



**RHODE ISLAND DEPARTMENT OF ENVIRONMENTAL MANAGEMENT**  
**OFFICE OF WATER RESOURCES**  
235 Promenade Street  
Providence, Rhode Island 02908

May 27, 2021

RI DOT  
Alisa Richardson, Managing Engineer  
2 Capitol Hill  
Providence, RI 02903

**Insignificant Alteration – Permit**

**RE:** Wetlands Application No. 20-0256; RIPDES File No. RIR102128, in reference to the property and proposed project located:

The Route 138 on and off ramps of the Pell Bridge (Newport Bridge); the length of JT Connell Highway between Plaza Drive and Van Zandt Way; the length of Admiral Kalbus Road between 3rd Street and Malbone Road, and the length of America's Cup Avenue between Farewell Street and Bridge Street, Newport, RI.

Dear Ms. Richardson:

Kindly be advised that the Department of Environmental Management's ("DEM") Freshwater Wetlands Program ("Program") has completed its review of your **Request for Preliminary Determination** application. This review included a site inspection of the above referenced property ("subject property") and an evaluation of the proposed realignment of the Pell Bridge approach ramps, construction of a Shared Use Path (SUP) and a satellite parking lot, wetland restorations, grading two floodplain compensation areas, and construction of stormwater treatment structures as illustrated and detailed on site plans submitted with your application. These site plans were received by the DEM on February 26, 2021.

Our observations of the subject property, review of the site plans and evaluation of the proposed project reveals that alterations of freshwater wetlands are proposed. However, pursuant to 250-RICR-150-15-1.9 of the Rules and Regulations Governing the Administration and Enforcement of the Fresh Water Wetlands Act, 250-RICR-150-15-1 (Rules), this project may be permitted as an **insignificant alteration** to freshwater wetlands under the following terms and conditions:

**Terms and Conditions for Wetlands Application No. 20-0256 and RIPDES No. RIR102128:**

1. This letter is the DEM's permit for this project under the R.I. Fresh Water Wetlands Act, R.I. Gen. Laws § 2-1-18 et seq.
2. This determination also includes your final authorization to discharge storm water associated with construction activity under the **2020 RIDPES General Permit for Stormwater Discharge During Construction Activity ("CGP")**. For future references and inquiry, your permit authorization number is RIPDES No. **RIR102128**.
3. This permit is specifically limited to the project, site alterations and limits of disturbance as detailed on the site plans submitted with your application and received by the DEM on February 26, 2021. A copy of the site plans stamped approved by the DEM is enclosed. Changes or revisions to the project that would alter freshwater wetlands are not authorized without a permit from the DEM.

4. Where the terms and conditions of the permit conflict with the approved site plans, these terms and conditions shall be deemed to supersede the site plans.
5. You must notify this Program in writing of the anticipated start date, and of your contractor's contact information, by submitting the Notice of Start of Construction Form prior to commencement of any permitted site alterations or construction activity. You must also notify this Program in writing upon completion of the project, including submittal of the Notice of Termination Form. The Start of Construction Form and the Notice of Termination can be found on the webpage: [dem.ri.gov/stormwaterconstruction](http://dem.ri.gov/stormwaterconstruction)
6. A copy of the stamped approved site plans and a copy of this permit must be kept at the site at all times during site preparation, construction, and final stabilization. Copies of this permit and the stamped approved plans must be made available for review by any DEM or City representative upon request.
7. The effective date of this permit is the date this letter was issued. This permit expires four (4) years from the date of this letter unless renewed pursuant to the Rules.
8. Any material utilized in this project must be clean and free of matter that could pollute any freshwater wetland.
9. Prior to commencement of site alterations, you shall erect or post a sign resistant to the weather and at least twelve (12) inches wide and eighteen (18) inches long, which boldly identifies the initials "DEM" and the application number of this permit. This sign must be maintained at the site in a conspicuous location until such time that the project is complete.
10. Both the owner and the contractor retained to undertake the construction activity are required to comply with all terms and conditions of the CGP. This includes maintaining the Soil Erosion and Sediment Control (SESC) Plan, performing the required inspections and maintenance of the selected Best Management Practices (BMPs), and retaining inspection records. Further information on the requirements of the CGP is available at:  
<http://www.dem.ri.gov/programs/benviron/water/permits/ripdes/pdfs/cgp092620.pdf>.
11. Temporary erosion and sediment controls detailed or described on the approved site plans shall be properly installed at the site prior to or commensurate with site alterations. Such controls shall be properly maintained, replaced, supplemented, or modified as necessary throughout the life of this project to minimize soil erosion and to prevent sediment from being deposited in any wetlands not subject to disturbance under this permit.
12. Upon permanent stabilization of all disturbed soils, temporary erosion and/or sediment controls must be removed.
13. You are responsible for the proper installation, operation, maintenance and stability of any mitigative features, stormwater treatment facilities, and systems of treatment and control that are installed or used in compliance with this permit to prevent harm to adjacent wetlands until documentation is provided that this responsibility has been assigned to another entity. Operation and maintenance shall be as described in the plan entitled, "Long term stormwater operation and maintenance plan and pollution prevention and source control, Pell Bridge Approach and Ramp Improvements, Newport, Rhode Island", dated October 2020, as prepared by VHB, 1 Cedar Street, Suite 400, Providence, RI, 02903.

14. You are obligated to install, utilize and follow all best management practices detailed or described on the approved site plans in the construction of the project to minimize or prevent adverse impacts to any adjacent freshwater wetlands and the functions and values provided by such wetlands.
15. Excavation to compensate for loss in flood storage as provided on the approved site plans is mandatory and must be completed prior to any filling or construction alterations within flood plain or areas subject to flooding on the subject property. Written certification must be provided to this Program by a registered land surveyor that such excavation and grading has been accomplished as permitted. Such certification shall be submitted within twenty (20) days of completion of the required excavation and grading.
16. **All construction activities involving soil disturbances within Wetland A-6 and the river within Wetland A-16 must be limited to the low flow period (i.e., the period from July 1 to October 31 of any calendar year.** Soil disturbance in these watercourses must temporarily cease in the event of any abnormally high stormwater runoff event during the low flow period.
17. All plantings of shrubs, trees or other forms of vegetation as shown or detailed on the approved plans, or detailed in this permit, must be installed as soon as possible after completion of final grading, weather and season permitting. You must notify this Program in writing upon completion of the required plantings.
18. Buffer zone plantings of trees and/or shrubs proposed between the project and any adjacent freshwater wetland areas, except for necessary replacement, must be allowed to develop naturally without being subjected to mowing or manicuring.
19. Any plantings which fail to survive one full growing season shall be replaced. Replacement plantings shall be similarly guaranteed for one full growing season.
20. You must provide written certification from a registered land surveyor or registered professional engineer that the stormwater drainage system including any and all basins, piping systems, catch basins, culverts, swales and any other stormwater management control features have been constructed/installed in accordance with the site plans approved by this permit. This written certification must be submitted to this Program within twenty (20) days of its request or upon completion of the project.
21. This Program has made a specific revision to the approved site plans. This revision is clearly marked in red on the approved plans. This project must take place in compliance with this revision. Specifically, proper erosion and sedimentation controls must be installed at all Limit of Disturbance (LOD) lines within 50 feet upgradient of wetlands (the site plan depicts these controls only at the Limit of Grading (LOR) lines). See sheet 5 of 127 for this revision on the site plans.
22. No later than January 28, 2022, the RI Department Of Transportation shall submit a new Preliminary Determination application to provide water quality treatment for an additional 1.62 acres of impervious cover required to meet the Stormwater Management, Design, and Installation Rules 250-RICR-150-10-8.9 Minimum Standard 3: Water Quality and 8.12 Minimum Standard 6: Redevelopment and Infill Projects. This additional water quality treatment shall be provided within the watershed of water body ID number (WBID) RI0007030E-01D. Please be aware that additional water quality treatment is required to meet the definition of Maximum Extent Practicable (MEP) established in the RI DOT Linear Manual and the Consent Decree between RI DOT and EPA to address discharges to impaired waters. It is the Department's understanding that this requirement will be met when RIDOT develops a stormwater control plan for this waterbody and identifies its contributions to the impairment.

23. A separate parcel recently acquired by the RI Department Of Transportation (Assessor's Plat 4, Lot 52) shall have an existing wetland that was previously subjected to unauthorized alterations (by a separate party) restored as determined by a future collaborative effort with the RI Department Of Transportation and the Wetland Program. This effort must be initiated by the RI Department Of Transportation no later than January 28, 2022 with final restoration occurring by May 27, 2024. Any pavement or compacted fill associated with this specific property can be credited towards the treatment of the 1.62 acres noted above in permit condition number 22.
24. The applicant shall ensure that the areas of existing pavement to be removed and replaced by vegetative cover shall achieve a minimum of one inch per hour (1.0 in/hr) infiltration rate. Also, these areas shall be required to achieve a final grassed cover that qualifies as a "good" hydrologic condition using Natural Resources Conservation Service (NRCS) TR-55 criteria.

Pursuant to the provisions in 250-RICR-150-15-1.7(A)(9) and 250-RICR-150-15-1.11(D), as applicable, any properly recorded and valid permit is automatically transferred to the new owner upon sale of the property.

Please be aware that the RIDEM's Rules and Regulations Governing the Establishment of Various Fees (250-RICR-30-00-1) require that RIPDES CGP permit holders to pay an Annual Fee of \$100.00. An invoice will be sent to the owner on record in May/June of each year if the construction was still active as of December 31<sup>st</sup> of the previous year. The owner will be responsible for the Annual Fee until the construction activity has been completed, the site has been properly stabilized, and a completed Notice of Termination (NOT) has been received by the RIPDES Program.

If you have not already done so, or in order to check on the status of their review, please contact the U.S. Army Corps of Engineers to determine federal permit requirements on your project. Write the Corps' New England District, Regulatory Branch 696 Virginia Road, Concord, MA 01742-2751; website: <https://www.nae.usace.army.mil/Missions/Regulatory/> or email at [cenae-r@usace.army.mil](mailto:cenae-r@usace.army.mil) Please note that the Department of the Army authorization must be obtained before any work is initiated in areas subject to Corps jurisdiction.

You are required to comply with the terms and conditions of this permit and to carry out this project in compliance with the Rules at all times. Failure to do so may result in an enforcement action by this Department.

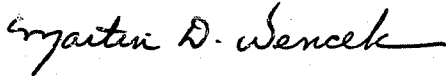
In permitting the proposed alterations, the DEM assumes no responsibility for damages resulting from faulty design or construction.

Kindly be advised that this permit is not equivalent to a verification of the type or extent of freshwater wetlands on site. Should you wish to have the types and extent of freshwater wetlands verified, you may submit the appropriate application in accordance with 250-RICR-150-15-1.8(C).

This permit does not remove your obligation to obtain any local, state, or federal approvals or permits required by ordinance or law and does not relieve you from any duties owed to adjacent landowners with specific reference to any changes in drainage.

Please contact Andy Charpentier of this office (telephone: 401-222-6820, ext. 77414) should you have any questions regarding this letter.

Sincerely,



Martin D. Wencek, Program Supervisor  
Office of Water Resources  
Freshwater Wetlands Program  
MDW/AC/ac

Enclosure: Approved site plans

cc: Neal Personeus, DEM Stormwater Program  
Kevin Kotelly, U.S. Army Corps of Engineers, New England Division  
Richard Rhodes, P.E., VHB  
Jeffrey Peterson, VHB