



**STATE OF NEW JERSEY  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
WATERSHED & LAND MANAGEMENT**  
Mail Code 501-02A, P.O. Box 420, Trenton, New Jersey 08625-0420  
Telephone: (609) 777-0454 or Fax: (609) 777-3656  
www.nj.gov/dep/landuse



## PERMIT

<p>In accordance with the laws and regulations of the State of New Jersey, the Department of Environmental Protection hereby grants this permit to perform the activities described below. This permit is revocable with due cause and is subject to the terms, conditions, and limitations 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>October 6, 2022</b>
		Expiration Date <b>October 5, 2027</b>
<b>Permit Number(s):</b> 0000-22-0018.1 LUP220001	<b>Type of Approval(s):</b> WFD IP-Commercial/Industrial/Public(Waterward) WFD-IP-Commercial/Industry/Public(Landward) FHA Indiv Permit-Bridge/Culvert/Footbridge/Low Dam FWW Individual Permit-Wetlands (not SFH/Duplex) Meadowlands District Water Quality Certificate	<b>Governing Rule(s):</b> N.J.A.C. 7:13-1.1(b) N.J.A.C. 7:7-1.1(a) N.J.A.C. 7:7A-1.1(a)
<b>Permittee:</b> NJDOT c/o Amber Cheney 1035 Parkway Avenue Ewing (Mercer), NJ 08618	<b>Site Location:</b> Route 7 Right-of Way Municipality: Kearny Town/North Arlington Borough County: Hudson/Bergen	
<b>Description of Authorized Activities:</b>  This document authorizes the proposed improvements to Route 7 in Kearny and North Arlington Boroughs in association with a flood control and stormwater management project.  This approval includes a Meadowlands District Water Quality Certification (WQC).  <i>The Department has determined that the herein approved activities meet the requirements of the (FHACA/CZM) rules. This approval does not obviate the local Floodplain Administrator's responsibility to ensure all development occurring within their community's Special Flood Hazard Area is compliant with the local Flood Damage Prevention Ordinance, and minimum NFIP standards, regardless of any state-issued permits. FEMA requires communities to review and permit all proposed construction or other development within their SFHA in order to participate in the NFIP.</i>		
<b>Prepared by:</b>  Ashleigh Windawi	<b>Received and/or Recorded by County Clerk:</b>	
If the permittee undertakes any regulated activity, project, or development authorized under this 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 requirements of the permit and all conditions therein.		
<b>This permit is not valid unless authorizing signature appears on the last page.</b>		

**STATEMENT OF AUTHORIZED IMPACTS:**

The authorized activities allow for the permittee to undertake impacts to regulated areas as described below. Additional impacts to regulated areas without prior Department approval shall constitute a violation of the rules under which this document is issued and may subject the permittee and/or property owner to enforcement action, pursuant to N.J.A.C. 7:13-2.18; N.J.A.C. 7:7-29; N.J.A.C. 7:7A-22.

<b>FWW Individual Permit-Wetlands (not SFH/Duplex)</b>	<b>Permanent Disturbance (Acres)</b>	<b>Temporary Disturbance (Acres)</b>
<b>Freshwater Wetlands</b>	0.215	0.034
<b>Transition Areas</b>	0.111	0.119
<b>State Open Waters</b>	0	0

<b>Water Quality Certificate</b>	<b>Permanent Disturbance (Acres)</b>	<b>Temporary Disturbance (Acres)</b>
<b>Wetlands</b>	0.702	0.250
<b>State Open Waters</b>	0.108	0.082

<b>Riparian Zone Vegetation</b>	<b>Area of riparian zone (Acres)</b>
<b>Permanent Disturbed</b>	0.922
<b>Temporary Disturbed</b>	0.020

<b>WFD IP-Commercial/Industrial/Public(Waterward)</b>	<b>Permanent Disturbance (Acres)</b>	<b>Temporary Disturbance (Acres)</b>
<b>Shellfish habitat</b>	0	0
<b>Intertidal subtidal shallows (ISS)</b>	0.145	0.104

**PRE-CONSTRUCTION CONDITIONS:**

1. Prior to the commencement of site clearing, grading, or construction onsite, the permittee shall install a sediment barrier at the limits of disturbance authorized herein, which is sufficient to prevent the sedimentation of the remaining freshwater wetlands, transition areas, intertidal subtidal shallows, and State open waters, and shall serve as a physical barrier protecting these areas from encroachment by construction vehicles or other soil-disturbing activities. All sediment barriers and soil erosion control measures shall be kept in place and maintained throughout the duration of construction, until such time that the site is stabilized.
2. Prior to the construction of any structures and/or the placement of fill within any tidelands areas authorized under this permit, the permittee must apply to the Division’s Bureau of Tidelands

Management for a tidelands instrument (e.g., a license or lease) for the use and occupation of said tidelands. Tidelands staff will provide further guidance upon review for the timing of construction. All decisions concerning the issuance of any tidelands instrument is solely up to the Division's Bureau of Tidelands Management following the Tidelands Resource Council policy.

3. 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 implementing the programmatic agreement (PA) 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 Resource Protection 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. 7:7-9.34.
4. 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 Resource Protection and the New Jersey Historic Preservation Office to ensure the provisions of N.J.A.C. 7:7-9.34 are met, prior to project implementation. Such consultation shall involve implementing the stipulations within the PA discussed above for the identification, National Register of Historic Places evaluation and/or mitigation on archaeological resources.

#### **SPECIAL CONDITIONS:**

1. The Department has determined that the freshwater wetlands affected by this permit authorization are of intermediate resource value and the standard transition area or buffer required adjacent to these wetlands is 50 feet. Any additional regulated activities conducted within the regulated areas onsite shall require a separate authorization from the Division. Please refer to the Freshwater Wetlands Protection Act (N.J.S.A. 13:9B-1 *et seq.*) and implementing Rules (N.J.A.C. 7:7A) for additional information.
2. The Department has determined that the required riparian zone adjacent to the regulated waters affected by the project is 50 feet from the top of the bank. Any additional disturbance to the riparian zone shall be considered a violation of the Flood Hazard Area Control Act Rules (FHACAR) unless a permit is obtained, prior to the start of the disturbance, from the Division of Land Resource Protection.
3. In order to protect fishery resources within the onsite waterways and their tributaries, any activity within the 50-ft. riparian zone or within the flood hazard area which would likely introduce sediment into the watercourses and/or increase turbidity is prohibited from **April 1 through June 30** of each year. The Division 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.
4. All activities shall conform to the Technical Requirements for Site Remediation (N.J.A.C. 7:26E).
5. All excavated contaminated material must be direct loaded into trucks or roll off containers.
6. Material that will be used to backfill excavation areas must meet the clean fill standards as provided in NJDEP SRP *Fill Material Guidance for SRP Sites*, dated October 2021.

7. All excavated material shall be disposed of in a lawful manner. The material shall be placed outside of any flood hazard area, riparian zone, regulated water, freshwater/coastal wetlands and adjacent transition area, and in such a way as to not interfere with the positive drainage of the receiving area.
8. All trucks used to transport excavated material shall be tarped pursuant to the applicable State DOT requirements or applicable regulatory agency requirements.
9. Upon completion of the project, all temporarily disturbed areas within 50 feet of the top of the stream banks shall be restored to original topography and replanted with indigenous, non-invasive vegetation in accordance with N.J.A.C. 7:13-11.2(z).
10. Construction may only be performed only under conditions where the stream area is dry or de-watered. No work may be performed where the stream channel is wet.
11. 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.
12. All temporarily disturbed freshwater wetlands and transition areas must be restored to pre-construction conditions following the completion of the authorized activities.
13. All excavated areas in freshwater wetlands and/or State open waters 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.
14. The Department has determined that this project meets the requirements of the Stormwater Management rules at N.J.A.C. 7:8. Any future expansion or alteration of the approved stormwater management system, which would affect water quality, increase the rate or volume of stormwater leaving the site, affect the infiltration capacity on the site, or alter the approved green infrastructure best management practices, shall be reviewed and approved by the Department by obtaining a modification or new permit as appropriate 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.
15. The applicant must adhere to the operations and maintenance plan for the stormwater management measures incorporated into the design of this major development in accordance with N.J.A.C. 7:8-5.8. Guidance set forth in the New Jersey Stormwater Best Management Practices Manual should be followed to the maximum extent practicable.
16. Construction equipment cannot 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.
17. 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.
18. All foundations, slabs, footings and walls of the proposed structure/s shall be designed to resist uplift, flotation, collapse and displacement due to hydrostatic and hydrodynamic forces resulting from flooding up to an elevation of one foot above the flood hazard area design flood elevation. Furthermore, all structural components shall be designed to resist the same forces.

### **FRESHWATER WETLAND MITIGATION CONDITIONS:**

1. The permittee shall mitigate for the **permanent** disturbance of 0.129 acres of forested wetlands, 0.004 acres of scrub shrub wetlands, 0.783 acres of emergent wetlands, 0.108 acres of state open waters, and 0.111 acres of transition area through an on-site 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).
2. The permittee shall mitigate for the **temporary** disturbance of 0.284 acres of emergent wetlands, 0.082 acres of state open waters, and 0.119 acres of transition area through an on-site restoration 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).
3. At least 90 days prior to the initiation of regulated activities authorized by this permit, the permittee shall submit a mitigation proposal and temporary restoration plan to the Division of Watershed Protection and Restoration (Division) for review and approval. Activities authorized by this permit shall not begin until the permittee has obtained written approval of both the mitigation plan and temporary restoration plan from the Department (N.J.A.C. 7:7A-11.6(a)).
4. 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.
5. 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)).
6. 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.
7. 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 1.869 mitigation credits from an approved wetland mitigation bank to the attention of the Mitigation Unit Supervisor, NJDEP, Division of Watershed Management and Restoration 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.  
  
Pio Costa Bank--Carmen Pio Costa may be reached at (973) 575-1706 or at [carmen@piocosta.com](mailto:carmen@piocosta.com).
8. 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, Division of Watershed Management and Restoration for verification. (N.J.A.C. 7:7A-12.1 et. seq.).
- c. The permittee shall notify the Mitigation Unit at the Division of Watershed Management and Restoration 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 Watershed Management and Restoration in writing to arrange a post-grading construction meeting among the permittee, contractor, consultant and the Division.
- h. 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 (N.J.A.C. 7:7A-11.12). 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 Watershed Management and Restoration no later than December 31st 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.
9. 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 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.

#### **INTERTIDAL AND SUBTIDAL SHALLOWS MITIGATION CONDITIONS:**

1. Within **30 days of issuance of this permit**, the permittee shall submit a mitigation proposal to mitigate for the permanent loss of **0.145** acres and temporary impacts to 0.07 acres of intertidal and subtidal shallows to the Division of Watershed Protection and Restoration (Division) for review and approval.
2. All mitigation shall be conducted prior to or concurrent with the construction of the approved project (**N.J.A.C. 7:7-17.3**). Concurrent means that at any given time, the mitigation must track at the same or greater percentage of completion as the project as a whole.
3. The permittee shall mitigate for the permanent loss of **0.145** acres of intertidal and subtidal shallows through the creation of intertidal and subtidal shallows, at a creation to loss ratio of 1:1, on the site where the filling occurred.
4. If mitigation for the filling of intertidal and subtidal shallows is not feasible onsite then mitigation shall be performed offsite through the creation of intertidal and subtidal shallows at a ratio of 1:1 within the same estuary as the site of the filling or through the purchase of in-kind credits from a mitigation bank with a service area that includes the site of the filling.
5. If mitigation for the filling of intertidal and subtidal shallows is not feasible onsite or offsite, then mitigation shall be in the form of restoration, creation, or enhancement of a wetland within the same estuary as the site of the filling in accordance with N.J.A.C. 7:7-17.13 or through the purchase of out-of-kind wetland credits from a mitigation bank with a service area that includes the site of the filling.
6. If the permittee is purchasing credits from a mitigation bank to satisfy a mitigation requirement (see N.J.A.C. 7:17.11(d)), the permittee shall submit proof of purchase for **0.145** mitigation credits from an approved wetland mitigation bank to the attention of the Mitigation Unit Supervisor, NJDEP, Division of Watershed Protection and Restoration at Mail Code 501-02A, P.O. Box 420, Trenton, NJ 08625-0420.

There is no bank with ISS credits serving this area. At this time, the following out-of-kind credit bank(s) are approved to serve the project area:



Pio Costa Bank--Carmen Pio Costa may be reached at (973) 575-1706 or at [carmen@piocosta.com](mailto:carmen@piocosta.com)

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.

7. If mitigation for the filling of intertidal and subtidal shallows is not feasible, then mitigation shall be in the form of one or both of the following, as determined in consultation with the Department:
  - a. Upland preservation in accordance with the Freshwater Wetlands Protection Act Rules at N.J.A.C. 7:7A-15.9; or
  - b. In-lieu fee payment in accordance with N.J.A.C. 7:7-17.16.
8. If mitigation for the filling of intertidal and subtidal shallows as described above is not feasible, then mitigation shall be in the form of a land donation in accordance with the Freshwater Wetlands Protection Act Rules at N.J.A.C. 7:7A-15.19.
9. If the permittee is proposing to construct an on-site intertidal subtidal shallows creation project, (see N.J.A.C. 7:17.11(b)) one acre of creation must be performed for each acre disturbed. If the permittee is proposing to mitigate through off-site creation, restoration or enhancement project, or by purchasing credits from a mitigation bank serving the area an enhancement or creation project, the ratio of disturbance to mitigation required shall be in accordance with N.J.A.C. 7:7-17.11(c) through (g). If proposing onsite or offsite mitigation, provide the following:
  - 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; and
  - b. Within 30 days of receiving Division approval of the conceptual mitigation proposal, submit a final design of the mitigation project.
10. The following requirements will apply to an onsite or offsite intertidal subtidal shallows mitigation project:
  - a. Obtain a secured bond, or other financial surety acceptable to the Department, and in an amount consistent with the requirements at N.J.A.C. 7:7-17.
  - b. Complete, sign and file with the County Clerk (the Registrar of Deeds and Mortgages in some counties), a conservation restriction protecting the mitigation site that meets the requirements of N.J.A.C. 7:7-18.
  - c. Notify the Mitigation Unit at the Division of Watershed Protection and Restoration 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. In accordance with N.J.A.C. 7:7-17.11(h), within 60 days following the completion of the mitigation project, 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. 7:7-17.11(h)). The Construction Completion Report shall contain, at a minimum, the following information:



of 0.020 acres of herbaceous riparian zone. The proposal shall be designed in accordance with the standards at N.J.A.C. 7:13-13. Activities authorized by this permit shall not begin until the permittee has obtained written approval of a mitigation plan from the Department (N.J.A.C. 7:13-13.2(b)).

2. **All mitigation shall be conducted prior to or concurrent with the regulated activity that causes the disturbance.** (N.J.A.C. 7:13-13.3(a)1). Concurrent means that at any given time, the mitigation must track at the same or greater percentage of completion as the project as a whole.
3. If the permittee is purchasing credits from a mitigation bank to satisfy a mitigation requirement, 0.437 acres prior to the initiation of regulated activities authorized by this permit, the permittee shall submit proof of purchase for 0.437 mitigation credits from an approved wetland mitigation bank to the attention of the Mitigation Unit Supervisor, NJDEP, Division of Watershed Management and Restoration at Mail Code 501-02A, P.O. Box 420, Trenton, NJ 08625-0420.

As of the date of this permit, there are no mitigation banks serving your project area. Additional banks may be approved at any time, so please contact the Mitigation Unit for the most up to date service area information if you would like additional options.

4. If the permittee is considering conducting a creation, restoration or enhancement project, the following conditions shall apply:

**Prior to the initiation of regulated activities authorized by this permit**, the permittee shall sign a Department approved conservation restriction to protect the mitigation area from future development that would remove the vegetation planted. (N.J.A.C. 7:13-13.2(g)). The conservation restriction shall conform to the format and content of the rules at N.J.A.C. 7:13-14 and the Riparian Zone Mitigation Area model located at <http://www.nj.gov/dep/landuse/forms/index.html>. The restriction shall be included on the deed and recorded in the office of the County Clerk (the Registrar of Deeds and Mortgages in some counties) in the county wherein the lands of the mitigation project are located. A metes and bounds description shown on a map must be included within the recorded conservation restriction. Within 10 days of filing the conservation restriction, the permittee must send a copy of the conservation restriction to the attention of the Mitigation Unit Supervisor, NJDEP, Division of Watershed Management and Restoration at Mail Code 501-02A, P.O. Box 420, Trenton, NJ 08625-0420.

5. *For creation and restoration projects*, the permittee shall obtain a secured bond or other financial surety acceptable to the Division from a firm licensed to provide such services in New Jersey. (N.J.A.C. 7:13-13.15)
6. The permittee shall monitor the riparian project for at least 5 years beginning the year after the riparian zone mitigation project has been completed (N.J.A.C. 7:13-13.12(c)). **The permittee shall submit monitoring reports to the Division of Watershed Management and Restoration, 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.
7. If the riparian mitigation project does not meet the success criteria established above the project shall be considered a failure and the permittee shall submit a revised riparian mitigation plan. The revised plan shall be submitted within 60 days of receipt of notification from the Division indicating the riparian mitigation project was a failure.
  8. If the Division determines that the riparian zone mitigation project is not constructed in conformance with the approved plan, the permittee will be notified in writing by the Department and will have 60 days to submit a proposal to indicate how the project will be corrected.
  9. For preservation projects, the application shall provide documentation showing that the proposed preservation area will fully compensate in accordance with N.J.A.C. 7:13-13.13 for the loss of functions and values caused by the disturbance.

**STANDARD CONDITIONS:**

1. The issuance of a permit shall in no way expose the State of New Jersey or the Department to liability for the sufficiency or correctness of the design of any construction or structure(s). Neither the State nor the Department shall, in any way, be liable for any loss of life or property that may occur by virtue of the activity or project conducted as authorized under a permit.
2. The issuance of a permit does not convey any property rights or any exclusive privilege.
3. The permittee shall obtain all applicable Federal, State, and local approvals prior to commencement of regulated activities authorized under a permit.
4. A permittee conducting an activity involving soil disturbance, the creation of drainage structures, or changes in natural contours shall obtain any required approvals from the Soil Conservation District or designee 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 of any unanticipated adverse effects on the environment not described in the application or in the conditions of the permit. The Department may, upon discovery of such unanticipated adverse effects, and upon the failure of the permittee to submit a report thereon, notify the permittee of its intent to suspend the permit.
7. The permittee shall immediately inform the Department by telephone at (877) 927-6337 (WARN DEP hotline) of any noncompliance that may endanger public health, safety, and welfare, or the

environment. The permittee shall inform the Watershed & Land Management 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:

- i. A description of the noncompliance and its cause;
  - ii. The period of noncompliance, including exact dates and times;
  - iii. If the noncompliance has not been corrected, the anticipated length of time it is expected to continue; and
  - iv. The steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance.
8. Any noncompliance with a permit constitutes a violation of this chapter and is grounds for enforcement action, as well as, in the appropriate case, suspension and/or termination of the permit.
  9. 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.
  10. 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.
  11. 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.
  12. The issuance of a permit does not relinquish public rights to access and use tidal waterways and their shores.
  13. The permittee shall allow an authorized representative of the Department, upon the presentation of credentials, to:
    - i. Enter upon the permittee's premises where a regulated activity, project, or development is located or conducted, or where records must be kept under the conditions of the permit;
    - ii. Have access to and copy, at reasonable times, any records that must be kept under the conditions of the permit;
    - iii. 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; and
    - iv. Sample or monitor at reasonable times, for the purposes of assuring compliance or as otherwise authorized by the Federal Act, by the Freshwater Wetlands Protection Act, or by any rule or order issued pursuant thereto, any substances or parameters at any location.
  14. 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, project, or development is being undertaken.

Upon completion of the regulated activity, project, or development, 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.

15. The permittee and its contractors and subcontractors shall comply with all conditions, site plans, and supporting documents approved by the permit.
16. All conditions, site plans, and supporting documents approved by a permit shall remain in full force and effect, so long as the regulated activity, project, or development, or any portion thereof, is in existence, unless the permit is modified pursuant to the rules governing the herein approved permits.
17. The permittee shall perform any mitigation required under the permit in accordance with the rules governing the herein approved permits.
18. 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.
19. Any permit condition that does not establish a specific timeframe within which the condition must be satisfied (for example, prior to commencement of construction) shall be satisfied within six months of the effective date of the permit.
20. 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.
21. The permittee shall provide monitoring results to the Department at the intervals specified in the permit.
22. A permit shall be transferred to another person only in accordance with the rules governing the herein approved permits.
23. A permit can be modified, suspended, or terminated by the Department for cause.
24. 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.
25. 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.
26. The permittee shall submit to the Bureau of Coastal & Land Use Compliance & Enforcement email notification at [CLU\\_tomsriver@dep.nj.gov](mailto:CLU_tomsriver@dep.nj.gov) or mail notification to 501 E. State St, PO Box 420, Mail Code 501-01A, Trenton, NJ 08625 at least 3 days prior to commencement of site preparation and/or regulated activities, whichever comes first. The notification shall include proof of completion of all pre-construction conditions, including proof of recording of permits, approved plans and/or conservation easements, if required. The permittee shall allow an authorized Bureau representative on the site to inspect to ensure compliance with this permit.
27. 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 Watershed & Land Management at the address listed on page one of this permit.

**APPROVED PLAN(S):**

The drawings hereby approved consist of:

Twenty-seven (27) sheets prepared by Nabil M. Hourani, P.E., of McCormick Taylor, dated September 16, 2022, unrevised, and entitled:

**“NEW JERSEY DEPARTMENT OF TRANSPORTATION, ROUTE 7 KEARNY DRAINAGE IMPROVEMENTS, MP 1.7 TO MP 3.8, CONTRACT NO. 002950652”**

**“NJDEP PERMIT PLANS” sheets 1 – 26 of 27,**

**“CONSTRUCTION DETAILS” sheet 27 of 27,**

Nineteen (19) sheets prepared by Chang M. Chung, P.E. of McCormick Taylor, undated and unrevised, and entitled:

**“NEW JERSEY DEPARTMENT OF TRANSPORTATION BUREAU OF STRUCTURAL ENGINEERING ROUTE 7 CONTRACT NO. 002950652 TOWN OF KEARNY HUDSON COUNTY”**

**“GENERAL PLAN AND ELEVATION-1”- BRIDGE SHEET NO. B-3 of B-82,**

**“GENERAL PLAN AND ELEVATION-3”- BRIDGE SHEET NO. B-5 of B-82,**

**“ROADWAY PROFILE”-BRIDGE SHEET NO. B-7 of B-82,**

**“RETAINING WALL NO.1”-BRIDGE SHEET NO. B-16 of B-82,**

**“RETAINING WALL NO.2 AND 5”-BRIDGE SHEET NO. B-17 of B-82,**

**“RETAINING WALL NO.3”-BRIDGE SHEET NO. B-18 of B-82,**

**“RETAINING WALL NO.6”-BRIDGE SHEET NO. B-20 of B-82,**

**“GENERAL PLAN AND ELEVATION”- BRIDGE SHEET NO. B-48 of B-82,**

**“TYPICAL SECTION”- BRIDGE SHEET NO. B-49 of B-82,**

**“CULVERT SECTIONS AND NOTES”- BRIDGE SHEET NO. B-61 of B-82,**

**“PUMP STATION 1 RETAINING WALLS”-BRIDGE SHEET NO. B-69 of B-82,**

**“PUMP STATION 2 RETAINING WALLS”-BRIDGE SHEET NO. B-70 of B-82,**

**“PUMP STATION 3 RETAINING WALLS”-BRIDGE SHEET NO. B-71 of B-82,**

**“GENERAL PLAN”- BRIDGE SHEET NO. B-74 of B-82,**

**“ELEVATIONS”- BRIDGE SHEET NO. B-75 of B-82,**

**“RETAINING WALL NO.6 PLAN”-BRIDGE SHEET NO. B-78 of B-82,**

**“RETAINING WALL NO.7 PLAN”-BRIDGE SHEET NO. B-79 of B-82,**

**“GENERAL PLAN”- BRIDGE SHEET NO. B-81 Of B-82, and**

**“FLOODWALL PLAN, ELEVATION, AND DETAILS”- BRIDGE SHEET NO. B-82 of B-82.**

**APPEAL OF DECISION:**

Any person who is aggrieved by this decision may submit an adjudicatory hearing request within 30 calendar days after public notice of the decision is published in the DEP Bulletin (available at [www.nj.gov/dep/bulletin](http://www.nj.gov/dep/bulletin)). If a person submits the hearing request after this time, the Department shall

deny the request. The hearing request must include a completed copy of the Administrative Hearing Request Checklist (available at [www.nj.gov/dep/landuse/forms.html](http://www.nj.gov/dep/landuse/forms.html)). A person requesting an adjudicatory hearing shall submit the original hearing request to: NJDEP Office of Legal Affairs, Attention: Adjudicatory Hearing Requests, Mail Code 401-04L, P.O. Box 402, 401 East State Street, 7th Floor, Trenton, NJ 08625-0402. Additionally, a copy of the hearing request shall be submitted to the Director of Watershed & Land Management at the address listed on page one of this permit. 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 [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 Watershed & Land Management's Technical Support Call Center at (609) 777-0454.

Approved By:

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Ryan Anderson, Manager  
Watershed & Land Management

c: Municipal Clerk, Kearny Town & North Arlington Borough  
Municipal Construction Official, Kearny Town & North Arlington Borough  
Agent (original) – James Divietro