

Appendix D

Waterfront Development Permit and Water Quality Certificate (NJDEP)



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

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.

Approval Date
January 17, 2018

Expiration Date
January 16, 2023

Permit Number(s):

0121-17-0002.1 WFD170001

Type of Approval(s):

IP In-Water Waterfront Development Permit
Water Quality Certificate

Enabling Statute(s):

NJSA 12:5-3 et seq. WFD
NJSA 13:9A-1 et seq. WA

Permittee:

Wes Swain
1 West New Jersey Ave
Somers Point, NJ 08244

Site Location:

Higbee Marina on Higbee Avenue
Block(s) & Lot(s): [1612, 1.01] [1612, 2.01]
Municipality: Somers Point City
County: Atlantic

Description of Authorized Activities:

This permit authorizes the dredging of Higbee Marina as depicted on the authorized plans. Dredging shall be limited to a depth of six feet below Mean Low Water (-6' MLW) with no overdredge. The volume of material to be dredged shall be limited to approximately six thousand eight hundred ninety six cubic yards (6,896 yds³) using a mechanical method via clamshell bucket.

In addition to dredging, this permit authorizes the reconstruction of docks and piers within the marina basin based on 1977 aerial photography. The reconstruction includes the addition of seven (7) new slips within the marina basin as shown on the approved plans.

Dredging is **prohibited from March 1 through June 30**, of any given year, to minimize adverse effects to the spawning and migration of anadromous fish.

This authorization to conduct activities within Ship Channel includes the issuance of a Water Quality Certificate.

This permit is authorized under and in compliance with the Coastal Zone Management Rules, N.J.A.C. 7:7, as amended through January 16, 2018.

Prepared by:


Magda Usarek-Witek, Environmental Specialist II

**Received and/or Recorded by
County Clerk:**

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.

This permit is not valid unless authorizing signature appears on the last page.

APPROVED PLANS:

The drawings hereby approved are two (2) sheets prepared by Mott Associates, LLC, dated 6/28/17, entitled: **"HIGBEE MARINA, CITY OF SOMERS POINT, ATLANTIC COUTNY, NEW JERSEY, BLOCK 1612, LOTS 2 & 2.01"**, Further Identified as:

"SITE PLAN", last revised 12/18/17, Sheet 3 of 4,

"DREDGING PLAN", last revised 1/8/18, Sheet 4 of 4.

SPECIAL CONDITIONS:

1. Prior to dredging, the permittee shall receive the following:
 - a. All required local, state and federal approvals;
 - b. United States Army Corps of Engineering authorization for the project. A copy of said authorization shall be kept onsite; and
 - c. Valid Tidelands Instrument.
2. Dredging is **prohibited from March 1 through June 30**, of any given year, to minimize adverse effects to the spawning and migration of Anadromous fish – River Herring and Atlantic Sturgeon.
3. A construction report shall be completed and sent to the Office of Dredging and Sediment Technology 7 days prior to construction.
4. Upon completion of dredging a completion report shall be submitted to the Office of Dredging.
5. Prior to dredging, jersey barriers and silt fencing shall be erected around the perimeter of the dredged material dewatering area. This soil control measure must be constructed before dredging operations commence and shall be secured into the ground and maintained during the entire dredging operation.
6. Neither creosote nor any wood or other product treated with or containing creosote shall be sold, offered for sale, or used in this State. Nothing in this section shall prohibit the removal, demolition or repair of existing structures that contain products treated with or containing creosote.
7. The Permittee shall construct the dock with the dimensions shown on the approved drawings.

ACCEPTABLE USE DETERMINATION – FILL:

1. This permit authorizes the placement of four thousand four hundred and eighty five cubic yards (4,485 yds³) of dredged material from this project located at tax block 1953 lot 1.01 in the City of Somers Point, Cape May County for the reconstruction of an existing parking lot.
2. All dredge material used for the reconstruction of the parking lot referenced above shall be blended with Portland cement for structural stability, as determined by the letter dated January 3, 2018 from James Mott, P.E. (P.E. No. 29918).

3. All dredge material blending with Portland cement shall be blended within a hopper and transported via trucks. All trucks shall be tarped pursuant to the applicable State DOT requirements or applicable regulatory agency requirements.
4. The placement and use of dredge material within the fill area shall comply with all conditions of the Flood Hazard Individual Permit issued under File No. 0121-17-0003.1 FHA170001.
5. If the permittee proposes to place the dredged material from this project at a location different from that approved in this permit, written authorization in the form of a minor or major technical modification must be obtained from the Department prior to the transport of any dredged material to the alternative placement location.

ACCEPTABLE USE DETERMINATION – HABITAT ENHANCEMENT:

6. In addition, this permit authorizes the beneficial reuse of approximately two thousand four hundred and eleven cubic yards (2,411 yds³) for the construction of an embankment located on Somers Point- Mays Landing Road for the enhancement of habitat for native pollinator species.
7. Prior to dredging, jersey barriers and silt fencing shall be erected around the perimeter of the dredged material dewatering area. This soil control measure must be constructed before dredging operations commence and shall be secured into the ground and maintained during the entire dredging operation.
8. This soil control measure must be constructed before dredging operations commence and shall be secured into the ground and maintained during the entire dredging operation.
9. Dredged material shall be adequately dewatered (i.e. no free water) on-site prior to final placement site.
10. All trucks used to transport dredged material to the above referenced placement site shall be tarped pursuant to the applicable State DOT requirements or applicable regulatory agency requirements.
11. The blending of Portland Cement with any material used for the embankment is prohibited.
12. The placement and use of dredge material within the embankment area shall comply with all conditions of the Coastal Zone Management General Permit No. 24 under File No. 0121-17-0003.1 CZM170001.
13. If the permittee proposes to place the dredged material from this project at a location different from that approved in this permit, written authorization in the form of a minor or major technical modification must be obtained from the Department prior to the transport of any dredged material to the alternative placement location.

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 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 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.
7. 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.
8. 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.
9. 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.
10. The issuance of a permit does not relinquish public rights to access and use tidal waterways and their shores.
11. 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.

12. The permittee and its contractors and subcontractors shall comply with all conditions, site plans, and supporting documents approved by the permit. Any noncompliance with a permit constitutes a violation of this chapter and is grounds for enforcement action under, as well as, in the appropriate case, suspension and/or termination of the permit.
13. 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.
14. For Coastal Permits, Flood Hazard Permits and Flood Hazard Verifications, 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.
15. 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.
16. 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.
17. A permit shall be transferred to another person only in accordance with the regulations.
18. A permit can be suspended or terminated by the Department for cause.
19. 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.
20. 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.
21. 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.
22. 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.

23. 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.

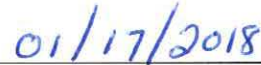
In accordance with the applicable regulations, any person who is aggrieved by this decision or any of the conditions of this permit may request an adjudicatory hearing within 30 calendar days after public notice of the decision is published in the DEP Bulletin. This request must include a completed copy 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.

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:



Mark Davis, Supervisor
Office of Dredging and Sediment Technology
Division of Land Use Regulation



Date

Original sent to Agent to record
c: Permittee
Construction Official

CONSTRUCTION REPORT

This Project Commencement Report must be mailed or faxed to the proper address below. Please circle the appropriate permit type(s).

Please mail notice of commencement of projects authorized under a **Freshwater Wetlands Individual, General Permit or Transition Area Waiver, Major or Minor Stream Encroachment Permit, or Highlands Approval** to:

State of New Jersey
Department of Environmental Protection
Coastal & Land Use Compliance & Enforcement
P.O. Box 422
Trenton, NJ 08625-0422
Attention: Manager, Coastal & Land Use Compliance & Enforcement
Fax to: (609) 633-6798

Please mail notice of commencement of projects authorized under an **Individual CAFRA or Waterfront Development Permit or Coastal General Permit** to:

State of New Jersey
Department of Environmental Protection
Coastal & Land Use Compliance & Enforcement
1510 Hooper Avenue
Toms River, NJ 08753
Attention: Manager, Coastal & Land Use Compliance & Enforcement
Fax to: (732) 255-0877

Permit Information

Project Manager: _____

Permit Number(s): _____

Date of Commencement: _____

I hereby give notice that construction will begin on the above noted project on the date stated above (must give at least 7 days notice). Also, as required by the permit, a copy of the above referenced permit(s) along with all approved drawings shall be available for inspection at the project site throughout construction.

Engineer's Signature and Seal: _____

New Jersey License Number: _____

Date: _____

NOTICE OF COMPLETION OF DREDGING

Date: _____

New Jersey Department of Environmental Protection
Office of Dredging and Sediment Technology
Mail Code 401-06C, PO BOX 420
401 East State Street
Trenton, NJ 08625

Attn: NJDEP, ODSST, Project Manager

Re: NJDEP Permit No. _____
Insert project title: _____
Location of Dredging: _____

Dear Sir/Madam:

I hereby serve notice that the DREDGING allowed by the above referenced permit has been completed as of _____, 20_____.

The dredged material was removed via mechanical _____ or hydraulic _____ dredging (check one).

The dredged material was/is being dewatered with discharge into _____.

The actual quantity of material dredged was _____ cys. The dredged material was taken to:

1. _____ cys was taken to the Historic Area Remediation Site.
2. _____ cys used on site as per NJDEP Permit(s) # _____ (specify the type of permit(s)).
3. _____ cys was taken to _____ for beneficial reuse.
4. _____ cys was taken to _____ for disposal.
5. _____ cys was taken to _____ for beach nourishment.

Signature of the Permittee_____
Signature of the Contractor (if any)_____
Permittee's Name (Printed)_____
Contractor's Name (Printed)_____
Name of Permitted Agency/Entity_____
Name of Company_____
Street Address_____
Street Address_____
City_____
State_____
ZIP_____
City_____
State_____
ZIP