



This notice of authorization must be conspicuously displayed at the site of work.

United States Army Corps of Engineers

AUG 17 2005
19

A permit to Reconstruct the Route 52 causeway
at Between Rt. 9 in SomersPoint, Atlantic County, and Bay Ave. in Ocean City, Cape May County, NJ

has been issued to NJ Dept. of Transportation on AUG 17 2005
19

Address of Permittee 1035 Parkway Ave., P.O. Box 600; Trenton, NJ 08625

Permit Number

cenap-op-r-200400902-24

Frank J. Cianfrani
Chief, Regulatory Branch

District Commander
for Robert J. Ruch, Lt. Colonel
Corps of Engineers, Dist. Eng.

DEPARTMENT OF THE ARMY PERMIT

PERMITTEE AND PERMIT NUMBER:

New Jersey Department of Transportation
NJ DEPT OF TRANSPORTATION
CENAP-OP-R-200400902-24

ISSUING OFFICE:

Department of the Army
U.S. Army Corps of Engineers, Philadelphia District
Wanamaker Building - 100 Penn Square East
Philadelphia, Pennsylvania 19107-3390

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

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

PROJECT DESCRIPTION:

This permit authorizes reconstruction of the Route 52 causeway. All work is to be completed in accordance with the approved plans referenced in Special Condition 1.

PROJECT LOCATION:

The project site is located along the existing Route 52 causeway, between Route 9 in the city of Somers Point, Atlantic County, and Bay Avenue in Ocean City, Cape May County, New Jersey.

PERMIT CONDITIONS:

General Conditions:

1. The time limit for completing the work authorized ends on December 31, 2012. If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least one month before the above date is reached.
2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a **good faith transfer**

to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.

3. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and State coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.
4. If you sell the property associated with this permit, you must obtain the signature of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.
5. If a conditioned water quality and/or a coastal zone management certification has been issued for your project, you must comply with conditions specified in the certification as special conditions to this permit. A copy of the permit and certification is attached.
6. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.

Special Conditions:

1. All work performed in association with the above noted project shall be conducted in accordance with the project plans prepared by New Jersey Department of Transportation, under a cover sheet dated July 2, 2004, with one revision dated January 21, 2005, entitled "PLANS OF ROUTE 52 (1933) CAUSEWAY FROM US ROUTE 9 TO BAY AVENUE ... PERMIT PLANS JULY 2, 2004 REV. JANUARY 21, 2005." The following specific plans under that cover sheet are approved by this authorization. They include the single revision date of January 21, 2005, except where "unrevised" is indicated.

"PERMIT PLANS ... NJ ROUTE 52 (1) CAUSEWAY REPLACEMENT & SOMERS POINT CIRCLE ELIMINATION PROJECT," Sheets PP-1 through PP-15 of PP-15.

"CONSTRUCTION PLANS NJ ROUTE 52 (1) CAUSEWAY CONTRACT NO. 000961653," Sheets C-1 through C-29 of C-29.

"GENERAL PLAN AND ELEVATION ...," Sheets WB-01 through WB-05, GBE-04A, SP-01, RIN-01, RIS-01 and G-01.

"MALIBU BEACH ...," Sheets MB-1 through MB-7 of MB-14.

"DREDGING PLANS ...," Sheets DD-3, DD-7 and DD-8 of DD-10, with remaining sheets unrevised (DD-1, DD-2, DD-4 through DD-6, and DD-9 through DD-10).

“... CROSS SECTIONS ...,” Sheets DD-X1 through DD-X18 of DD-X18 (unrevised).

“CONSTRUCTION DETAILS ...,” Sheets DTL-2 and DTL-3 of DTL-7, and CD-602-1.

“SHORELINE STABILIZATION PLANS ...,” Sheets SS-1 through SS-9 of SS-9 (unrevised).

“LANDSCAPE AND MITIGATION CONCEPT PLANS ...,” Sheets L-1 through L-21 of L-21 (unrevised).

This permit authorizes reconstruction of the Route 52 causeway, including the construction of piers (bridge supports), bulkheads, scour protection, dredging (including release of return water) and realignment of the State navigation channel in Ship Channel and the New Jersey Intracoastal Waterway (NJ-ICWW) through Beach Thorofare, temporary trestles and temporary fill for loading areas and construction access, recreational public fishing piers, bulkheaded areas for recreational public fishing access, and shoreline stabilization activities throughout the Rainbow Islands. The project site is located along the existing Route 52 causeway, between Route 9 in the city of Somers Point, Atlantic County, and Bay Avenue in Ocean City, Cape May County, New Jersey. The existing (and proposed) roadway crosses Ship Channel, Elbow Thorofare, Rainbow Channel and Beach Thorofare (within Great Egg Harbor Bay). The applicant's stated purpose is to replace deficient structures, as well as to improve roadway safety and traffic operations in the project area.

2. This permit authorizes, at a maximum, the following disturbances or alterations of waters of the U.S., including wetlands:

<u>Type of Impact / Activity</u>	<u>Area (acres)</u>
Permanent Open Water Fill (including shallow)	
Bridge/Causeway Construction	1.496
Public Access/Recreation Features	0.429
Stormwater Outfall Construction	0.065
Bulkhead/Retaining Wall	<u>0.063</u>
Total	2.053
Permanent Wetland Fill	
Bridge/Causeway Construction	0.097
Bulkhead/Retaining Wall Construction	0.099
Public Access/Recreation Features	0.369
Scour Protection	<u>0.121</u>
Total	0.855
Permanent Open Water Shading (including shallow)	
Bridge/Causeway Construction	<u>1.910</u>
Total	1.910

Permanent Wetland Shading

Bridge/Causeway Construction (low)	1.544
Public Access/Recreation Features (low)	0.804
Bridge/Causeway Construction (high)	<u>0.045</u>
Total	2.393

Temporary Open Water Fill (including shallow)

Construction Access	<u>0.165</u>
Total	0.165

Temporary Wetland Fill

Construction Access	1.083
Bulkhead/Retaining Wall	<u>0.075</u>
Total	1.158

Temporary Open Water Disturbance (including shallow)

Construction Access (Trestles)	4.469
Scour Countermeasures	<u>0.152</u>
Total	4.621

Temporary Wetland Disturbance

Construction Access (Trestles)	0.391
Scour Countermeasures	0.029
Underground Utilities Installation	<u>0.004</u>
Total	0.424

Dredging (not included above)

Ship Channel:	10,800 c.y. / 2.4 ac. / -11.2' MLW (including over-dredge)
Beach Thorofare:	32,000 c.y. / 3.34 ac. / -14.2' MLW (including over-dredge)

Temporary Dredging (to be restored, not included above)

Barge Access	1,400 c.y. / 0.18 ac. / -12.2' MLW (including over-dredge)
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Shoreline Stabilization (not included above)

6,000 linear feet of disturbance / 0.87 acre of open water

Boat Ramp in Ship Channel (included above)

42' wide (3,941 sq. ft.), extending 86' waterward of MHWL (along center line)

Fishing Piers (included above)

1. Ship Channel: 15X190', with 30X30' section, then 15X96' to a 25X50' "T" section; extending a total of 340' waterward of MHWL (along center line)

2. Elbow Thorofare: 10X120' to a 15X40' "T" section; extending 30' waterward of existing MHWL (132' beyond proposed MHWL)
3. Rainbow Channel: "L"-shaped, 15X290' to a 30X32' section at corner, then (turn) 15X158' to a 25X50' "T" section; extending 333' waterward of MHWL (to turn)
4. Rainbow Channel: 23X40', then 15X80' to a 25X50' "T" section; extending 144' waterward of MHWL

Temporary Pier for Barge Access in Ship Channel (included above)

30' wide, extending 140' waterward of MHWL (along center line)

3. Any deviation in construction methodology or project design from that shown on the above noted drawings 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 at least 10 days prior to the commencement of authorized work by completing and signing the attached *Notification/ Certification of Work Commencement Form*. This office shall also be notified within 10 days of the completion of the authorized work by completing and signing the attached *Notification/Certification of Work Completion/Compliance Form*. All notifications required by this condition shall be in writing and 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. (This special condition is applicable to Corps of Engineers permits that provide authorization under Section 10 of the Rivers and Harbors Act of 1899.)
6. Representatives of the U.S. Army Corps of Engineers shall be permitted to inspect the project during its phase of construction, and to collect any samples, or to conduct any tests deemed necessary.
7. The U.S. Army Corps of Engineers shall be notified a minimum of 7 days prior to all Pre-Construction Conferences. This shall apply to the initial official meeting between the permittee and contractor, which shall occur once for each of two separate contracts (A and B).
8. All instrumentation shall be removed from the waterway upon termination of its use.

9. The permittee is responsible for ensuring that the contractor and/or workers executing the activity(s) authorized by this permit have knowledge of the terms and conditions of the authorization and that a copy of the permit document is at the project site throughout the period the work is underway.
 10. All material to be used as fill within waters of the U.S., including Federally regulated wetlands, shall be free of oil and grease, debris, wood, general refuse, plaster, and other pollutants, and shall contain no broken asphalt.
 11. The authorized excavation, filling and associated activities shall be performed in accordance with the State and/or County standards for Soil Erosion Sediment Control.
 12. All waters of the U.S., including wetlands, disturbed as a result of authorized temporary construction activities (see Special Condition 2 above) shall be returned to their pre-disturbance conditions within 60 days after the temporary construction activity at each site is completed. This includes restoration of channel or waterway bottom elevations, wetland surface contours and establishment of wetland vegetation. The permittee shall provide this office with written notification of the date when use of each temporary construction activity is no longer needed.
 13. Restoration of areas covered by Special Condition 12 (above) shall be as follows:
 - a. Geotextile fabric shall be placed beneath all authorized temporary fills to ensure that all temporary fill material is removed at the time of restoration.
 - b. The restored temporary fill/impact sites shall be planted with appropriate wetland plants to restore the preconstruction plant communities.
 - c. The restored temporary fill/impact sites shall be monitored as required for the compensatory mitigation sites (see Special Conditions 30 and 31 below), and shall be subject to the success criteria specified in that condition.
 14. Any wetland areas in the vicinity of the temporary fill that may have experienced an increase in elevation as a possible result of soil displacement (i.e. a mud wave) shall be restored to their preconstruction contours and conditions.
 15. The permittee shall provide written notification to the New Jersey Division of Fish and Wildlife, Artificial Reef Program, with a copy to this office, if any material from the demolished bridges/causeway is to be used in artificial reef construction, which is the subject of separate Department of the Army permits (CENAP-OP-R-199802530-1, CENAP-OP-R-200401135-1).
- No stockpiling or disposal of demolished bridge material shall be placed within waters of the U.S., including wetlands, without specific written authorization from this office.
16. All dredged material shall be disposed at the upland on-site confined disposal site(s) as shown on the approved project plans identified in Special Condition 1, and shall be contained by earth embankments to preclude its escape to adjoining areas. This material may be re-used on-

site, including within waters of the U.S. / wetlands, where such areas are identified to be filled on the approved project plans identified in Special Condition 1. No movement of material out of the upland on-site confined disposal site for off-site use shall occur until the specific off-site disposal area has been approved by this office in writing.

17. The permittee shall maintain adequate surveillance of the dredging/disposal operations to assure that the banks used to confine the dredged material are safe from failure and that the disposal area is not used beyond capacity.
19. All dredging shall be done in a manner that minimizes turbidity increases in the water.
20. No dredging shall be performed to a depth greater than that of the connecting adjacent waterway.
21. In order to protect the Essential Fish Habitat of winter flounder, as well as blue crab, all dredging is prohibited during the period from December 1 through May 31 (inclusive) of any year.
22. In order to protect anadromous fish species, all work below the mean high water line that has the potential to introduce sediments into the waterway is prohibited during the period from April 1 through June 30 (inclusive) of any year. Work such as filling activities, including concrete pouring, may proceed during this period behind coffer dams or within tightly sealed forms or cells, provided such dams or cells are removed outside the restricted period.
23. The dredge pipeline shall be marked in accordance with U.S. Coast Guard regulations/specifications to protect navigation.
24. This permit authorizes dredging only during the period of project construction, to be completed by the expiration date of this permit. No subsequent maintenance dredging (after project completion or permit expiration) is permitted without separate authorization from this office.
25. All construction work authorized by this permit, including dredging, shall be coordinated with the U.S. Coast Guard and shall be subject of a Notice to Mariners issued by the U.S. Coast Guard. Notice shall be given to the U.S. Coast Guard prior to and after dredging so that the new navigation channel in Beach Thorofare (New Jersey Intracoastal Waterway) can be marked.
26. The permittee shall implement a program to monitor the authorized shoreline protection work for a minimum of 5 years after completion. The authorized shoreline protection work is shown on the "SHORELINE STABILIZATION PLANS..." identified in Special Condition 1. The purpose of the monitoring shall be to identify instances of erosion that need to be corrected. The permittee shall submit annual monitoring reports to this office by November 15 following each of the first five years following completion of the shoreline protection work. Each monitoring report shall provide photographs and an engineering analysis of any erosion and

recommended corrective measures. Corrective measures shall not take place without written authorization from this office, in the form of a permit modification or other written approval.

27. The applicant shall compensate for the unavoidable loss of and/or impact to Federally regulated waters of the U.S. by implementing a compensatory mitigation package consisting of: a) the creation or restoration of a minimum of 3.25 acres of tidal wetlands along the existing Route 52 causeway as shown on Sheets L-1, L-9 through L-13, and L-16 through L-19 of L-21 (as referenced in Special Condition 1 above); b) creation or restoration of a minimum of 0.43 acre of shallow water habitat along the existing Route 52 causeway as shown on Sheets PP-7 through PP-9 and PP-11 of PP-15 (as referenced in Special Condition 1 above); and c) preservation of the 28.5-acre site known as "Malibu Beach," located along Ocean Drive at Lot 2, Block 9601, in Egg Harbor Township, Atlantic County, New Jersey, and enhancement of a minimum of 1.5 acres of an upland/wetland complex within this 28.5 acres, as shown on Sheets MB-1 through MB-7 of MB-14 (as referenced in Special Condition 1 above).

28. The permittee shall submit final surveys of all wetland and open water creation and restoration areas to this office following earthmoving/grading activities for review and written approval prior to the initiation of any planting or seeding activities.

29. Grading and seeding or planting of the Contract A on-site wetland compensatory mitigation site shall be completed by December 31, 2009. This includes Rainbow Island, Sheets L-11 through L-13. Grading and seeding or planting of the Contract B on-site wetland compensatory mitigation site shall be completed by December 31, 2012. This includes Elbow Island, Sheets L-9 and L-10, and Garretts Island, Sheets L-16 through L-19. Grading of shallow water habitat compensation areas shall be completed by December 31, 2012. Grading and seeding or planting of the off-site wetland compensatory mitigation site (Malibu Beach) shall be completed by December 31.

30. The permittee shall implement a wetland compensatory mitigation monitoring program for on-site and off-site wetland creation/restoration/enhancement areas, as well as temporarily filled or impacted and restored wetlands, for a minimum of 5 years starting with the first full growing season following seeding/planting activities. The monitoring period may be shortened, with written approval by this office, if it can be demonstrated that success is achieved in a shorter time. The permittee shall submit annual monitoring reports to this office by November 15 following each of the five growing seasons. Each monitoring report shall provide quantitative and qualitative documentation, including photographs, that the wetland creation/restoration/enhancement sites, as well as the temporarily filled or impacted and restored wetlands, support a permanent vegetative wetland stand comprised of seeded/planted species and appropriate volunteer species over 85% of the surface area after the first complete growing season. Failure to achieve this coverage rate will require the replacement of all dead plants with new stock until a permanent and appropriate vegetative stand over 85% of the created area is achieved.

31. If the post-planting monitoring program success criteria for the compensatory mitigation sites have not been achieved, the District Engineer shall evaluate the site conditions and associated documentation and require remedial action as necessary.

32. The permittee shall ensure that a restrictive covenant(s) is placed in the deed instrument(s) covering all the on-site and off-site wetland mitigation (creation/restoration/enhancement/preservation) areas, and that the restrictive covenant(s) is recorded with the appropriate county office responsible for maintaining land records. Upon completion of the recordation, the permittee shall provide the Corps of Engineers with written notification and documentation that the recordation has been completed. The purpose of the restrictive covenant shall be to protect the environmental values of the site in perpetuity. The enclosed template shall be used as a model for the document. A copy of the draft deed restriction(s) shall be provided to this office for review and written approval prior to recordation. All the requirements of this condition shall be completed within one year of the date of this permit.

33. In order to ensure continued compliance with Section 106 of the National Historic Preservation Act, the permittee shall comply with all the stipulations in the attached Memorandum of Agreement signed by the Federal Highway Administration on January 28, 2002.

34. In order to mitigate for disturbance to nesting or breeding heron populations (rookery) located on Garrets (Visitor Center) Island, the permittee shall comply with all conditions included in the CAFRA/Waterfront Development Permit 0000-04-0017.1 issued by the New Jersey Department of Environmental Protection on May 20, 2005, and any subsequent modifications.

FURTHER INFORMATION:

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

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

Section 404 of the Clean Water Act (33 U.S.C. 1344).

Section 103 of the Marine Protection, Research and Sanctuaries Act.

2. Limits of this authorization.

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

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

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

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

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

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

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

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

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

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

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

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

Robert J. Cianfrani 8/10/05
(PERMITTEE) (DATE)

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

[Signature] 8/17/05
(District Engineer) (DATE)
Frank J. Cianfrani, Chief, Regulatory Branch
for Robert J. Ruch
Lieutenant Colonel, Corps of Engineers
District Engineer

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

(TRANSFEREE) (DATE)