



STATE OF NEW JERSEY
DEPARTMENT OF ENVIRONMENTAL PROTECTION
DIVISION OF LAND USE REGULATION
 501 East State Street, Station Plaza 5, 2nd Floor
 P.O. Box 439, Trenton, New Jersey 08625-0439
 Fax: (609) 777-3656 or (609) 292-8115
 www.state.nj.us/dep/landuse



PERMIT

In accordance with the laws and regulations of the State of New Jersey, the Department of Environmental Protection hereby grants this permit to perform the activities described below. This permit is revocable with due cause and is subject to the limitations, terms and conditions listed below and on the attached pages. For the purpose of this document, "permit" means "approval, certification, registration, authorization, waiver, etc."		Approval Date 6/9/09
		Expiration Date 6/9/14
Permit Number/s File No.: 0000-09-0009.1 WFD 090001 (IP in water) FWW 090001 (GP1) FWW 090002 (GP11) FWW 090003 (TAW) FHA 090001 (FHA IP)	Type of Approval/s Waterfront Development (IP In-water) Freshwater Wetlands Transition Area Waiver Water Quality Certificate Flood Hazard Area	Enabling Statute/s NJSA 12:5-3 NJSA 13:1D-1 NJSA 13:9B-1 NJSA 58:10A-1
Applicant: NJDOT 1035 Parkway Avenue Trenton, NJ 08625	Owner (if different from applicant): N/A	
<p>This permit authorizes the installation of scour countermeasures on the both the Route 3 Bridges over the Third River, and associated roadway work/intersection improvements from Main Avenue in Clifton to Route 17 in Rutherford, including drainage improvements. The Freshwater Wetlands Statewide General Permit Nos. 1 and 11 authorize the disturbance of a total of 27,051 SF (0.621 acre) of freshwater wetlands/State open waters (i.e., 21,693 SF under General Permit No. 1 and 5,358 SF under General Permit No. 11). The Transition Area Waiver for Linear Development authorizes the disturbance of a maximum of 15,159 SF (0.348 acre) of transition areas. The Waterfront Development Permit authorizes the disturbance (i.e., fill) of 500 cubic yards of intertidal/subtidal shallows to construct four new piers for the Route 3 Bridge over the Passaic River, and also authorizes 0.10 acres temporary State open water disturbance and 0.04 acres permanent State open water disturbance to replace the superstructure.</p> <p>This permit is authorized under, and in compliance with, the Rules on Coastal Zone Management, N.J.A.C. 7:7E-1.1 et seq. By issuance of this permit, the State of New Jersey does not relinquish tidelands ownership or claim to any portion of the subject property or adjacent properties. The permittee shall allow an authorized Division representative the right to inspect the construction pursuant to N.J.A.C. 7:7E-1.5(b)4.</p>		
Project Location: Route 3 Bridge Replacement over Passaic River City of Clifton (Passaic Cty) Township of Lyndhurst, Borough of Rutherford (Bergen Cty) New Jersey	Received by County Clerk	
Project Manager's Signature: Amber Cheney Telephone: 609-777-0450 Email: amber.cheney@dep.state.nj.us		
This permit is not valid unless authorizing signature appears on the last page.		

Standard Conditions:

1. **Extent of approval:** This document grants permission to perform certain activities that are regulated by the State of New Jersey. The approved work is described by the text of this permit and is further detailed by the approved drawings listed below. All work must conform to the requirements, conditions and limitations of this permit and all approved drawings. You must keep a copy of this permit and all approved drawings readily available for inspection at the work site. Approved work may be altered only with the prior written approval of the Division. If you alter the project without prior approval, or expand work beyond the description of this permit, you may be in violation of State law and may be subject to fines and penalties.
2. **Acceptance of permit:** If you begin any activity approved by this permit, you thereby accept this document in its entirety and agree to adhere to all terms and conditions. If you do not accept or agree with this document in its entirety, **do not begin** construction. You are entitled to request an appeal within a limited time as detailed on the attached *Administrative Hearing Request Checklist and Tracking Form*. You may also contact the project manager shown on the first page if you have any questions or concerns about this document.
3. **Recording with County Clerk:** You must record this permit in the Office of the County Clerk for each county involved in this project. You must also mail or fax a copy of the front page of this permit to the Division showing the received stamp from each County Clerk within 30 days of the issuance date (or 90 days if multiple counties are involved). The Division's address and fax number are shown on the first page of this permit.
4. **Notice of Construction:** You must notify the Division in writing at least 7 days before you begin any work approved by this permit. The Division's address and fax number are shown on the first page of this permit. Please direct your letter to the project manager shown on the first page.
5. **Expiration date:** All activities authorized by this permit must be completed by the expiration date shown on the first page. At that time, this permit will automatically become invalid and none of the approved work may begin or continue until a replacement permit is granted. (Some coastal permits may qualify for an extension of the expiration date. Please contact the Division for further information.)
6. **Rights of the State:** This permit is revocable and subject to modification by the State with due cause. The State may inspect the work site and may suspend construction if work does not comply with this permit. This permit does not grant property rights. The issuance of this permit shall not affect any action by the State on future applications, nor affect the title or ownership of property, nor make the State a party in any suit or question of ownership.
7. **Other responsibilities:** You must obtain all necessary local, Federal and other State approvals before you begin work. All work must be stabilized in accordance with the *Standards for Soil Erosion and Sediment Control in New Jersey*, and all fill material must be free of toxic pollutants in toxic amounts as defined in section 307 of the Federal Act.

Special Conditions:

8. All necessary local, Federal, and other state approvals must be obtained by the applicant prior to the commencement of the herein-permitted activities. Approval from the following agency may be required:
 - a. US Army Corps of Engineers, N.Y. Dist.
 - b. NJDEP Bureau of Tidelands Management (i.e., License Nos. 06-0272-T and 06-0287-T)

9. In order to demonstrate compliance with the rule on Public Trust Rights ((N.J.A.C. 7:7E-8.11), prior to, or concurrent to construction activities, the applicant shall ensure the following public access improvements to the Dundee Island Preserve, located in the City of Clifton are completed as part of the proposed project:
- An existing pathway to the waterfront shall be reconstructed using (pervious) open-cell pavers, and shall comply with ADA regulations; and
 - A new pathway to the waterfront shall be installed using (pervious) open-cell pavers, and shall comply with ADA regulations; and
 - Two 15' x 20' viewing platforms shall be installed at the ends of each path adjacent to the waterfront. Each platform will consist of the same (pervious) open-cell pavers used to construct the pathways; and
 - Park benches shall be installed; and
 - A handicap parking space shall be installed within the Preserve's parking area using the same (pervious) open-cell pavers used to construct the pathways. The pavers shall extend from the handicap parking space to the waterfront and shall be in compliance with ADA regulations; and
 - The proposed landing areas shall measure a minimum of 16 feet in width, and shall permanently protected by a conservation restriction; and
 - The proposed width of the each pathway shall be no less than 5 feet.

This authorized work is shown on sheet No. 82 of 91, entitled, "Waterfront Access Mitigation Plan, Route 3 at the Passaic River Crossing, Contract No. 046970173, prepared by Dewberry-Goodkind, Inc. date 3/3/09, unrevised.

10. In order to protect the general game and anadromous fishery of the Passaic and Third Rivers, no construction, excavation, filling or grading, is permitted within the channel between April 1 and June 30 of each year (i.e., May 1 through June 30 for general game fish; April 1 through June 30 for anadromous fish). Furthermore, no construction, excavation, filling or grading is permitted in the riparian zone unless the applicant demonstrates that appropriate soil erosion control measures are in place that prevent sediment from reaching the channel. All proposed measures shall meet the Standards for Soil Erosion and Sediment Control in New Jersey at N.J.A.C. 2:90. The Department reserves the right to suspend all regulated activities onsite should it be determined that the applicant has not taken proper precautions to ensure continuous compliance with this condition.
11. If a cofferdam is installed prior to the timing restriction noted in Condition No. 10 above, construction, excavation, filling or grading within the channels of the Passaic and Third Rivers is permitted within confines of the coffeedam during this restricted period.
12. Dewatering of cofferdams must include properly sized temporary sediment basins or other filtering methods to adequately reduce turbidity. The stream area to receive return water discharged from dewatering activities 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 stream channel.
13. This permit does not authorize the temporary use of any wetlands or transition areas beyond the limits of the proposed work other than specifically approved by this permit or as detailed by approved drawings. Such use of regulated areas applies to the storage or staging of construction materials (including debris/spoil piles), equipment, and workers' vehicles. The applicant shall direct the contractors to locate all staging and storage areas outside of wetlands and wetland buffers not approved for use by this permit.

14. Trees, shrubs, grasses, and other vegetation within 50 feet from top of bank of the Passaic River and Third River shall not be disturbed for any reason, except as approved by the Department and as shown on the approved site plans. All temporary disturbances to vegetation within 50 feet of the top of bank associated with the project shall be replanted during the next appropriate planting season.
15. All excavated material must be disposed of in a lawful manner outside of any regulated flood plain, open water, freshwater wetlands or adjacent transition areas, and in such a way as to not interfere with the positive drainage of the receiving area.
16. 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 mechanical 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.
17. 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 low impact site design, shall be reviewed and approved by the Department prior to construction. This includes any proposed changes to the discharge characteristics of any basin, the construction of new inlets or pipes that tie into the storm sewer network and/or the replacement of existing inlets or pipes with structures of different capacity.
18. All retaining walls within the floodplain must be suitably anchored, as specifically defined in the Flood Hazard Area Control Act at 7:13-1.2, to resist the forces associated with the flood hazard area design flood.
19. FRESHWATER WETLANDS STATEWIDE GENERAL PERMIT #1:
This portion of the permit authorizes the disturbance of **21,693 SF (0.498 acres)** of freshwater wetlands/State open water for the installation of scour countermeasures on both Route 3 Bridges over the Passaic River, as depicted on the approved plans.
20. FRESHWATER WETLANDS STATEWIDE GENERAL PERMIT #11:
This portion of the permit authorizes the disturbance of **5,358 SF (0.123 acres)** of freshwater wetlands/transition areas for the construction of a stormwater outfall structure, as depicted on the approved plans.
21. FRESHWATER WETLANDS TRANSITION AREA WAIVER:
This portion of the permit authorizes the disturbance of **15,159 SF (0.348 acres)** of freshwater wetland transition areas for the roadway and intersection improvements, as depicted on the approved plans.
22. WATERFRONT DEVELOPMENT PERMIT:
This portion of the permit authorizes the disturbance (i.e., fill) of **500 cubic yards** of intertidal/subtidal shallows to construct four new piers for the Route 3 Bridge over the Passaic River, and also authorizes 0.10 acres temporary State open water disturbance and 0.04 acres permanent State open water disturbance to replace the superstructure.
23. The authorization of activities to conduct a regulated activity within freshwater wetlands under a Freshwater Wetlands Statewide General Permit #11 includes the Division's approval of a Water Quality Certificate for these activities.
24. Please be advised that Block 9.01, Lots 1.02 and 2.04 in the Borough of Rutherford, Bergen County, are Green Acres encumbered property. Any use of these parcels during construction would constitute a diversion of use per Green Acres rules (N.J.A.C. 7:36-26).

25. All fill and other earth work on the lands encompassed within this permit authorization shall be stabilized in accordance with "Standards for Soil Erosion and Sediment Control in New Jersey" to prevent eroded soil from entering adjacent waterways or wetlands at any time during and subsequent to construction.
26. *Prior to commencement of site clearing, grading or construction, the permittee shall erect a silt fence and a construction debris fence, such as an orange snow fence, at the limits of disturbance. These fences shall remain in place and be maintained throughout the duration of construction, and until such time as the site is stabilized.*
27. All excavated material must be disposed of in a lawful manner outside of any regulated flood plain, open water, freshwater wetlands or adjacent transition areas, and in such a way as to not interfere with the positive drainage of the receiving area.
28. The activities shown on the approved plans shall be constructed and/or executed in conformity with any notes and details on said plans and any conditions stipulated herein.
29. No change in plans or specifications shall be made except with the prior written permission of the Department.
30. Design and Construction of the project approved by this permit must adhere to the following stipulations, which are contained in the 2003 Memorandum of Agreement between the Federal Highway Administration, New Jersey Department of Transportation and New Jersey Historic Preservation Officer:
 - a. The design of the new bridge will include appropriate fascia treatments, railing, lighting, pier shape, abutment shape, concrete tint, concrete texture/finish, and possible distinctive treatments that may be applied to the new structure.
 - b. Historic Signage - NJDOT will create and install historic signs that illustrate and interpret the history of the Route 3 Bridge and Passaic River region. The new bridge would serve as a backdrop for the signs, which should contain images of the historic bridge and informative/interpretive text. NJDOT will ensure consulting party review and comment on the format, number, and content of the signs prior to manufacture and installation. The number of signs will be responsive to the quality and quantity of the information gathered during the
 - c. HAER recordation that was completed in accordance with the MOA. Additional review and comment will be solicited from Rutherford, Lyndhurst, and the Passaic River Coalition.
 - d. NJDOT shall ensure that the work addressed in Conditions 1 & Condition 2 is carried out by/under the direct supervision of a person or persons meeting at a minimum the appropriate Secretary of the Interior's Professional Qualification (48 FR 44739).
 - e. If any major changes to the proposed Route 3 Bridge over the Passaic River project should occur, NJDOT or its consultants shall notify the HPO immediately and consult with our office regarding the project changes and the potential impacts to historic resources.

Wetland Mitigation Conditions:

The following special conditions must be met for the activity to be authorized under this permit:

31. Mitigate for the permanent impact to 500 yd³ of intertidal subtidal shallows and 0.04 acres of state open waters as shown on the plans entitled "NEW JERSEY DEPARTMENT OF TRANSPORTATION, INTERTIDAL/SUBTIDAL SHALLOWS AND STATE OPEN WATER MITIGATION PLAN, ROUTE 3 AT PASSAIC RIVER CROSSING" sheet M-1, dated May 15, 2009 and prepared by Dewberry-Goodkind, Inc.

32. Mitigate for the temporary impact to 0.1 acres of state open water through an onsite restoration plan as shown on the plans entitled "NEW JERSEY DEPARTMENT OF TRANSPORTATION, INTERTIDAL/SUBTIDAL SHALLOS AND STATE OPEN WATER MITIGATION PLAN, ROUTE 3 AT PASSAIC RIVER CROSSING" sheet M-1, dated May 15, 2009 and prepared by Dewberry-Goodkind, Inc.
33. Within 30 days following the completion of the mitigation project, the permittee shall submit a Construction Completion Report to the Division detailing as-built conditions (see below) and any changes to the approved mitigation plan that were made during construction. The Construction Completion Report shall contain, at a minimum, the following information:
 - a. A completed Wetland Mitigation Project Completion of Construction Form. This form is located on the Internet at <http://www.nj.gov/dep/landuse/forms/index.html> and certifies that the mitigation project has been constructed as designed and that the proposed area of wetland creation, restoration or enhancement has been accomplished; and
 - b. As-Built plans which depict the removal of the piers; 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.

RIPARIAN ZONE COMPENSATION CONDITIONS

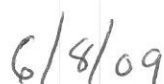
34. Mitigate for the permanent loss of 0.085 acres (3452 square feet) of forested riparian zones at a ratio of at least 2:1 and 0.03 acres (1178 square feet) of grassed riparian zones at a ratio of at least 1:1. Within 90 days of the date of issuance of this permit, the permittee must submit a plan to mitigation for all Riparian zone Impacts.
35. Mitigation for the temporary impact to 0.134 acres (5846 square feet) of grassed riparian zones at a ratio of at least 1:1, by seeding the area immediately upon completion of regulated activities.
36. All replanting of vegetation shall be accomplished in accordance with the Flood Hazard Area Control Act Rules (N.J.A.C. 7:13).
37. If riparian zone mitigation is performed through preservation, it must be done within the same Watershed Management Area. Preserved lands shall be valuable for the protection of a riparian ecosystem. Factors the Department shall consider in evaluating an area for preservation include, but are not limited to:
 - a. The size and configuration of the property in relation to the State open waters and riparian zones, and the effect the preservation of the property would have on State open waters and the riparian zone;
 - b. If the site is adjacent to public lands containing State open waters, riparian zones and wetland preserves, such as Federal wildlife refuges, State wildlife management areas, State parks or forests, State, County, or local wetland preservation areas or preservation areas held by non-profit conservation organizations;
 - c. The diversity of the ecological communities on the entire site;
 - d. If the land is adjacent to land that contains freshwater wetlands;
 - e. If the land contains critical habitat for flora and fauna;
 - f. If the land contains wetlands or State open waters that drain to trout maintenance or trout production waters, or into public drinking water sources;
 - g. Has unique aspects or characteristics that contribute to its ecological value, such as an unusual or regionally rare type of wetland.
38. As per N.J.A.C. 7:13-10.2, all riparian zone mitigation must be deed restricted against future development that would remove the vegetation being planted. The conservation restriction shall conform to the format and content of the Riparian Zone Mitigation Area model conservation restriction. The restriction shall be included on the deed, and recorded in the office of the County Clerk (the Registrar of Deeds and Mortgages in some counties), in the county wherein the lands of the mitigation project are located, within 10 days of completion of construction of the mitigation project. Within 10 days of filing the conservation restriction, the permittee must send a copy of the conservation restriction to the Department for verification.

39. In the event that there is a conflict between the permit conditions and the approved riparian zone mitigation plans and proposal, the permit conditions take precedent.
40. In accordance with N.J.A.C. 7:13-10.2, the permittee shall assume all liability for accomplishing corrective work should the Division determine that the compensatory mitigation has not been 100% successful. Remedial work may include but is not limited to re-grading and/or replanting the riparian zone mitigation site. This responsibility is incumbent upon the permittee until such time that the Division makes the finding that the riparian zone mitigation project is successful.
41. Within 5 days following final grading of the riparian zone mitigation site or the temporary restoration area, soil compaction must be eliminated should compaction occur during the construction process due to heavy equipment passing over the soil or similar activities. The mitigation design consultant must be present to oversee this phase of the project and confirm with the Division that this activity has occurred prior to planting of the site.
42. As per N.J.A. C. 7:13-10.2, as part of the monitoring requirement for the sites, within 30 days following 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 riparian zone mitigation plan that were made during construction. The Construction Completion Report shall contain, at a minimum, the following information:
 - a. Certification that the riparian zone mitigation project has been constructed as designed and that the proposed area of compensation has been accomplished;
 - b. Include a table of the species and quantities of vegetation that were planted including any grasses that may have been use for soil stabilization purposes;
 - c. 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;
 - d. The permittee shall post the riparian zone mitigation area with permanent sign(s), which identity the site as a riparian zone mitigation project and that all-terrain vehicle use, motorbike use, mowing, dumping, draining, cutting and/or removal of plant materials on the property is prohibited and that violators shall be prosecuted and fined to the fullest extent under the law;
 - e. The signs must also state the name of the permittee, the Department's permit number along with a contact name and phone number.
43. 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 and will have 60 days to submit a proposal to indicate how the project will be corrected.
44. As per N.J.A.C. 7:13-10.2, the permittee shall monitor the riparian project for at least three (3) years beginning the year after the riparian zone mitigation project has been completed, The permittee shall submit monitoring reports to the Division of Land Use Regulation no later than December 31st of each full monitoring year.
 - a. All monitoring reports except the final one must include documentation that it is anticipated, based on field data, that the goals of the riparian zone mitigation project, as stated in the approved riparian zone mitigation proposal and the permit will be satisfied. If the permittee is finding problems with the mitigation project and does not anticipate the site will be a full success, then recommendations on how to rectify the problems must be included in the report with a time frame in which they will be completed.

45. Once the required monitoring period has expired and the permittee has submitted the final monitoring report, the Division will make the finding that the riparian zone mitigation project is either a success or a failure. The final monitoring report must document the following:
- a. That the goals of the riparian zone mitigation project including acreage as stated in the approved riparian zone mitigation proposal and the permit has been satisfied; and
 - b. The site has an 85 percent survival and 85 percent area coverage of the mitigation planting which are species native to the area and similar to ones identified on the mitigation planting plan. All plant species in the mitigation area are healthy and thriving. All trees are at least 5 feet in height; and
 - c. Documentation demonstrating the site is less than 10 percent occupied by invasive or noxious species.
46. The drawings hereby approved are ninety one (91) plan sheets entitled, "NEW JERSEY DEPARTMENT OF TRANSPORTATION; PLANS OF ROUTE 3 AT THE PASSAIC RIVER CROSSING; FROM MAIN AVENUE TO RTE. 17; CONTRACT NO. 046970173; NJDEP FLOOD HAZARD AREA, FRESHWATER WETLANDS, AND WATERFRONT DEVELOPMENT PERMITS; CITY OF CLIFTON, PASSAIC COUNTY; BOROUGH OF RUTHERFORD, TOWNSHIP OF LYNDHURST, BERGEN COUNTY," prepared by Dewberry-Goodkind, Inc., dated 3/3/09.



Charles Welch, Supervisor
Bureau of Urban Growth & Redevelopment



Date

- cc: City of Clifton Construction Official
Township of Lyndhurst Construction Official
Borough of Rutherford Construction Official
DLUR Enforcement
NJDOT
Jill Aspinwall, DLUR
Jonathan Kinney, SHPO
Ken Ratzman, Bureau of Tidelands Management