



**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 December 30, 2022
		Expiration Date December 29, 2027
Permit Number(s): 0000-18-0038.2 LUP220001 0000-18-0038.2 LUP220004	Type of Approval(s): Freshwater Wetlands Individual Permit Water Quality Certification Flood Hazard Area Individual Permit Flood Hazard Area Verification	Governing Rule(s): N.J.A.C. 7:13-1.1(b) N.J.A.C. 7:7A-1.1(a)
Permittee: NJDOT c/o Zakrollah Asadpour P.O. Box 600 Trenton City, NJ 08625	Site Location: Route 23 Right-of-Way Township of West Milford, Passaic County Boroughs of Kinnelon and Butler, Morris County	
Description of Authorized Activities: <p>This document authorizes the reconstruction of the Route 23 bridge over the Pequannock River, the reconstruction of two culverts conveying unnamed tributaries to the Pequannock River beneath Route 23, as well as associated drainage and road safety improvements. This document also verifies the Flood Hazard Area Design Flood Elevation of the southerly unnamed tributary to the Pequannock River at 494.8 feet NAVD88. This approval includes a Water Quality Certification (WQC).</p> <p><i>The Department has determined that the herein approved activities meet the requirements of the Flood Hazard Area Control Act 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></p>		
Prepared by: Michael Sheehan	Received and/or Recorded by County Clerk:	
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.		
This permit is not valid unless authorizing signature appears on the last page.		

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. 7:13-24 and N.J.A.C. 7:7A-22.

FWW Individual Permit- Open Water (not SFH/Duplex)	Permanent Disturbance (Acres)	Temporary Disturbance (Acres)
Freshwater wetlands	0.013 (562 SF)	0
Transition areas	0.664 (28,940 SF)	0
State open waters	0.175 (7,625 SF)	0.245 (10,656 SF)

Riparian Zone Vegetation	Area of riparian zone (Acres)
Permanent Disturbed	3.611(157,305 SF)
Temporary Disturbed	0.639 (27,833 SF)

PRE-CONSTRUCTION CONDITIONS:

1. This portion of the permit verifies the Flood Hazard Area Design Flood Elevation of the southerly unnamed tributary to the Pequannock River at 494.8 feet NAVD88. It also verifies the riparian zone width of 300 feet onsite. The limits of the floodway have not been verified.
2. 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 and transition areas 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.

SPECIAL CONDITIONS:

1. Any new, reconstructed, enlarged, or elevated structure within a flood hazard area shall be secured to resist flotation, collapse, and displacement due to hydrostatic and hydrodynamic forces from floodwaters.
2. The applicant is responsible for installing and maintaining a silt fence sediment / turbidity barrier around the proposed construction area, sufficient to prevent the sedimentation of any nearby watercourses. 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 daily in proper working condition throughout the duration of the project.

3. 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.
4. The Division has determined that the riparian zone required adjacent to the associated portions of The Pequannock River and its tributaries have a 300-foot riparian zone. Please note that **any unapproved clearing of trees or other vegetation in the riparian zone is prohibited.**
5. **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.
6. In order to protect the trout production fisheries resource within the Pequannock River, any proposed grading or construction activities within the banks of these watercourses are prohibited from **September 15 through March 15 of each year.** In addition, any activity which would introduce sediment into a watercourse, or which could cause more than a minimum increase in the natural level of turbidity is also prohibited anytime, but especially during this period. The Department reserves the right to require additional soil conservation measures if it becomes evident that additional soil conservation measures are required to protect State regulated resources, or to suspend all regulated activities on-site should it be determined that the permittee has not taken proper precautions to ensure continuous compliance with this condition.
7. Pursuant to the procedures outlined in the December 22, 1993 Memorandum of Agreement among the United States Fish and Wildlife Service (USFWS), U.S. Environmental Protection Agency and the New Jersey Department of Environmental Protection (NJDEP), a tree clearing restriction of trees with a diameter at breast height of 5 inches or greater is required from April 1 to November 15 to protect Indiana bat. Please contact USFWS's New Jersey Field Office at (609) 383-3938 if you have any questions.
8. After all in-channel activities are completed, native stream bed material must be replaced within the channel. This material must be contoured to mimic the original physical characteristics of the channel (such as its shape, width, slope, thalweg, meander, and ratio of shallow areas to deep areas,) in order to provide low-flow aquatic passage throughout the entire disturbed area.
9. The riprap proposed within the channel must be carefully imbedded into the channel substrate and contoured to mimic the original physical characteristics of the channel (such as its shape, slope, thalweg and meander) in order to provide low-flow aquatic passage throughout the entire disturbed area. Furthermore, any void spaces within the riprap must be filled with native substrate from the channel.
10. 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. The turbidity barrier must be located parallel to the stream banks and anchored to the shoreline to maintain free flow of the stream center. In order to avoid obstruction of stream flows or fish passage, turbidity barriers must not be placed across the entire stream channel.
11. Construction may only occur while the stream area is dry or in a de-watered condition. No work may be performed where the stream channel is wet.

12. The Department has determined that this project is eligible for the linear development waiver of the Stormwater Management rules at N.J.A.C. 7:8-5.2(e). 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.
13. The applicant 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, inlets, and manufactured treatment devices at least four times per year and after every major storm totaling 1 inch of rainfall or more, the use of appropriate soil conservation practices onsite, and any other reasonable effort required to maintain the stormwater management system in good working order.
14. The authorized activities shall comply with the applicable conditions set forth under N.J.A.C. 7:7-9, 11, and 20.2. Failure to comply with these conditions shall constitute a violation of the Freshwater Wetlands Protection Act (N.J.S.A. 13:9B-1 et. seq.). Any additional un-permitted disturbance of freshwater wetlands, State open waters, or transition areas besides that shown on the approved plans shall be considered a violation of the Freshwater Wetlands Protection Act Rules unless the activity is exempt or a permit is obtained from the Department prior to the start of the disturbance.
15. The Department has determined that the freshwater wetlands affected by this permit authorization are of Exceptional resource value and the standard transition area or buffer required adjacent to these wetlands is 150 feet. Any additional regulated activities conducted within the standard transition area onsite shall require a separate transition area waiver from the Division. Regulated activities within a transition area are defined at N.J.A.C. 7:7A-2.3. Please refer to the Freshwater Wetlands Protection Act (N.J.S.A. 13:9B-1 et seq.) and implementing Rules (N.J.A.C. 7:7A) for additional information.
16. All temporary disturbances within freshwater wetlands and transition areas shall be replanted with native, non-invasive herbaceous and/or woody vegetation appropriate for the hydrologic conditions of the area.
17. This authorization for an Individual Permit is valid for a term not to exceed five years from the date of this permit. If the permittee wishes to continue an activity covered by the permit after the expiration date of the permit, the permittee must apply for and obtain a permit extension or a new permit, prior to the permit's expiration. If the term of the authorization exceeds the expiration date of the general permit issued by rule, and the permit upon which the authorization is based is modified by rule to include more stringent standards or conditions, or is not reissued, the applicant must comply with the requirements of the new regulations by applying for a new GP authorization or an Individual permit.

FRESHWATER WETLAND MITIGATION PERMIT CONDITIONS:

1. The permittee shall mitigate for the permanent disturbance of 0.012 acres of forested wetlands, 0.001 acres of emergent wetlands, 0.175 acres of State open waters, and 0.664 acres of transition area 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)

The permittee shall mitigate for the temporary disturbance of 0.245 acres of State open waters 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)

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 Watershed Management and Restoration (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 0.844 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 – Lincoln Park Borough, Morris County - Contact: Carmen Pio Costa, Anthony Pio costa at 973-575-1706

7. If the permittee is considering conducting a creation, restoration or enhancement project, the following conditions shall apply:
 - i. **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](http://www.nj.gov/dep/landuse/forms/index.html) located at <http://www.nj.gov/dep/landuse/forms/index.html>.
 - ii. **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.)

- iii. 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.
- iv. 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.
- v. 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>.
- vi. 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.
- vii. **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.
- viii. **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:

- a. 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;
 - 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; and
 - c. 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.
- ix. **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.
- x. 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>.
- xi. 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 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;
 - 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 must be healthy and thriving and all trees must be at least five feet in height;
 - c. The site has less than 10 percent coverage by invasive or noxious species.
 - 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.

- xii. 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.

RIPARIAN ZONE MITIGATION PERMIT CONDITIONS:

1. **At least 90 days prior to commencing regulated activities authorized by this permit**, the permittee shall submit a proposal to mitigate for the loss of 1.289 acres of forested riparian zone vegetation and 2.3277 acres of 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)).
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. Please note that in accordance with N.J.A.C. 7:13-13.9(b)1, a mitigation bank is not an option for this project.
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 31st of each full monitoring year.**

- i. 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.
- ii. The final monitoring report must include documentation and data demonstrating that:
 - a. The goals of the riparian zone mitigation as stated in the approved riparian zone mitigation proposal and the permit conditions have been satisfied.
 - b. 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
 - c. The site is less than 10 percent occupied by invasive or noxious species; and
 - d. 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.

RIPARIAN ZONE MITIGATION PERMIT CONDITIONS-TEMPORARY:

1. The permittee shall mitigate for the temporary disturbance of 0.639 acres of herbaceous riparian zone through an on-site restoration project.
2. Within 30 days of receipt of the permit, or at least 90 calendar days prior to the commencement of regulated activities authorized by the permit, the applicant shall submit to the Department for review a temporary restoration plan providing details regarding the number, type, size and location of restoration plantings and the contents of any seed mix, if applicable.
3. Regulated activities shall not commence until the temporary restoration plan has been reviewed and approved by the Department.
4. All mitigation shall be conducted immediately following completion of the activity that cause the disturbance and shall be continued to completion within six months after the end of the activity that caused the disturbance.

5. If the permittee fails to perform mitigation within the applicable time-period the activity shall be considered permanent and mitigation shall be required to replace the affected resource.
6. 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)
7. The permittee shall 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 riparian zone mitigation project** to arrange an on-site pre-construction meeting among the permittee, the contractor, the consultant and the Division.
8. To ensure the intent of the mitigation design 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.
9. 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>.
10. 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 riparian zone conditions. The Division shall review the plan in accordance with N.J.A.C. 7:13-13.7. 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.
11. **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 Protection and Restoration in writing to arrange a post-grading construction meeting among the permittee, contractor, consultant and the Division.
12. **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. 7:13-13.12). 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 riparian zone 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 riparian zone mitigation project with a photo location map as well as the GPS waypoints in NJ state plane coordinates NAD 1983.
13. **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 riparian 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.
14. The permittee shall monitor riparian mitigation projects for 5 full growing seasons beginning the year after the mitigation project has been completed. The permittee shall submit monitoring reports to the Mitigation Unit at the Division of Watershed Protection and Restoration no later than December 31st of each full monitoring year (N.J.A.C. 7:13-13.12(c)). 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>.
15. 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 riparian zone mitigation project, as stated in the approved riparian zone mitigation proposal and the permit have been satisfied;
 - ii. The site has an 85 percent survival and 85 percent area coverage of the mitigation plantings; and
 - iii. The site has less than 10 percent coverage by invasive or noxious species.
16. The permittee is responsible for assuming all liability for any corrective work necessary to meet the success criteria established above (N.J.A.C. 7:13-13.12(e) and (f)). 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.

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 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 eighty-seven (87) sheets prepared by Jacobs Engineering Group, Inc., dated April 22, 2022, last revised December 9, 2022, unless otherwise noted, entitled:

“NEW JERSEY DEPARTMENT OF TRANSPORTATION FLOOD HAZARD AREA PERMIT PLANS ROUTE 23, BRIDGE OVER PEQUANNOCK RIVER / HAMBURG TURNPIKE CONTRACT NO. 017083470,”

- “TYPICAL SECTIONS (FINAL CONDITIONS),” sheets 4 – 15 of 112,
- “TYPICAL SECTIONS (DIVERSIONARY ROADWAY),” sheets 16 – 20 of 112,
- “DRAINAGE, GRADING, AND SOIL EROSION (DIVERSIONARY ROADWAY),” sheets 27 – 32 of 112,
- “DRAINAGE, GRADING, AND SOIL EROSION (FINAL CONDITIONS),” sheets 33 – 38 of 112,
- “FLOODPLAIN AND FLOODWAY PLANS (DIVERSIONARY ROADWAY),” sheets 39 – 44 of 112,
- “FLOODPLAIN AND FLOODWAY PLANS (FINAL CONDITIONS),” sheets 45 – 50 of 112,
- “RIPARIAN ZONE IMPACT PLANS,” sheets 51 – 56 of 112, last revised November 1, 2022,
- “PROFILES (DIVERSIONARY ROADWAY),” sheets 57 – 60 of 112,
- “PROFILES (FINAL CONDITIONS),” sheets 61 – 68 of 112,

- "CONSTRUCTION DETAILS GENERAL PLAN AND ELEVATION (DIVERSIONARY ROADWAY)," sheet 69 of 112,
- "CONSTRUCTION DETAILS TEMPORARY BRIDGE AND PARTIAL FINAL BRIDGE," sheet 70 of 112,
- "CONSTRUCTION DETAILS GENERAL PLAN AND ELEVATION (FINAL CONDITIONS)," sheet 71 of 112,
- "CONSTRUCTION DETAILS," sheet 72 of 112,
- "CONSTRUCTION DETAILS SEPARATE WORK ZONES," sheet 73 of 112,
- "CONSTRUCTION DETAILS RAILROAD GRADING," sheet 74 of 112,
- "CONSTRUCTION DETAILS," sheet 75 of 112,
- "CONSTRUCTION DETAILS MTD DETAILS," sheet 76 of 112,
- "CONSTRUCTION DETAILS," sheets 77 – 78 of 112,
- "CONSTRUCTION DETAILS," sheet 82 of 112,
- "CONSTRUCTION DETAILS ARTICULATED CONCRETE BLOCK DETAIL," sheet 83 of 112,
- "CONSTRUCTION DETAILS CONCRETE ARMOR UNIT DETAIL," sheet 84 of 112,
- "CONSTRUCTION DETAILS," sheet 85 of 112,
- "CONSTRUCTION DETAILS NORTH CULVERT RELIEF UPSTREAM," sheet 86 of 112,
- "CONSTRUCTION DETAILS NORTH CULVERT RELIEF PIPE OUTFALL," sheet 87 of 112,
- "ARTICULATED CONCRETE BLOCK & CONCRETE ARMOR UNIT PLAN," sheet 88 of 112,
- "ARTICULATED CONCRETE BLOCK CROSS SECTIONS," sheets 89 – 96 of 112, and,

"STATE OF NEW JERSEY DEPARTMENT OF TRANSPORTATION PLANS OF ROUTE 23 BRIDGE OVER PEQUANNOCK RIVER / HAMBURG TURNPIKE CONTRACT NO. 017083470 BRIDGE REPLACEMENT, DRAINAGE & UTILITIES TOWNSHIP OF WEST MILFORD PASSAIC COUNTY BOROUGH OF KINNELON & BUTLER MORRIS COUNTY FRESHWATER WETLANDS PERMIT PLANS", sheets 1 – 3 of 3, undated, last revised December 2022."

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). 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). 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 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:

Stephen Olivera, Manager
Watershed & Land Management

- c: Township of West Milford Municipal Clerk
- Borough of Kinnelon Municipal Clerk
- Borough of Butler Municipal Clerk