




**STATE OF NEW JERSEY
DEPARTMENT OF ENVIRONMENTAL PROTECTION
DIVISION OF LAND USE REGULATION**

Mail Code 501-02A, P.O. Box 420, Trenton, New Jersey 08625-0420
Telephone: (609) 777-0454 or Fax: (609) 777-3656
www.state.nj.us/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 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." 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 DEC 12 2017
		Expiration Date DEC 11 2022
Permit Number(s): 1002-16-0002.1 FHA 170001 1002-16-0002.1 FWW 160002 1002-16-0002.1 FWW 160001	Type of Approval(s): Flood Hazard Individual Permit Freshwater Wetland General Permit 11 Freshwater Wetland General Permit 10B	Enabling Statute(s): NJSA 58:16A-50 et seq. NJSA 58:10A-1 et seq. NJSA 13:1D-29 et seq. NJSA 13:1D-1 et seq. NJSA 13:9B-1 et seq.
Permittee: New Jersey Department of Transportation Attn: Zakrollah Asadpour 1035 Parkway Avenue P.O. Box 600 Trenton, New Jersey 08625	Site Location: Route 173 (Mile Post 6.81) Municipality: Township of Bethlehem County: Hunterdon	
Description of Authorized Activities: <p>This permit authorizes the replacement of the existing Route 173 culvert over a tributary to the Musconetcong River known as West Portal Creek with a 10-ft wide by 2.5-ft high, reinforced concrete box culvert, the reconstruction of two existing retaining walls along this tributary, and the replacement an existing driveway crossing of this tributary with twin, 48 inch reinforced concrete pipes, all of which is located near Route 173 Milepost 6.81, in the Township of Bethlehem, Hunterdon County. This permit also authorizes the temporary disturbance of 0.028 of an acre of state open waters and 0.005 of an acre of freshwater wetlands, and the permanent disturbance of 0.002 of an acre of state open waters and 0.011 of an acre of freshwater wetlands, to replace the Route 173 Bridge and existing driveway, under the Freshwater Wetlands General Permit No. 10B. This permit additionally authorizes the temporary disturbance of 0.001 of an acre of state open waters to reconstruct an 18-inch reinforced concrete pipe under the Freshwater Wetlands General Permit No. 11.</p>		
Prepared by:  Chingwah Liang	Received and/or Recorded by County Clerk:	
<p>If the permittee undertakes any regulated activity authorized under a 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 permit and all conditions therein.</p>		
<p>This permit is not valid unless authorizing signature appears on the last page.</p>		

FLOOD HAZARD SPECIAL CONDITIONS:

1. Prior to the start of construction, the permittee must submit a copy of a signed agreement to the Department, between the New Jersey Department of Transportation and the owner of Lot 18 of Block 14, allowing the construction of the proposed activities on said property. Note: no work may commence onsite until the Department provides written notice that this condition has been satisfied.
2. Prior to commencement of activities authorized under this permit, the permittee shall submit to the NJDEP, Division of Land Use Regulation, a proposal that provides terrestrial passage for Bobcat (*lynx rufus*) across State Highway Route 173 in order to satisfy the requirement at N.J.A.C. 7:13-12.7(e)3 to ameliorate existing habitat fragmentation for this species.
3. 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.
4. For the purposes of this permit, the Department has determined that this project is not a Major Development as defined in the Stormwater Management rules at N.J.A.C. 7:8-1.2. Therefore, the Department did not review the proposed project site for compliance with these rules.
5. The clearing of trees with a diameter at breast height of 6 inches or greater is prohibited from April 1 to September 30 as per formal coordination with the United States Fish and Wildlife Service in order to prevent adverse impacts to the Federally listed Indiana bat. Please contact the USFWS's New Jersey Field Office at (609) 383-3938 for additional information.
6. All excavated material and dredged spoils shall be disposed of in a lawful manner outside of any flood hazard area riparian zone, open water, freshwater wetland and adjacent transition area, and in such a way as to not interfere with the positive drainage of the receiving area.
7. In order to protect trout species within Musconetcong Tributary/West Portal Creek, no grading, construction or clearing is permitted within any watercourse onsite between September 15th and March 15th. Furthermore, any activity outside a watercourse, which would likely introduce sediment into the watercourse and/or increase its turbidity, is also prohibited during this period. 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.
8. Construction may only be performed in the dry or de-watered conditions. No work may be performed in the wet.

9. Raw or unset concrete shall not come into contact with the waters of Musconetcong Tributary/West Portal Creek for any reason.
10. Vegetation within 300 feet of the top of the banks shall only be disturbed in the areas specifically shown on the approved drawing/s. No other vegetation within 300 feet of the top of any stream bank onsite shall be disturbed for any reason. This condition applies to all channels onsite regardless of the contributory drainage area.
11. Upon completion of the project, all temporarily disturbed areas within 300 feet of the top of any stream bank onsite shall be restored to original topography and replanted with indigenous, non-invasive vegetation in accordance with N.J.A.C. 7:13-11.2(z).
12. This permit authorizes the permanent disturbance of 2,892 SF (0.066 of an acre) of maintained herbaceous riparian zone vegetation and the temporary disturbance of 1,563 SF (0.035) of maintained riparian zone herbaceous vegetation to replace the Route 173 Bridge over the Musconetcong Tributary/West Portal Creek. This permit also authorizes the temporary disturbance of 267 SF (0.006 of an acre) of maintained herbaceous roadside vegetation impacts to replace 48" twin pipe culverts at a private driveway across the Musconetcong Tributary/West Portal Creek.
13. The riprap proposed within the channel shall 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.
14. 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 in proper working condition throughout the entire duration of the project.
15. Construction equipment shall not be stored, staged or driven within any channel, freshwater wetland or transition area, unless expressly approved by this permit and/or described on the approved plans.

FRESHWATER WETLAND SPECIAL CONDITIONS:

16. This permit authorizes the temporary disturbance of 0.028 of an acre of state open waters and 0.005 of an acre of freshwater wetlands and the permanent disturbance of 0.002 of an acre of state open waters and 0.011 of an acre of freshwater wetlands to replace the Route 173 Bridge over the Musconetcong Tributary/West Portal Creek and replace an existing driveway, under the Freshwater Wetlands General Permit No. 10B. In addition, this permit also authorizes the temporary disturbance of 0.001 of an acre of state open waters to reconstruct an 18" reinforced concrete pipe, under the Freshwater Wetlands General Permit No. 11. The authorization of activities under this Freshwater Wetlands Statewide General Permit includes a transition area waiver which allows encroachment only in that portion of the transition area which has been determined by the Department to be necessary to accomplish the authorized activities. This permit to conduct a regulated

activity in a State open water includes the Division's approval of a Water Quality Certificate for these activities.

17. The 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. This general permit includes a transition area waiver, which allows encroachment only in that portion of the transition area, which has been determined by the Department to be necessary to accomplish the regulated activities. Any additional regulated activities conducted within the standard transition area on-site 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-2.6. 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-1.1 et seq.) for additional information.
18. Any additional un-permitted disturbance of freshwater wetlands, State open waters and/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 proposed disturbance.
19. For any excavated area in freshwater wetlands, transition areas, and/or State open waters, the excavation shall be backfilled to the preexisting elevation, the uppermost 18 inches of the excavation shall be backfilled with the original topsoil material if feasible, the area above the excavation shall be replanted, in accordance with applicable BMPs, with indigenous wetlands species.
20. Any pipes laid through wetlands, transition areas, or State open waters shall be properly sealed so as to prevent leaking or infiltration, designed so as not to form a path for groundwater to be discharged or drained from the wetland, and shall be placed entirely beneath the pre-existing ground elevation unless the applicant shows that placing some or all of the pipe above ground would be more environmentally beneficial.

STANDARD CONDITIONS:

21. 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.
22. The issuance of a permit does not convey any property rights or any exclusive privilege.
23. The permittee shall obtain all applicable Federal, State, and local approvals prior to commencement of regulated activities authorized under a permit.

24. 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 having jurisdiction over the site.
25. 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.
26. 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, pursuant to N.J.A.C. 7:13-22.7.
27. The permittee shall immediately inform the Department by telephone at (877) 927-6337 (Warn DEP Hotline) of any noncompliance that may endanger the public health, safety, and welfare, or the environment. In addition, the permittee shall inform the Division of Land Use Regulation 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:
 - a. A description of the noncompliance and its cause;
 - b. The period of noncompliance, including exact dates and times;
 - c. If the noncompliance has not been corrected, the anticipated length of time it is expected to continue; and
 - d. The steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance.
28. 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.
29. 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.
30. 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.
31. The issuance of a permit does not relinquish public rights to access and use tidal waterways and their shores.
32. The permittee shall allow an authorized representative of the Department, upon the presentation of credentials, to:

- a. Enter upon the permittee's premises where a regulated activity is located or conducted, or where records must be kept under the conditions of the permit;
 - b. Have access to and copy, at reasonable times, any records that must be kept under the conditions of the permit; and
 - c. 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 under.
33. 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(ies) is being undertaken. Upon completion of the regulated activity(ies), 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.
 34. The permittee and its contractors and subcontractors shall comply with all conditions, site plans, and supporting documents approved by the permit. Any noncompliance with this permit constitutes a violation, and is grounds for enforcement action, as well as modification, suspension and/or termination of the permit.
 35. All conditions, site plans, and supporting documents approved by a permit shall remain in full force and effect so long as the regulated activity or project, or any portion thereof, is in existence, unless the permit is modified.
 36. Except for an authorization under general permit 1 for channel cleaning under the Stream Cleaning Act at N.J.A.C. 7:13-9.1, 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 the Division of Land Use Regulation at the address set forth in the rules.
 37. The permittee shall perform any mitigation required under the permit prior to or concurrently with regulated activities in accordance with N.J.A.C. 7:13-13.
 38. 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.
 39. 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.

40. 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.
41. The permittee shall provide monitoring results to the Department at the intervals specified in the permit.
42. A permit shall be transferred to another person only in accordance with the regulations.
43. A permit can be suspended or terminated by the Department for cause.
44. 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.
45. 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.
46. The permittee shall submit written notification to the Bureau of Coastal and Land Use Compliance and Enforcement, 401 East State Street, 4th Floor, P.O. Box 420, Mail Code 401-04C, Trenton, NJ 08625, at least three working days prior to the commencement of regulated activities.
47. The regulated activity shall not destroy, jeopardize, or adversely modify a present or documented habitat for threatened or endangered species, and shall not jeopardize the continued existence of any local population of a threatened or endangered species.
48. In accordance with the applicable regulations, any person who is aggrieved by this decision or any of the conditions of this permit may request an adjudicatory hearing within 30 calendar days after public notice of the decision is published in the DEP Bulletin. This request must include a completed copy of the Adjudicatory Hearing Request form. The DEP Bulletin is available through the Department's website at <http://www.nj.gov/dep/bulletin> and the form is available through the Division's website at http://www.nj.gov/dep/landuse/download/lur_024.pdf. In addition to requesting a hearing, a request may be filed with the Department's Office of Dispute Resolution to determine whether the matter is suitable for mediation. Information concerning the dispute resolution process is available at www.nj.gov/dep/odr.

APPROVED PLANS:

The drawings hereby approved are the total of fourteen (14) sheets, four (4) sheets prepared by Dewberry Engineers, Inc., undated, unrevised, last certified September 13, 2017, unless otherwise noted, entitled:

“NEW JERSEY DEPARTMENT OF TRANSPORTATION, ROUTE 173 OVER MUSCONETCONG RIVER, CONTRACT NO. 006113530”

“LEGEND AND NOTES”, sheet 2 of 15,

“ROUTE 173 CULVERT DISSIPATOR BLOCK PLAN”, sheet 3 of 15,

“FLOOD HAZARD AREA PERMIT PLAN”, sheet 4 of 15,

“FRESHWATER WETLANDS PERMIT PLAN”, sheet 1 of 1, last revised November 13, 2017, certified November 27, 2017,

and ten (10) sheets, prepared by IH Engineers, PC, undated, unrevised, entitled:

“NEW JERSEY DEPARTMENT OF TRANSPORTATION, ROUTE 173 MUSCONETCONG RIVER, CULVERT REPLACEMENT, CONTRACT NO. 006113530”

“TYPICAL SECTION”, sheet 6 of 15,

“CONSTRUCTION PLANS”, sheet 7 of 15,

“PROFILE”, sheet 8 of 15,

“DRAINAGE AND GRADING PLAN”, sheet 9 of 15,

“GENERAL PLAN AND ELEVATION”, sheet 10 of 15,

“RETAINING WALL TYPICAL SECTION”, sheet 11 of 15,

“CULVERT UNDER DRIVEWAY PLAN, ELEVATION AND DETAILS, sheet 12 of 16,

“SOIL EROSION AND SEDIMENT CONTROL PLAN”, sheet 13 of 15,

“SOIL EROSION AND SEDIMENT CONTROL DETAILS – 1”, sheet 14 of 15,

“SOIL EROSION AND SEDIMENT CONTROL DETAILS – 2”, sheet 15 of 15.

If you need clarification on any section of this permit or conditions, please contact the Division of Land Use Regulation’s Technical Support Call Center at (609) 777-0454.

Approved By:



Vincent J. Mazzei, Jr., P.E., Manager
Bureau of Technical Services
Division of Land Use Regulation

12/12/17
Date

Original sent to Permittee to record

c: Construction Official