are located, within 10 days of approval of the final wetland mitigation proposal. Within 10 days of filing the conservation restriction, the permittee must send a copy of the conservation restriction to the Division for verification.
19. At least thirty (30) days in advance of the start of construction of the wetland mitigation project, the permittee shall notify the Division, in writing, for an on-site pre-construction meeting between the permittee, the contractor, the consultant and the Division.
20. The mitigation designer must be present on-site during critical stages of construction of the mitigation project. This includes but is not limited to herbicide applications, sub-grade inspection, final grade inspection, and planting inspection to ensure the intent of the mitigation design and its predicted wetland hydrology is realized in the landscape.
21. Mitigation designs are not static documents and changes may be necessary to ensure success of the project. Should the mitigation designer 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 designer must immediately notify the Division. The mitigation designer 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 designer with comments on the alternative plan, the mitigation designer 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 Divisions 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.

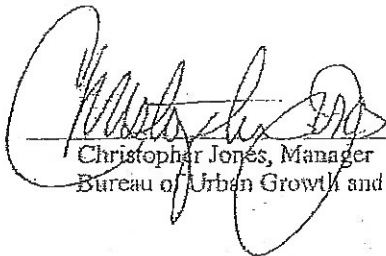
22. The permittee shall assume all liability for accomplishing corrective work should the Division determine that the compensatory mitigation has not been 100% successful. Remedial work may include re-grading and/or replanting the mitigation site. This responsibility is incumbent upon the permittee until such time that the Division makes the finding that the mitigation project is successful.
23. Within 5 days following final grading of the site, a disc must be run over the site to eliminate compaction. The mitigation designer must be present to oversee this phase of the project and confirm with the Division this activity has occurred prior to planting of the site.
24. Following the final grading of the mitigation site and prior to planting, the permittee shall notify the Division for a post-grading construction meeting between the permittee, contractor, consultant and the Division. The permittee must give the Division at least thirty (30) days notice prior to the date of this meeting.
25. Within 30 days following the final planting of the mitigation project, 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 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 several permanent signs as shown on the approved mitigation plan which identify the site as a wetland mitigation project and that development mowing, cutting, dumping and draining of the property is prohibited; and
  - h. The signs must also state the name of the permittee, Department's permit number along with a contact name and phone number.

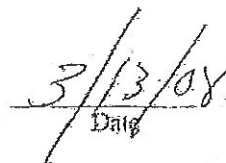
26. If the Division determines that the mitigation project is not constructed in conformance with the approved plan, the permittee will be notified in writing and will have 60 days to submit a proposal to indicate how the project will be corrected. No financial surety will be released by the Division until the permittee demonstrates that the mitigation project is constructed in conformance with the approved plan, all soil has been stabilized and there is no active erosion.
27. The permittee shall monitor the mitigation project for 5 full growing seasons if it is a proposed forested or scrub/shrub wetland and 3 full growing seasons for an emergent wetland or State open water 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. All monitoring reports must include the standard items identified in the checklists entitled Wetland Mitigation Monitoring Project Checklist and Tidal Wetland Mitigation Monitoring Checklist and the information requested below. The Wetland Mitigation Monitoring Project Checklist and Tidal Wetland Mitigation Monitoring Checklist are located on the Internet at <http://www.nj.gov/dep/landuse/forms/index.html>.
28. All monitoring reports must include all of the following information:
  - a. 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;
  - b. All monitoring reports except the final one must include field data to document that the site is progressing towards 85 percent survival and 85 percent area coverage of mitigation plantings or target hydrophytes (Target hydrophytes are non-invasive native species to the area and similar to ones identified on the mitigation planting plan). If the proposed plant community is a scrub/shrub or a forested wetland the permittee must also demonstrate each year with data that the woody species are thriving, increasing in stem density and height each year. If the field data shows that the mitigation project is failing to meet the vegetation survival, coverage and health goals, the monitoring report should contain a discussion of steps that will be taken to rectify the problem, including a schedule of implementation;
  - 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 pesticide 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 such as but not limited to (Source: Snyder, David and Sylvan R. Kaufman. 2004. An overview of nonindigenous plant species in New Jersey. New Jersey Department of Environmental Protection, Division of Parks and Forestry, Office of Natural Lands Management, Natural Heritage Program, Trenton, New Jersey. 107 pages.): *Acer platanoides* (Norway Maple), *Ailanthus altissima* (Tree of Heaven), *Allaria petiolo* (Garlic mustard), *Ampelopsis brevipedunculata* (Porecelain berry), *Berberis thunbergii* (Japanese barberry), *Carex kobomugi* (Japanese sedge), *Celastrus orbiculatus* (Asian Bittersweet), *Centaurea biebersteinii* (Spotted knapweed), *Cirsium arvense* (Canadian thistle), *Dipsacus fillosum* (Wild teasel), *Dipsacus laciniatus* (Cut-leaf teasel), *Elaeagnus umbellata* (Autumn olive), *Euonymus alata* (Winged spindle tree), *Lespedeza cuneata* (Chinese bush-clover), *Lonicera japonica* (Japanese honeysuckle), *Lonicera morrowii* (Morrow's bush honeysuckle), *Lonicera tartarica* (Tartarian honeysuckle), *Lythrum salicaria* (Purple loosestrife), *Melilotus officinalis* (Yellow sweetclover), *Microstegium vimineum* (Japanese stiltgrass), *Myriophyllum spicatum* (Burasian water-milfoil), *Polygonum cuspidatum* (Japanese knotweed), *Polygonum perfoliatum* (Mile-a-minute), *Potamogeton crispus* (Curly leaf pondweed), *Ranunculus ficaria* (Lesser celandine), *Rhamnus cathartica* (Common buckthorn), *Robinia pseudoacacia* (Black locust), *Rosa multiflora* (Multiflora rose), *Rubus phoenicolasius* (Wineberry).
  - 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.
29. Once the required monitoring period has expired and the permittee has submitted the final monitoring report, the Division will make the finding that the mitigation project is either a success or a failure. This mitigation project will be considered successful if the permittee demonstrates all of the following:
- 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. 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;
  - b. 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;
  - c. The final monitoring report must include documentation demonstrating the site is less than 10 percent occupied by invasive or noxious species such as but not limited to (Source: Snyder, David and Sylvan R. Kaufman. 2004. An overview of nonindigenous plant species in New Jersey. New Jersey Department of Environmental Protection, Division of Parks and Forestry,

Office of Natural Lands Management, Natural Heritage Program, Trenton, New Jersey. 107 pages.): *Acer platanoides* (Norway Maple), *Ailanthus altissima*, (Tree of Heaven), *Allaria petiolo* (Garlic mustard), *Ampelopsis brevipedunculata* (Porecelain berry), *Berberis thunbergii* (Japanese barberry), *Carex kobomugi* (Japanese sedge), *Celastrus orbiculatus* (Asian Bittersweet), *Centaurea biebersteinii* *maculosa* (Spotted knapweed), *Cirsium arvense* (Canadian thistle), *Dipsacus filiformis* (Wild teasel), *Dipsacus laciniatus* (Cut-leaf teasel), *Elaeagnus umbellata* (Autumn olive), *Euonymus alata* (Winged spindle tree), *Lespedeza cuneata* (Chinese bush-clover), *Lonicera japonica* (Japanese honeysuckle), *Lonicera morrowii* (Morrow's bush honeysuckle), *Lonicera tartarica* (Tartarian honeysuckle), *Lythrum salicaria* (Purple loosestrife), *Melilotus officinalis* (Yellow sweetclover), *Microstegium vimineum* (Japanese stiltgrass), *Myriophyllum spicatum* (Eurasian water-milfoil), *Polygonum cuspidatum* (Japanese knotweed), *Polygonum perfoliatum* (Mile-a-minute), *Potamogeton crispus* (Curly leaf pondweed), *Ranunculus ficaria* (Lesser celandine), *Rhamnus cathartica* (Common buckthorn), *Robinia pseudoacacia* (Black locust), *Rosa multiflora* (Multiflora rose), *Rubus phoenicolasius* (Wineberry).

- d. The site contains hydric soils or there is evidence of reduction occurring in the soil; and,
  - e. The proposed hydrologic regime as specified in the mitigation proposal has been satisfied. This criteria must be satisfied to prove the mitigation site is a wetland.
30. All remaining financial surety, if required, will be released concurrent with the Division notifying the permittee that the mitigation project is a success.
31. If the mitigation project is considered a failure, the permittee is required to submit a revised mitigation plan in order to meet the success criteria identified in Condition No. 28 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 as stipulated in condition number 28.
32. 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.

  
 Christopher Jones, Manager  
 Bureau of Urban Growth and Redevelopment

  
 Date

- C: Applicant  
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