

State of New Jersey
New Jersey Department of Environmental Protection
Division of Land Use Regulation
Bureau of Urban Growth and Redevelopment

**WATERFRONT DEVELOPMENT IN-WATER INDIVIDUAL PERMIT
ENVIRONMENTAL REPORT**

APPLICANT: Port Imperial Ferry Corp dba NY Waterway

PROJECT: Hoboken Ferry Maintenance

DLUR FILE NO.: 0905-05-0004.1

ACTIVITY NO.: WFD180001 (IP In-Water)

LOCATION: Block: 259 Lot: 1
City of Hoboken, Hudson County

The Rules on Coastal Zone Management (CZM) (N.J.S.A. 13:19-1 et seq.) require that a permit be obtained from the Division for activities below the mean high water line of any tidal water.

Project Description:

The applicant is proposing to reconfigure the existing Union Dry Dock marine vessel repair facility within the Hudson River for use as a ferry maintenance facility for NY Waterway. This site has been in use as a marine maintenance facility for over 100 years, and will replace NY Waterway's existing ferry maintenance facility in Weehawken. The proposed project elements consist of:

- Installation of a 72' x 243' travel lift barge and a 33' x 120' shop barge
- Removal and replacement of up to 102 damaged fender piles
- Installation of ramps and 8 spud piles
- Installation of a 10' x 60' gangway
- Raising the elevation of the bulkhead by 3' along a 15 LF segment to match the height of the bulkhead on the rest of the site

Additionally, the site plans indicate that 2 movable fuel truck containment systems are proposed landward of the mean high water line. These structures are exempt from regulation under the CZM Rules pursuant to N.J.A.C. 7:7-2.4(d)3. They are also located within a floodplain and actively disturbed riparian zone, but qualify for Flood Hazard Area Control Act Permit-by-Rule 52 at N.J.A.C. 7:13-7.52.

No wetlands or transition areas are present on-site, and no riparian zone vegetation disturbance is proposed.

The site previously received the following Waterfront Development In-water Individual Permit:

0905-05-0004.1, WFD080001 – Dredging activities, issued November 17, 2008

Administrative History:

- Application received: February 16, 2018
- Receive T&E Review: March 5, 2018
- Receive USFWS Review: March 15, 2018
- Receive SHPO Review: April 3, 2018
- Receive Hudson River Conservancy Review: April 5, 2018
- 90th Day Deadline: May 16, 2018
- The site is located on Tidelands Map 693-2178. Pursuant to the conveyance map and documentation submitted by the applicant, the project area was previously granted to various entities; therefore, no further Tidelands review is required. The conveyance lines are shown on the site plan.

Public Comment

The Department received over 300 comments on this application from the following entities:

- Residents of Maxwell Place, Hoboken, NJ
- City of Hoboken
- Fund for a Better Waterfront

The comments are summarized as follows, with the section of this report that addresses each comment listed after it:

- Proposed activities are not a continuation of use at the site (16.9)
- Increased potential for fuel spills (9.25, 16.4)
- Potentially contaminated substrate should be sampled (16.4)
- Hudson River Walkway should be constructed on-site (9.46, 16.9)
- Adverse impacts to noise/air quality (14.3)
- Adverse impacts to fisheries (9.36)
- Adverse impacts to V zone/upland areas (9.18)

This permit is conditionally authorized under and in compliance with the Rules on Coastal Zone Management for Finfish migratory pathways (7:7-9.5), Navigation channels (7:7-9.7), Coastal high hazard areas (7:7-9.18), Flood hazard areas (7:7-9.25), Riparian zone (7:7-9.26), Wetlands (7:7-9.27), Wetland buffers (7:7-9.28), Historic and archaeological resources (7:7-9.34), Endangered or threatened wildlife or vegetation species habitats (7:7-9.36), Special urban areas (7:7-9.41), Hudson River waterfront area (7:7-9.46), Mooring (7:7-12.12), Basic location rule (7:7-14.2), Secondary impacts (7:7-14.3), Public access (7:7-16.9), Scenic resources and design (7:7-16.10), Buffers and compatibility of uses (7:7-16.11), and Traffic (7:7-16.12).

The State of New Jersey Coastal Management Program defines substantive policies to guide public decisions concerning significant proposed development and management of resources in New Jersey's Coastal Zone. The analysis of this coastal permit application is based upon the Rules on Coastal Zone Management (N.J.A.C. 7:7-1.1 *et seq.*), adopted effective September 1978, last revised January 16, 2018. This analysis will refer to applicable policies by administrative code section.

SUBCHAPTER 9 – RESOURCE RULES

7:7-9.5 Finfish migratory pathways

(a) Finfish migratory pathways are waterways (rivers, streams, creeks, bays and inlets) which can be determined to serve as passageways for diadromous fish to or from seasonal spawning areas, including juvenile anadromous fish which migrate in autumn and those listed by H.E. Zich (1977) "New Jersey Anadromous Fish Inventory" NJDEP Miscellaneous Report No. 41, and including those portions of the Hudson and Delaware Rivers within the coastal zone boundary.

The Hudson River is documented and suitable habitat for shortnose sturgeon and Atlantic sturgeon. A review by the NJDEP Division of Fish and Wildlife dated May 9, 2018 determined that because the installation of the spud piles and fender piles are considered de minimis impacts to the substrate of the Hudson River, no in-water timing restriction shall apply to the project as proposed. Compliance with this rule has been demonstrated.

7:7-9.7 Navigation channels

(a) Navigation channels are tidal water areas including the Atlantic Ocean, inlets, bays, rivers and tidal guts with sufficient depth to provide safe navigation. Navigation channels include all areas between the top of the channel slopes on either side. These navigation channels are often marked with buoys or stakes. Major navigation channels are shown on NOAA/National Ocean Service Charts.

(b) Standards relevant to navigation channels are as follows:

- 1. Development which would cause terrestrial soil and shoreline erosion and siltation in navigation channels shall utilize appropriate mitigation measures;*
- 2. Development which would result in loss of navigability is prohibited;*
- 3. Any construction which would extend into a navigation channel is prohibited;*
- 4. The placement of structures within 50 feet of any authorized navigation channel is discouraged, unless it can be demonstrated that the proposed structure will not hinder navigation;*

The applicant is not proposing any activities which will extend further waterward than the existing docks and piers on-site. Therefore, compliance with this rule has been demonstrated.

7:7-9.18 Coastal high hazard areas

(a) Coastal high hazard areas are flood prone areas subject to high velocity waters (V zones) as delineated on FEMA flood mapping, and areas within 25 feet of oceanfront shore protection structures, which are subject to wave run-up and overtopping. The coastal high hazard area extends from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. The inland limit of the V zone is defined as the V zone boundary line as designated on FEMA flood mapping or the inland limit of the primary frontal dune, whichever is most landward.

Although a V Zone extends onto the subject property, no structures regulated under the Coastal Zone Management Rules are proposed within the V Zone on the upland portion of the site. It should be noted that the Department's review of this application is based only on the regulated activities proposed at this time. Any proposed regulated activities in the upland area of this site in the future would need to be reviewed and approved by the Department under a new Waterfront Development Permit application. Therefore, this rule does not apply to the current project.

7:7-9.25 & 9.26 Flood hazard areas & Riparian zones

(a) Flood hazard areas are areas subject to flooding from the flood hazard area design flood, as defined by the Department under the Flood Hazard Area Control Act rules at N.J.A.C. 7:13. Flood hazard areas include those areas mapped as such by the Department, areas defined or delineated as an A

or a V zone by the Federal Emergency Management Agency (FEMA), and any unmapped areas subject to flooding by the flood hazard area design flood. Flood hazard areas are subject to either tidal or fluvial flooding and the extent of flood hazard areas shall be determined or calculated in accordance with the procedures at N.J.A.C. 7:13-3

This rule does not apply to this type of project below the mean high water line. The project also includes 2 movable fuel truck containment systems that are proposed landward of the mean high water line. They are located within a floodplain and actively disturbed riparian zone, but qualify for Flood Hazard Area Control Act Permit-by-Rule 52 at N.J.A.C. 7:13-7.52. The applicant has indicated that these systems cannot be moved outside of the V zone because this would require longer surface piping, which would increase the risk of spills, or would require subsurface piping, which would involve the disturbance of soil that is potentially contaminated and in need of remediation. However, the one fuel truck that will remain on-site will be moved outside of the floodplain on-site when not in use and driven off-site during predicted flood events. Compliance with this rule has been demonstrated.

7:7-9.27 & 9.28 Wetlands and Wetland buffers

(a) Wetlands or wetland means an area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation.

(b) Wetlands buffer or transition area means an area of land adjacent to a wetland which minimizes adverse impacts on the wetlands or serves as an integral component of the wetlands ecosystem.

No mapped coastal wetlands are present on-site. The upland portion of the site is fully developed; no freshwater wetlands or transition areas are present onsite. Therefore, this rule does not apply to the project.

7:7-9.34 Historic and archaeological resources

(a) Historic and archaeological resources include objects, structures, shipwrecks, buildings, neighborhoods, districts, and man-made or man-modified features of the landscape and seascape, including historic and prehistoric archaeological sites, which either are on or are eligible for inclusion on the New Jersey or National Register of Historic Places.

In comments dated April 3, 2018, the Historic Preservation Office (HPO) determined that although the project setting is sensitive for archaeological sites, the proposed project has only a low potential to affect historic and archaeological resources. No further review by HPO is recommended. Therefore, compliance with this rule has been demonstrated.

7:7-9.36 Endangered or threatened wildlife or vegetation species habitats

(a) Endangered or threatened wildlife or plant species habitats are areas known to be inhabited on a seasonal or permanent basis by or to be critical at any stage in the life cycle of any wildlife or plant identified as "endangered" or "threatened" species on official Federal or State lists of endangered or threatened species, or under active consideration for State or Federal listing. The definition of endangered or threatened wildlife or plant species habitats include a sufficient buffer area to ensure continued survival of the population of the species.

Comments provided by the Division's threatened and endangered species unit on 3/5/18 determined that the project site is documented and suitable habitat for shortnose sturgeon and Atlantic sturgeon. A subsequent review by the NJDEP Division of Fish and Wildlife dated May 9, 2018 determined that because the installation of the spud piles and fender piles are considered de minimis

impacts to the substrate of the Hudson River, no in-water timing restriction shall apply to the project as proposed.

Additionally, the USFWS provided comments on 3/15/18 determining that the project as proposed has no potential to affect federally listed species. Therefore, compliance with this rule has been demonstrated.

7:7-9.41 Special urban areas

(a) Special urban areas are those municipalities defined in urban aid legislation (N.J.S.A. 52:27D-178) qualified to receive State aid to enable them to maintain and upgrade municipal services and offset local property taxes. Under N.J.S.A. 52:27D-178 et seq., the Department of Community Affairs (DCA) establishes a list of qualifying municipalities each fiscal year. DCA's list of qualifying municipalities may be obtained on request from the Department's Division of Land Use Regulation at the address set forth at N.J.A.C. 7:7-1.6.

(b) Development that will help to restore the economic and social viability of special urban areas is encouraged. Development that would adversely affect the economic well being of these areas is discouraged, when an alternative which is more beneficial to the special urban areas is feasible. Development that would be of economic and social benefit and that serves the needs of local residents and neighborhoods is encouraged.

The City of Hoboken is a special urban area. The proposed reconfiguration of this facility will have no adverse effect on the economic well-being of this area. Therefore, compliance with this rule has been demonstrated.

7:7-9.46 Hudson River waterfront area

(b) Non-industrial development within the Hudson River waterfront area shall conform with the criteria as set forth in (d) below, which govern allowable building height, massing, and public access. Industrial development, including water dependent transportation (passenger and vehicular) and cargo handling facilities, shall conform with the criteria to the extent practical consistent with public safety and the operational requirements of such facilities.

(c) Hudson River waterfront area development shall be consistent with all other applicable rules with particular attention given to N.J.A.C. 7:7-9.38, Public open space; N.J.A.C. 7:7-9.39, Special hazard areas; N.J.A.C. 7:7-9.41, Special urban areas; N.J.A.C. 7:7-9.48, Lands and waters subject to public trust rights; N.J.A.C. 7:7-15.14, High rise structures; N.J.A.C. 7:7-16.9, Public access rule; N.J.A.C. 7:7-16.10, Scenic resources and design; and N.J.A.C. 7:7-16.3, Water quality.

(e) All waterfront development along the Hudson River shall develop, maintain, and manage a section of the Hudson Waterfront Walkway coincident with the shoreline of the development property. The developer shall, by appropriate instrument of conveyance, create a conservation restriction in favor of the Department. In addition to complying with N.J.A.C. 7:7-18, the conservation restriction shall define the physical parameters of the walkway and the allowable uses, address the maintenance and management duties, and identify the responsible party.

The project site is located within the Hudson River. The rule above states that water dependent transportation uses shall comply with this rule to the extent practical consistent with public safety and the operation requirements of such facilities. No structures regulated under the Coastal Zone Management Rules are proposed on the upland portion of the site. The project meets all other provisions of the CZM rules, including those listed at c above.

The Hudson River Conservancy also provided comments on this application, dated April 5, 2018. The Conservancy recommends that the Hudson River Waterfront Walkway be continued onto this site, as this site represents one of the few remaining gaps in the Walkway between Bayonne and Fort Lee.

However, as discussed above, under the Coastal Zone Management Rules a walkway presents public safety concerns considering the proposed use of the site. Therefore, compliance with this rule has been demonstrated.

SUBCHAPTER 12 – GENERAL WATER AREAS

7:7-12.4 Docks and piers for cargo and commercial fisheries

(a) Docks and piers for cargo and passenger movement and commercial fisheries are structures supported on pilings driven into the bottom substrate or floating on the water surface, used for loading and unloading passengers or cargo, including fluids, connected to or associated with, a single industrial or manufacturing facility or to commercial fishing facilities.

(b) Docks and piers for cargo and passenger movement and commercial fisheries are conditionally acceptable provided:

- 1. The width and length of the dock or pier is limited to only what is necessary for the proposed use;*
- 2. The dock or pier will not pose a hazard to navigation. A hazard to navigation includes all potential impediments to navigation, including access to adjacent moorings, water areas and docks and piers; and*
- 3. The associated use of the adjacent land meets all applicable rules of this chapter.*

While there are no docks proposed, spud piles will be installed to keep the travel lift barge's shop barge in place. The width and length of the barges are limited to what is necessary for the proposed use. The barges will not hinder navigation, as they do not extend any further into the channel than the existing structures. There is no current proposal for the adjacent land. As stated in the Rationale for this Rule, water dependent industry is an important component of New Jersey's economy. The proposed project is necessary to the operation of the NY Waterway Ferry Service. Compliance with this rule has been demonstrated.

7:7-12.12 Mooring

(a) A boat mooring is a temporary or permanently fixed or floating anchored facility in a water body for the purpose of attaching a boat.

(b) Temporary or permanent boat mooring areas are conditionally acceptable provided:

- 1. There is a demonstrated need that cannot be satisfied by existing facilities;*
- 2. Adverse environmental impacts are minimized to the maximum extent practicable; and*
- 3. The mooring area is adequately marked and is located so as not to hinder navigation. A hazard to navigation will apply to all potential impediments to navigation, including access to adjacent moorings, water areas, docks and piers.*

The project is the reconfiguration of existing mooring areas and will not expand any further into the channel of the Hudson River. Therefore, it will not pose a hazard to navigation. Because the project is a reutilization of an existing site, environmental impacts have been minimized. Therefore, compliance with this rule has been demonstrated.

SUBCHAPTER 14 - GENERAL LOCATION RULES

7:7-14.2 Basic location rule

a. A location may be acceptable for development under N.J.A.C. 7:7-9, 12, 13, and 14, but the Department may reject or conditionally approve the proposed development of the location as reasonably necessary to:

- 1. Promote the public health, safety, and welfare;*
- 2. Protect public and private property, wildlife and marine fisheries; and*
- 3. Preserve, protect and enhance the natural environment.*

Because the project is the reutilization of an existing site, environmental impacts to the natural environment, wildlife, and marine fisheries have been minimized. No adverse impacts to the public health, safety, and welfare are anticipated, since the site will continue to be utilized in a similar manner as it has been for decades. The proposed fuel truck containment system will decrease the risk of fuel spills on-site, and the applicant has committed to moving the truck outside of the floodplain during flood events. Therefore, compliance with this rule has been demonstrated.

7:7-14.3 Secondary impacts

a. Secondary impacts are the effects of additional development likely to be constructed as a result of the approval of a particular proposal. Secondary impacts can also include traffic increases, increased recreational demand and any other offsite impacts generated by onsite activities which affect the site and surrounding region.

The applicant addressed Secondary Impacts in a letter dated March 16, 2018, and included an analysis of potential increases in vessel traffic, noise impacts, and impacts to air quality. The applicant anticipates that an average of 10 ferries will be serviced at the facility on a daily basis, which equates to 40 vessel trips per day (each vessel will make 4 trips per day – two in the morning and two in the evening). According to the applicant, this is likely an increase over current conditions at the site. However, when compared to the average of 287 daily vessel trips between Hoboken's two terminals and New York, 40 vessel trips is not considered a significant increase.

With regards to noise impacts, according to the applicant the proposed in-water activities will occur approximately 550 feet from the Maxwell Place Apartments and 350 feet or more from the residential development to the east across Frank Sinatra Drive, which is a similar distance to what existed at the Weehawken facility.

Impacts to air quality are also anticipated to be de minimis, due to the fact that hundreds of vessel trips occur daily on the Hudson River. The movement of 10 ferries daily to and from this facility is not considered significant when compared to the overall amount of vessel traffic that currently exists in this area.

Additional comments were submitted to the Department expressing concern over the disturbance of potentially contaminated sediment within the Hudson River and the potential for fuel spills as a result of the proposed activities. The only disturbance to the substrate of the Hudson River that is currently proposed would result from the removal and/or replacement of up to 102 damaged fender piles and the installation of 8 spud piles. However, given the small diameter of each pile, this activity is only anticipated to disturb a de minimis area of substrate and is therefore not anticipated to have a measurable impact on the water quality of the Hudson River. Sampling of the substrate is generally only required for much larger in-water disturbances, such as dredging.

The proposed activities include the refueling of vessels from a truck parked at the site. The truck will be parked within a spill containment structure when receiving fuel from another truck and when fueling vessels. Once fueling is complete, the empty truck will be parked outside of the floodplain on-site and will be driven off-site during predicted flood events. Additionally, spill kits will be located throughout the facility in accordance with NJDEP regulations to address incidental leaks and spills. Therefore, the applicant is proposing appropriate precautions to prevent spills from entering the Hudson River; compliance with this rule has been demonstrated.

Finally, the applicant has indicated that changes to the upland portion of this site may be proposed at a future date. Any proposed regulated activities in the upland area of this site would need to

be reviewed and approved by the Department under a new Waterfront Development Permit application. Therefore, compliance with this rule has been demonstrated.

SUBCHAPTER 16 – RESOURCE RULES

7:7-16.9 Public access

(a) Public access to the waterfront is the ability of the public to pass physically and visually to, from, and along tidal waterways and their shores and to use such shores, waterfronts and waters for activities such as navigation, fishing, and recreational activities including, but not limited to, swimming, sunbathing, surfing, sport diving, bird watching, walking, and boating. Public accessways and public access areas include streets, paths, trails, walkways, easements, paper streets, dune walkovers/walkways, piers and other rights-of-way. No authorization or approval under this chapter shall be deemed to relinquish public rights of access to and use of lands and waters subject to public trust rights in accordance with N.J.A.C. 7:7-9.48. Further, no authorization or approval under this chapter shall be considered a Tidelands approval or shall exempt an applicant from the obligation to obtain a Tidelands approval, if needed.

Pursuant to N.J.A.C. 7:7-16.9(k)1, public access is not required at this time because the project consists of the rehabilitation and redevelopment of an existing commercial site within the same parcels as the existing development, where no public access currently exists. The proposed activities are not considered ‘new commercial development’ because this site has been in use as a marine maintenance facility for over 100 years and will continue to be a marine maintenance facility in proposed conditions. The in-water configuration of floats and piers will remain largely unchanged. Therefore, compliance with this rule has been demonstrated.

7:7-16.10 Scenic resources and design

c. New coastal development that is visually compatible with its surroundings in terms of building and site design, and enhances scenic resources is encouraged. New coastal development that is not visually compatible with existing scenic resources in terms of large-scale elements of building and site design is discouraged.

The current application consists of a proposed reconfiguration of the existing in-water docks and barges at this site. No upland development is proposed at this time. Therefore, compliance with this rule has been demonstrated.

7:7-16.11 Buffers and compatibility of uses

- a. Buffers are natural or man-made areas, structures, or objects that serve to separate distinct uses or areas. Compatibility of uses is the ability for uses to exist together without aesthetic or functional conflicts.*
- b. Development shall be compatible with adjacent land uses to the maximum extent practicable.*

The current application consists of a proposed reconfiguration of the existing in-water docks and barges at this site. No upland development is proposed at this time. Therefore, compliance with this rule has been demonstrated.

7:7-16.12 Traffic

d. Any development that causes a location on a roadway to operate in excess of capacity Level D is discouraged. A developer shall undertake mitigation or other corrective measures as may be necessary so that the traffic levels at any affected intersection remain at capacity Level D or better. A developer may, by incorporating design modification or by contributing to the cost of traffic improvements, be able to address traffic problems resulting from the development, in which case

development would be conditionally acceptable. Determinations of traffic levels which will be generated will be made by the New Jersey Department of Transportation.

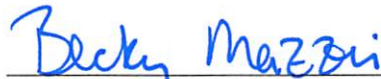
As no significant change in operations at this site are proposed, no significant change in vehicular traffic is anticipated as a result of this project. Therefore, compliance with this rule has been demonstrated.

CONDITIONS: See permit for standard and special conditions.

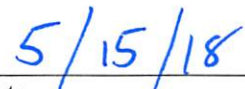
Conclusion: RECOMMEND CONDITIONAL APPROVAL

Based on the above analysis, the Department is able to make positive findings as required by the Waterfront Development Law (N.J.S.A. 12:5-3) as embodied by the Rules on Coastal Zone Management. Compliance with the applicable Rules will be achieved by adherence to the Department-approved plans and potential permit conditions.

Prepared by:

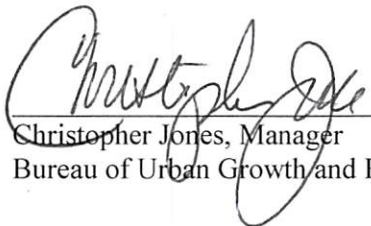


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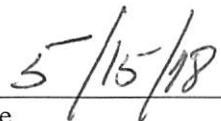


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Reviewed by:

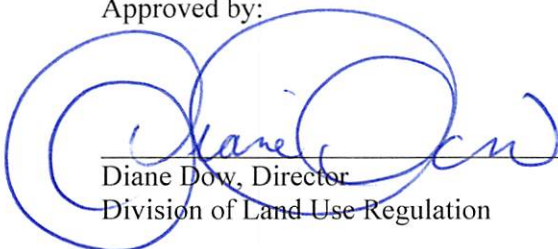


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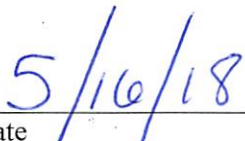


Date

Approved by:



Diane Dow, Director
Division of Land Use Regulation



Date