



REPLY TO
ATTENTION OF

CERTIFIED MAIL- RETURN RECEIPT REQUESTED

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

APR 18 2018

Regulatory Branch
Application Section II

SUBJECT: CENAP-OP-R-2018-00233-95 (NWP 13)
Project Name: New Jersey Department of Transportation – Install Scour
Protection in the North Channel of the Toms River beneath Bridge Structure No.
1516-152 at Route 166 in Township of Toms River, Ocean County, New Jersey
Latitude: 39.951547°N Longitude: -74.198822°W

New Jersey Department of Transportation
Attn: Brendan Brock
1035 Parkway Avenue
Trenton, NJ 08625

Dear Mr. Brock:

This is in regard to your proposal to install scour protection in the North Channel of the Toms River beneath Bridge Structure No. 1516-152 at Route 166 in the Township of Toms River, Ocean County, New Jersey. Specifically, mechanical dredge removal of approximately 728.0-cubic yards of bottom sediments with offsite, upland disposal; and subsequent placement of approximately 357.0-cubic yards of concrete grout bags and 166.0-cubic yards of rip-rap stone revetment below the Plane of Mean High Water shall be undertaken.

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

Based upon our review of the information you have provided, it has been determined that your project is approved by existing Department of the Army Nationwide Permit Number 13 (NWP 13) described below, provided the work is conducted in compliance with the NWP general conditions, regional conditions, and the project specific special conditions.

NWP 13. Bank Stabilization. Bank stabilization activities necessary for erosion control or prevention, such as vegetative stabilization, bioengineering, sills, rip rap, revetment, gabion baskets, stream barbs, and bulkheads, or combinations of bank stabilization techniques, provided the activity meets all of the following criteria:

- (a) No material is placed in excess of the minimum needed for erosion protection;
- (b) The activity is no more than 500 feet in length along the bank, unless the district engineer waives this criterion by making a written determination concluding that the discharge will result in no more than minimal adverse environmental effects (an exception

is for bulkheads—the district engineer cannot issue a waiver for a bulkhead that is greater than 1,000 feet in length along the bank);

(c) The activity will not exceed an average of one cubic yard per running foot, as measured along the length of the treated bank, below the plane of the ordinary high water mark or the high tide line, unless the district engineer waives this criterion by making a written determination concluding that the discharge will result in no more than minimal adverse environmental effects;

(d) The activity does not involve discharges of dredged or fill material into special aquatic sites, unless the district engineer waives this criterion by making a written determination concluding that the discharge will result in no more than minimal adverse environmental effects;

(e) No material is of a type, or is placed in any location, or in any manner, that will impair surface water flow into or out of any waters of the United States;

(f) No material is placed in a manner that will be eroded by normal or expected high flows (properly anchored native trees and treetops may be used in low energy areas);

(g) Native plants appropriate for current site conditions, including salinity, must be used for bioengineering or vegetative bank stabilization;

(h) The activity is not a stream channelization activity; and

(i) The activity must be properly maintained, which may require repairing it after severe storms or erosion events. This NWP authorizes those maintenance and repair activities if they require authorization.

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

Notification: The permittee must submit a pre-construction notification to the district engineer prior to commencing the activity if the bank stabilization activity: (1) Involves discharges into special aquatic sites; or (2) is in excess of 500 feet in length; or (3) will involve the discharge of greater than an average of one cubic yard per running foot as measured along the length of the treated bank, below the plane of the ordinary high water mark or the high tide line. (See general condition 32.)

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

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

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

The State of New Jersey has denied 401 WQC and has not concurred with CZM consistency during the issuance of Philadelphia District's regional conditions for NWP 13. Therefore, you are being directed to seek further review by the state in which they will attach the required Federal consistency determination and certification as part of their review as applicable. This approval must be obtained in order for the activity to be authorized under the NWP and a copy provided to this office before work begins. Any project specific conditions required by the State for the WQC and/or CZM approval will automatically become part of the NWP authorization.

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

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

http://www.nap.usace.army.mil/Portals/39/docs/regulatory/publicnotices/2017_NJ_Reg_Cond_Final.pdf

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

Activities which have commenced (i.e, are under construction) or are under contract to commence in reliance upon an NWP will remain authorized provided the activity is completed within twelve months of the date of an NWP's expiration, modification, or revocation, unless discretionary authority has been exercised on a case-by-case basis to modify, suspend, or revoke

the authorization in accordance with 33 CFR 330.4(e) and 33 CFR 330.5 (c) or (d). Activities completed under the authorization of an NWP which was in effect at the time the activity was completed continue to be authorized by that NWP.

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

Given the urgent nature of the project for safeguarding the structural integrity of the bridge, the following in-water work restriction as per New Jersey NWP Regional General Permit Condition Number G-6 (c) is hereby waived: "In all other tributaries in New Jersey within the geographic area of the Philadelphia and New York Districts, in-water work shall be avoided from March 01 to June 30 to protect diadramous fish migration, spawning activities, and EFH."

PROJECT SPECIFIC SPECIAL CONDITIONS:

1. All work performed in association with the above noted project shall be conducted in accordance with the attached project plans identified as E-1 through E-4; E-1 entitled "Figure 1 - Site Location Map", undated, and prepared by Mott MacDonald; E-2 entitled "Figure 2 - Local Street Map", undated, and prepared by Mott MacDonald; E-3 entitled "Scour Countermeasure Construction Plan", dated 27 February 2018, and prepared by Mott MacDonald; and E-4 entitled "Scour Countermeasure Details", dated 27 February 2018, and prepared by Mott MacDonald.
2. Construction activities shall not result in the permanent disturbance or alteration of greater than 0.15-acres of waters of the United States.
3. Any deviation in construction methodology or project design from that shown on the above noted drawings or repair plan must be approved by this office, in writing, prior to performance of the work. All modifications to the above noted project plans shall be approved, in writing, by this office. No work shall be performed prior to written approval of this office.
4. This office shall be notified prior to the commencement of authorized work by completing and signing the enclosed Notification/ Certification of Work Commencement Form (Enclosure 1). This office shall also be notified within 10 days of the completion of the authorized work by completing and signing the enclosed Notification/Certification of Work Completion/Compliance Form (Enclosure 2). All notifications required by this condition shall be in writing. The Notification of Commencement of work may be sent to this office by facsimile or other electronic means; all other notification shall be transmitted to this office by registered mail. Oral notifications are not acceptable. Similar notification is required each time maintenance work is to be done under the terms of this Corps of Engineers permit.
5. The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall

cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

Also enclosed is a pre-addressed postal card (Enclosure 3) soliciting your comments on the processing of your application. Any comments, positive or otherwise, on the procedures, timeliness, fairness, etc., may be made on this card. If you should have any questions regarding this matter, please contact Mr. Robert Youhas of my staff at 215-656-6729 or write to the above address.

Sincerely,

A handwritten signature in cursive script, appearing to read "Edward E. Bonner".

Edward E. Bonner
Chief, Regulatory Branch

Enclosures