



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

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.

Approval Date

November 15, 2024

Expiration Date

November 14, 2029

Permit Number:

0722-04-0001.1 LUP230001

Type of Approvals:

FHA-IP Individual Permit
FWW-GP10B Minor Road Crossings
FWW-GP11 Outfalls/Intake Structures
FWW-GP17 Trails/Boardwalks
Water Quality Certificate

Governing Rules:

N.J.A.C. 7:13-1.1(b)
N.J.A.C. 7:7A-1.1(a)

Permittee:

Mark Hoffman
West Essex Highlands Inc.
820 Morris Turnpike
Short Hills, NJ 07078

Site Location:

Blocks & Lots: [179; 32] [179.17; 8 and 9]
Municipality: West Orange Township
County: Essex

Description of Authorized Activities:

This document authorizes the construction of seven buildings, roadways/parking areas, stormwater management measures, and other site alterations associated with a new multi residential development on the parcels referenced above.

This authorization to conduct activities in wetlands and/or waters includes the issuance of a Water Quality Certificate.

The Department has determined that the herein approved activities meet the requirements of the (FHACA) 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.

Prepared by:

Danielle L Jones

**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. 7:13-24.1 and N.J.A.C. 7:7A-22.

Freshwater Wetlands General Permit No. 10B (FWW-GP10B) at N.J.A.C. 7:7A-7.10B	Regulated Area	Area of Permanent Disturbance
	State open waters	261.8 square feet (0.006 acres)
	Freshwater wetlands	4,996.2 square feet (0.115 acres)
	Transition area	2,724.9 square feet (0.063 acres)

Freshwater Wetlands General Permit No. 11 (FWW-GP11) at N.J.A.C. 7:7A-7.11	Regulated Area	Area of Permanent Disturbance
	Freshwater wetlands	457.4 square feet (0.011 acres)
	Transition area	888.4 square feet (0.020 acres)

Freshwater Wetlands General Permit No. 17 (FWW-GP17) at N.J.A.C. 7:7A-7.17	Regulated Area	Area of Permanent Disturbance
	State open waters	37.1 square feet (0.001 acres)
	Freshwater wetlands	319.2 square feet (0.007 acres)
	Transition area	1,393.6 square feet (0.032 acres)

Regulated Activity at N.J.A.C. 7:13-11.2		Area of Permanent Riparian Zone Disturbance
7:13-11.2(h)	All other roadways not listed; New; Crossing a water	3,067.2 square feet (0.070 acres)
7:13-11.2(j)	Headwall and outlet protection	38.1 square feet (0.001 acres)
	Stormwater pipe	100.2 square feet (0.002 acres)
7:13-11.2(j)	Headwall and outlet protection	187.9 square feet (0.004 acres)
	Stormwater pipe	265.9 square feet (0.006 acres)

7:13-11.2(j)	Headwall and outlet protection	223.8 square feet (0.005 acres)
	Stormwater pipe	373.2 square feet (0.009 acres)
7:13-11.2(t)	Trail or boardwalk	1,574.7 square feet (0.036 acres)
7:13-11.2(x)	Removing existing fill and/or an existing structure	3,965.0 square feet (0.091 acres)

PRE-CONSTRUCTION CONDITIONS:

1. **Timing:** If this permit contains a condition that must be satisfied prior to the commencement of construction, the permittee shall comply with such condition(s) within the time required by the permit or, if no time specific requirement is imposed, then the permittee shall comply with such condition(s) within six months of the effective date of the permit, or provide evidence satisfactory to the Division that such condition(s) cannot be satisfied.
2. Prior to the start of any construction onsite, the permittee/owner shall record a deed notice for all stormwater management measures authorized under this permit which shall be recorded in the Office of the County Clerk or the registrar of deeds and mortgages of the county in which the development, project, project site, or mitigation area containing the stormwater management measure is located. A form of deed notice shall be submitted to the Watershed and Land Management Program (Program) for approval prior to filing. The deed notice shall contain a description of the stormwater management measure(s) used to meet the green infrastructure, groundwater recharge, stormwater runoff quality, and stormwater runoff quantity standards at N.J.A.C. 7:8-5.3, 5.4, 5.5, and 5.6 and shall identify the location of the stormwater management measure(s) in NAD 1983 State Plane New Jersey FIPS 2900 US Feet or Latitude and Longitude in decimal degrees. The deed notice shall also reference the maintenance plan required to be recorded upon the deed pursuant to N.J.A.C. 7:8-5.8(d). Prior to the commencement of construction, proof that the above required deed notice has been filed shall be submitted to the Program. Proof that the required information has been recorded on the deed shall be in the form of either a copy of the complete recorded document or a receipt from the clerk or other proof of recordation provided by the recording office. However, if the initial proof provided to the Program is not a copy of the complete recorded document, a copy of the complete recorded document shall be provided to the Program within 180 calendar days of the authorization granted by the Program.
3. 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 regulated waters and regulated areas onsite and shall serve as a physical barrier protecting all regulated 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.
4. Prior to the commencement of site clearing, grading, or construction onsite, all existing trees near the project area which are not to be removed shall be marked and a protective construction fence shall be placed around each tree for the duration of construction until the site is stabilized.

SPECIAL CONDITIONS:

1. The applicant must adhere to the operations and maintenance plan for the stormwater management measures incorporated into the design of this major development in accordance with N.J.A.C. 7:8-5.8. Guidance set forth in the New Jersey Stormwater Best Management Practices Manual should be followed to the maximum extent practicable.
2. 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 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.
3. Any future expansion or alteration of the approved site layout and/or land cover which would affect water quality, increase the rate or volume of stormwater leaving the site, or affect the infiltration capacity on the site, shall be reviewed and approved by the Department prior to construction.
4. The Department has determined that the onsite riparian zones along **Canoe Brook** and **Canoe Brook tributary** are **50 feet**. Therefore, vegetation within 50 feet of the top of the bank shall only be disturbed in the areas specifically shown on the approved drawings. Upon completion of the project, all temporary disturbed areas shall be restored with indigenous, non-invasive vegetation in accordance with N.J.A.C. 7:13-11.2(z).
5. This authorization is based upon a Letter of Interpretation Line Verification Extension issued by the Division of Land Resource Protection concurrently under File and Activity No. 0722-04-0001.1 FW240001. The Department has determined that the freshwater wetlands affected by this permit authorization are of **intermediate** resource value or classified as **State open waters**. The standard transition area or buffer required adjacent to intermediate resource value wetlands is 50 feet and no standard transition area or buffer is required adjacent to State open waters. 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.
6. In order to protect general game fish within the Canoe Brook and the tributary to Canoe Brook from sediment generating activities, any grading, excavation, or construction activities within the streams or the banks of the streams are prohibited between **May 1 through July 31** of each year. In addition, any activity within the flood hazard area or riparian zone of this watercourse which does not minimize the introduction of sediment into said stream 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 measures are required to protect State-regulated resources, or the right to suspend all regulated activities onsite should it be determined that the permittee has not taken proper precautions to ensure continuous compliance with this condition.
7. In order to avoid “take” of migratory birds, which are protected under the federal Migratory Bird Treaty Act (16 USC703-712), the clearing of vegetation shall not occur within the entire project area between **March 15 to September 10** of the calendar year. The Department recommends adherence to this guidance to the extent feasible to ensure compliance with this federal law. The U.S. Fish and

Wildlife Service is available for further coordination to avoid clear cutting, implement conservation measures, and to protect migratory birds.

8. The permittee is responsible for restoring 13,475.6 square feet (0.309 acres) of previously disturbed wooded transition areas and/or riparian zone with native, non-invasive tree and shrub species, as shown on the approved plan entitled: "WARNER ROAD LANDSCAPE PLAN" (SP-33), dated September 23, 2022, last revised November 5, 2024. Planting shall commence simultaneously with site preparation, or during the next available growing season after site preparation begins. The permittee shall ensure the establishment and survival of the planted vegetation by monitoring the plantings and providing adequate water and care through the first growing season. Any loss of trees or shrubs shall be replaced during the next appropriate growing season. The restoration area shall be allowed to revert to a natural state and not be maintained as a lawn or landscaped area.
9. The permittee shall take all measures necessary to ensure the authorized activities do not alter or interfere with the natural hydrology of the area.
10. Vegetation within the regulated areas onsite shall only be disturbed in the areas specifically shown on the approved drawings and upon completion of the project, all temporarily disturbed areas shall be replanted with native, non-invasive vegetation appropriate for the hydrologic conditions of the area.
11. Any excavation within freshwater wetlands, transition areas, or State open waters shall be backfilled to preexisting elevations where feasible and with the uppermost 18 inches backfilled with original topsoil material. The permittee shall ensure that the backfilling activities do not interfere with the natural hydraulic characteristics of the freshwater wetlands, such as flow characteristics of the groundwater onsite. The wetland and transition area above the excavation shall be restored with an indigenous seed mix, as shown on the approved plans.
12. Any pipes laid through freshwater wetlands, transition areas, or State open waters which have been authorized by a Department permit shall be properly sealed to prevent leaking or infiltration and designed to not form a path for groundwater to be discharged or drained from a freshwater wetland. Pipes and backfilled materials shall be placed entirely beneath the preexisting ground elevation.
13. During construction of the stormwater outfalls, the permittee shall place no more riprap or other stabilization material in regulated areas than that shown on the approved plans.
14. The trench into which the stormwater conveyance structure is placed shall be no wider than necessary to comply with the United States Occupational Safety and Health Administration safety standards for excavations set forth at 29 CFR Part 1926, Subpart P.
15. In order to preserve the stream channel and any low-flow characteristics, the pilings of the footbridge shall not be placed within the stream channel.
16. The construction of the boardwalk shall use non-polluting wood products to protect the environment from the effects of leaching. No Creosote or CCA treated lumber, or any other preservative susceptible to leaching, shall be used.
17. To ensure a continued ecological function of the forested wetlands to be cleared and converted to herbaceous wetlands beneath the proposed bridge identified within the "VP 1" detail on the approved plans, the Department recommends that these areas be rough-graded to maintain micro-topography and existing hydrology.

18. In order to minimize disturbances to vegetation, the permittee shall incorporate minor deviations in the trail alignment to avoid impacts to mature trees within the work area.
19. The permittee shall prevent unset or raw concrete from encountering the waters of the channel during all construction activities onsite; raw concrete is toxic to aquatic biota.
20. The permittee shall ensure that a low-flow channel is maintained throughout and after construction, and that no restriction of flow occurs as a result of the project. Any temporarily disturbed sections of the waterways shall be immediately restored to replicate pre-construction conditions of the channel such as shape, width, thalweg, meander, ratio of shallow areas to deep areas, anticipated flow rate and velocity, and substrate type.
21. This permit does not authorize activities that alter the natural bed or banks of the onsite streams or the straightening or realignment of the onsite streams.
22. The permittee shall minimize disturbances to freshwater wetlands and transition areas to the greatest extent practicable by following best management practices, as defined at N.J.A.C. 7:7A-1.3. Such practices shall include, but are not limited to, the use of matting, equipment running on oversized tires, limiting the number of passes through wetlands by equipment, and other similar practices.
23. All excavated and dredged material must 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.
24. Construction equipment shall not be stored, staged, or driven within any regulated areas onsite, unless expressly approved by this permit or described on the approved plans.
25. The authorized activities shall comply with the applicable conditions set forth under N.J.A.C. 7:7-5.7, 7.10B, 7.11, 7.17, 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.
26. This authorization 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 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 applicable permit authorization.

FRESHWATER WETLAND MITIGATION CONDITIONS:

1. The permittee shall mitigate for the permanent disturbance of 0.006 acres of State open waters and 0.115 acres of forested wetlands 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 Protection and Restoration 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 permittee 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 0.121 mitigation credits from an approved wetland mitigation bank to the attention of the Mitigation Unit Supervisor, NJDEP, Division of Watershed Protection 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: Contact: Carmen Pio Costa, Anthony Pio Costa and he can be reached at (973) 575-1706 or carmon@piocosta.com

Troy Meadows: Contact: Len Fariello, Wildlife Preserves, (973)887-0096 or LFariello@WildlifePreserves.org

7. If the permittee is considering conducting a creation, restoration or enhancement project, the following conditions shall apply:
 - a. **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 located at <https://dep.nj.gov/wlm/forms/#mit>.
 - b. 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. 7:7A-11.17)
 - c. **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: <https://dep.nj.gov/wlm/forms/#mdr>. 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 Protection and Restoration for verification. (N.J.A.C. 7:7A-12.1 et. seq.)

- d. 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 wetland mitigation project** to arrange an on-site pre-construction meeting among the permittee, the contractor, the consultant and the Division.
- e. 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.
- f. 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 Mitigation Technical Manual at https://dep.nj.gov/wp-content/uploads/wlm/downloads/mit/mit_054.pdf.
- g. 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.
- h. **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.
- i. **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:
 - i. A completed Wetland Mitigation Project Completion of Construction Form. This form is located at <https://dep.nj.gov/wlm/forms/#mit> 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;

- 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 wetland mitigation project with a photo location map as well as the GPS waypoints in NJ state plane coordinates NAD 1983.
- j. **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.
- k. 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 Protection 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, "Mitigation Monitoring Checklist", which can be found at <https://dep.nj.gov/wlm/forms/#mit>.
- l. 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 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;
 - ii. 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;
 - iii. The site has less than 10 percent coverage by invasive or noxious species.
 - iv. The site contains hydric soils or there is evidence of reduction occurring in the soil; and,
 - v. The proposed hydrologic regime as specified in the mitigation proposal has been satisfied.
- m. 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.

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 email notification to the Bureau of Coastal & Land Use Compliance & Enforcement at CLU_tomsriver@dep.nj.gov 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 through the DEP Online service. The uploaded documents will go directly into the Department's database, and staff will be notified that information has been received. The service can be found at: <https://dep.nj.gov/wlm/eservices/lrp-eservices/>.

APPROVED PLANS:

The drawings hereby approved consist of 26 sheet(s), prepared by Anderson Consulting Services LLC, dated September 23, 2022 and last revised **November 5, 2024**, unless otherwise noted below, entitled:

**“PRELIMINARY AND FINAL SITE PLAN WEST ESSEX HIGHLANDS BLOCK 179
LOT 32 BLOCK 179.17 LOTS 8 & 9 TOWNSHIP OF WEST ORANGE ESSEX COUNTY,
NEW JERSEY”**

“FRESHWATER WETLAND + WETLAND TRANSITION AREA IMPACTS” (W - 1), Sheet 1 of 2, dated January 24, 2023

“FRESHWATER WETLAND + WETLAND TRANSITION AREA IMPACTS” (W - 2), Sheet 2 of 2, dated January 24, 2023

“REGULATED WATER + RIPARIAN ZONE IMPACTS” (R - 1), Sheet 1 of 2, dated January 24, 2023

“REGULATED WATER + RIPARIAN ZONE IMPACTS” (R - 2), Sheet 2 of 2, dated January 24, 2023

“OVERALL GRADING PLAN” (SP-11), Sheet 11 of 60

“OVERALL UTILITY PLAN” (SP-18), Sheet 18 of 60

“UTILITY PLAN A” (SP-19), Sheet 19 of 60

“UTILITY PLAN B” (SP-20), Sheet 20 of 60

“UTILITY PLAN C” (SP-21), Sheet 21 of 60

“UTILITY PLAN D” (SP-22), Sheet 22 of 60

“UTILITY PLAN E” (SP-23), Sheet 23 of 60

“UTILITY PLAN F” (SP-24), Sheet 24 of 60

“DRAINAGE CONSTRUCTION DETAILS” (SP-25 to SP28), Sheets 25 to 28 of 60

“OVERALL LANDSCAPE PLAN” (SP-29), Sheet 29 of 60

“WARNER ROAD LANDSCAPE PLAN” (SP-33), Sheet 33 of 60

“KUZIK ENTRANCE LANDSCAPE PLAN” (SP-34), Sheet 34 of 60

“SOIL EROSION AND SEDIMENT CONTROL PLAN - A” (SP-41), Sheet 41 of 60

“SOIL EROSION AND SEDIMENT CONTROL PLAN - B” (SP-42), Sheet 42 of 60

“WARNER ROAD PLAN AND PROFILE” (SP-44), Sheet 44 of 60, last revised **October 28, 2024**

“ROAD D PLAN AND PROFILE A” (SP-48), Sheet 48 of 60, last revised **October 28, 2024**

“BASIN CROSS SECTIONS-A” (SP-55), Sheet 55 of 60, last revised **October 28, 2024**

“BASIN DISCHARGE PROFILE” (SP-57), Sheet 57 of 60

“BOARDWALK PROFILE” (SP-58), Sheet 58 of 60, last revised **October 28, 2024**

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 <https://dep.nj.gov/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 <https://dep.nj.gov/wlm/forms/>). A person requesting an adjudicatory hearing shall submit the original hearing request to: NJDEP Office of Administrative Hearings and Dispute Resolution, Attention: Adjudicatory Hearing Requests, Mail Code 401-07A, P.O. Box 420, 401 East State Street, 7th Floor, Trenton, NJ 08625-0420. 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:



Digitally signed by dennis contoits
Date: 2024.11.15 15:42:00 -05'00'

Dennis Contois, Supervisor
Watershed & Land Management

e-copy: Municipal Clerk, West Orange Township
Municipal Construction Official, West Orange Township
Agent – Karin Tekel, Ecolsciences