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January 12, 2024

Via Federal Express

Geoffrey Gersten, Deputy Attorney General
Department of Law & Public Safety
Division of Law
124 Halsey Street
P.O. Box 45029
Newark, NJ 07102

Re: APPLICATION OF NEW JERSEY AMERICAN WATER COMPANY FOR AN
EXEMPTION FROM THE WATERSHED PROTECTION AND
MORATORIUM ACT. TOWNSHIP OF COLTS NECK, BLOCK 1099, LOT 6
& BLOCK 1109, LOT 3 & TOWNSHIP OF MIDDLETOWN, BLOCK 35, LOT
6.01 & BLOCK 21, LOT 1

Dear Mr. Gersten:

On behalf of the Applicant, New Jersey American Water Company, Inc., (the "Applicant" or "NJAW"), enclosed herewith please find an original and four (4) copies of the Watershed Property Review Board Application for Exemption and supporting Exhibits A through K in connection with the above-captioned matter (the "Application"). It is my understanding that your office will distribute copies of the Application to the members of the Watershed Property Review Board ("WPRB"): President of the Board of Public Utilities, Commissioner of the Department of Community Affairs, and Commissioner of the New Jersey Department of Environment Protection. I am also providing courtesy copies directly to the WPRB staff. Included as well is the link to a searchable electronic version of the application with supporting exhibits included.

As detailed in the enclosed Project Narrative, the permanent easement of approximately 1.426 acres over property located in both the Township of Colts Neck, over parcels described, *inter alia*, as Block 1099, Lot 6 and Block 1109, Lot 3 and also in the Township of Middletown, over parcels described, *inter alia*, as Block 35, Lot 6.01 and Block 21, Lot 1, has been requested by Monmouth County as an integral part of the replacement of Bridge A 38 over the Swimming River Reservoir between Colts Neck and Middletown Township. The existing bridge has deteriorated to such a point that it is a public safety hazard and Phalanx Road, which traverses the property of NJAW on either side of the Reservoir, must be realigned for reasons of public safety.

As demonstrated in the enclosed Project Narrative, there is a compelling public need for the easement, which, we submit, satisfies the exemption requirements of the Moratorium Protection and Moratorium Act (the "Act"). Additionally, given the generous and expansive Tree Replacement Plan proposed in Exhibit J, the environmental safeguards described in Exhibit D and the safeguards set forth in the proposed Easement between NJAW and the County of Monmouth (Exhibit K), the grant of the easement over this small area of watershed property is also consistent with the purposes of the Act. As such, we also respectfully submit that the application adequately addresses environmental impacts and identifies responsible mitigation steps proposed to be taken.

Accordingly, NJAW respectfully requests that, in accordance with the Act and for the reasons provided herein, the WPRB grant an exemption to allow NJAW to grant a permanent Right-of-Way easement over the identified portion of its property as shown in green on Exhibit G to the Application (the "Easement Area"). The full description for the proposed ROW over the property of NJAW including the Easement Area is set forth on Exhibits E & F for purposes of memorializing the encumbrance over the portion of Phalanx Road that traverses of watershed property.

Kindly advise if the WPRB requires any additional information in its consideration of NJAW's formal exemption request. All communications concerning this application should be addressed to the undersigned at Archer & Greiner, P.C., Court Plaza South, 21 Main Street, Suite 353, Hackensack, New Jersey 07601.

Respectfully Submitted,



THOMAS J. HERTEN, ESQ.
ON BEHALF OF APPLICANT

Dated: 1/12/2024

TJH:jp
Enclosures

cc: Geoffrey Gersten (Via E-mail & Federal Express)
Terel Klein (Via E-mail & Federal Express)
Jessica Patterson (Via E-mail & Federal Express)
Magdy Mekhaeil (Via E-mail & Federal Express)
Stephen R. Bishop (Via E-mail & Federal Express)
Janella Guillermo (Via E-mail & Federal Express)
John Paul Ricci (Via E-mail)
Natalya Shimunova (Via E-mail)
Gregory Bitsko (Via E-mail)
Joseph Ettore (Via E-mail)

**APPLICATION OF NEW JERSEY AMERICAN
WATER COMPANY FOR AN EXEMPTION FROM
THE WATERSHED PROTECTION AND
MORATORIUM ACT**

**TOWNSHIP OF COLTS NECK, BLOCK 1099, LOT 6 & BLOCK 1109, LOT 3
& TOWNSHIP OF MIDDLETOWN, BLOCK 35, LOT 6.01 & BLOCK 21, LOT 1**

PROJECT NARRATIVE IN SUPPORT OF THE APPLICATION OF NEW JERSEY AMERICAN WATER COMPANY FOR AN EXEMPTION FROM THE WATERSHED PROTECTION AND MORATORIUM ACT

Introduction:

New Jersey American Water Company, Inc. (the "Applicant" or "NJAW") is a public utility regulated by the New Jersey Board of Public Utilities (BPU) and as such is responsible for providing safe, adequate and proper service at rates approved by the BPU. The Applicant owns and operates the Swimming River Reservoir, located in both the Township of Colts Neck, over parcels described, *inter alia*, as Block 1099, Lot 6 and Block 1109, Lot 3 and in the Township of Middletown, over parcels described, *inter alia*, as Block 35, Lot 6.01 and Block 21, Lot 1 (together the "Property" or the "Reservoir") and by this application seeks to convey a permanent Right-of-Way easement of an area approximately 1.426 acres to the County of Monmouth, a public body corporate of the State of New Jersey (Monmouth County), without eliminating any of the rights of the Applicant to access the Property or otherwise use its property for utility purposes. The proposed easement has been requested by Monmouth County in conjunction with a project of public necessity: to wit the replacement of an unsafe bridge over the Reservoir. The easement will provide a responsibly redesigned right of way which will allow safer vehicular access over Phalanx Road, a county roadway, and over the planned replacement bridge to which Phalanx Road connects on both sides of the Reservoir.

Existing Conditions:

The Applicant is the record owner of the Swimming River Reservoir. The Property is utilized for the storage, treatment and distribution of safe drinking water, consistent with its utility obligations. The Reservoir is the primary source of supply for the New Jersey American Water Swimming River Water Treatment Plant ("SRWTP").

The Reservoir is the furthest north of the Coastal North Reservoirs which are owned and operated by NJAW. It was constructed in 1901, expanded in 1986 and is estimated to have a current usable volume of 2.052 billion gallons. The Reservoir has two distinct branches- to the northwest and southwest approximately 21,000 feet long by 800 feet wide, primarily draining the Big Brook and Yellowbrook Watersheds, respectively. Based on existing allocation, the SRWTP can withdraw a maximum of 42 mgd from the Reservoir on a daily basis although the maximum monthly and total annual permitted withdrawals equal 33 mgd and 25 mgd, respectively. Within the Property are four (4) raw water pumps with a total capacity of 48 mgd. Water is delivered from the pump station, located on one side of the Reservoir, to the SRWTP, located on the opposite side of the Reservoir, through two (2) 42" diameter discharge pipes. The SRWTP, in conjunction with other wells and treatment facilities throughout Applicant's system, serves municipalities within its franchise area in Monmouth County and Ocean County, including but not limited to Neptune, Neptune City, Shark River Hills, Bradley Beach, Ocean Grove, Asbury Park, Ocean Twp., Tinton Falls, Naval Station Earle Ocean County: Bay Head, Mantoloking, Brick Beach, Normandy Beach, Chadwick Beach, Silver Beach, Monterey Beach, Ortley Beach

and Berkeley Township (Pelican Island). The NJDEP Allocation Permit is attached hereto as Exhibit A.

At present, the Property is burdened by an unrecorded Right-of-Way ("ROW") for a county road known as Phalanx Road (CR 522). The ROW includes a three-span bridge (A 38) that traverses the Reservoir. A location map showing the general location of the existing bridge and ROW is included for reference as Exhibit B. In short, Bridge A-38, located in the Townships of Colts Neck and Middletown carries Phalanx Road over the Swimming River Reservoir, which flows west to east. The Reservoir is dammed at its confluence with the Navesink River. Phalanx Road is a two-lane urban major connector with a current posted speed limit of 40 MPH. It experiences an approximate average use of 14,000 vehicles per day. The existing bridge is constructed with three simply supported prestressed concrete voided slab beams with a 2" bituminous overlay riding surface. It has an overall length of 117 feet with a cross section that consists of (1) 12-foot lane and a 3-foot shoulder in each direction. The overall width of the bridge is 36'-4" and the curb to curb width measures 30'-0". The north side of the bridge has a 3'-8" wide sidewalk with a concrete parapet and a 2-bar rail on top. The South side has an 8" wide brush curb with a concrete parapet and a 2-bar rail on top.

With respect to current environmental conditions, a tree evaluation report is attached as Exhibit C. There are wetlands on the Property that will remain undisturbed and will not be impacted by the use of the permanent easement as proposed by Monmouth County or the improvements to be placed thereon. A copy of an environmental compliance narrative, prepared for the County of Monmouth, is attached as Exhibit D.

At present and as more fully described in Exhibit D, both the configuration of Phalanx Road and the structural condition of the bridge are considered unsafe. The current configuration of Phalanx Road shows a reverse S-curve which is substandard and currently requires an advisory posted speed below the design speed. The current configuration can restrict visibility at the reverse S-curve, causing vehicles to favor driving either closer to the centerline or over the centerline. It is noted that there have been vehicular accidents near the reverse S-curve, including a vehicular fatality in which a vehicle crossed over the centerline of Phalanx Road and collided with a school bus traveling in the opposite direction, hence the need for realignment. It is noted that both of these improvements were constructed prior to the 1988 enactment of the Watershed Protection and Moratorium Act, (P.L. 1988, c. 163 as amended by P.L. 1990, c. 19) (the "Act").

The Proposed Project:

Monmouth County Engineering is proposing to replace Monmouth County Bridge A-38 carrying Phalanx Road (CR 522) over the Swimming River Reservoir in the Townships of Colts Neck and Middletown, Monmouth County, New Jersey. The proposed project is being undertaken to address structural and safety deficiencies with the existing bridge and roadway as determined through engineering analyses and field inspections. The extent of the roadwork will be limited to that which is necessary for replacement of the structure and realignment of the road to eliminate the reverse S-curve. The proposed construction activities include roadway realignment, regrading, removal of piers, replacement of the existing three-span bridge with a single-span structure, installation of bridge sidewalks, guiderail and relocation of utility poles within the realigned ROW.

The proposed project includes the replacement of the entire structure A-38 Bridge carrying Phalanx Road over the Swimming River Reservoir. The proposed road realignment will eliminate the current reverse S-curve at the western approach to the bridge and will replace it with a single curve that is more appropriate for the current design speed of 45 MPH. A significant portion of the proposed single curve alignment will extend over the Reservoir. The proposed bridge will also fall entirely within the single curve and the proposed permanent easement.

The existing bridge consists of 3 spans and has 2 piers within the Reservoir. To avoid disruption and disturbance to the Reservoir, the proposed bridge will eliminate these piers and replace the structure with a single span bridge approximately in the same location as the existing bridge but shifted only slightly northwest to accommodate the proposed alignment. Eliminating the piers in the reservoir will decrease the potential for scour and remove obstructions from the waterway that could catch debris.

The proposed bridge will have a span length of 117'-2". The proposed girders are 69.5" deep prestressed concrete bulb-tee beams. These beams provide an increase in the structure height of about 4.5'. Raising the roadway allows the project to minimize impacts on environmental resources and the adjacent properties. To limit the impacts of raising the roadway on the embankments across the Reservoir, sheeting is proposed. The sheeting allows for the existing embankments to remain largely undisturbed while the roadway is lifted. The proposed sheeting will be put in place using the existing ROW. Hence, no temporary construction easement will be required. Additionally, the project will mill and overlay the existing roadway approaches to remain, realign and regrade the existing roadway approach to remove the reverse s-curve, install grading for a future sidewalk, guiderail and relocations of utility poles. Exhibit E depicts the proposed project and Exhibit F describes the final location of the entire R.O.W. over watershed land by metes and bounds. As shown and as intended, the proposed project addresses safety improvement to existing conditions. According to Monmouth County, if the project is not implemented, the bridge will continue to deteriorate and may need to ultimately be closed if it worsens to a level deemed unsafe for vehicular traffic. This would restrict access across the Property from one side to the other and potentially increase emergency vehicle response times to locations accessed along Phalanx Road.

To complete this project as proposed, and to avoid the reverse S-curve so as to create a single safer curve design, the realignment of the ROW, requires the "swap" of certain small sections of watershed property, thus invoking the jurisdiction of the Watershed Property Review Board. Exhibit G depicts what is proposed. The red area shows that 1.426 acres of watershed land requires an exemption from the Board. The area in green shows that .64 acres of "grandfathered" land, formerly exempt from Board jurisdiction will be surrendered and abandoned and become subject to the Board's jurisdiction (the "Surrendered ROW"). As a result, and by way of mitigation efforts deemed consistent with the Act, the resultant net area of watershed property impacted by the roadway realignment is .786 acres. Based on the construction plans developed by the County of Monmouth, no temporary construction easements will be required and no underground facilities of the Applicant will be impacted. A copy of the proposed Permanent Easement with the County of Monmouth, which itself contains conditions of responsible stewardship together with the inclusion of any conditions set forth in an Order of the WPRB granting the requested Exemption, is included as Exhibit H.

To accomplish the road realignment, 74 trees having a DBH in excess of 6" will be removed. By way of mitigation and, notwithstanding that Exhibit C shows that there are 30 Trees deemed in poor condition and another 9 compromised trees deemed "Fair" but in danger, the County's Tree Replacement Plan, while eliminating the dead trees from consideration, proposes a generous and aggressive tree planting plan which includes trees within the 14,225 sq. ft. area shaded green in the Surrendered Area as shown on Exhibit I. The Tree Replacement Plan, which identifies suggested plantings by species is included as Exhibit J. It is noted that the Tree Replacement Plan proposes a 3 for 1 replacement ratio.

In addition to an exemption from the Act, the project will require a New Jersey Department of Environmental Protection (NJDEP) Freshwater Wetlands General Permit 10B (FWW GP-10B), Freshwater Wetlands General Permit 21 (FWW GP-21) and a Flood Hazard Area General Permit 10 (FHA GP-10) as a result of proposed impacts to regulated resources within the project area. The proposed project is designed and planned to avoid or limit environmental impacts to adjacent sensitive areas. Per Exhibit D, the project will not alter the hydrology of fresh water wetlands or that of State open waters.

Discussion:

NJAW seeks an exemption to permit the conveyance of the easement to the County of Monmouth as proposed in Exhibit G. Pursuant to the Watershed Protection and Moratorium Act (the "Act"), NJAW is prohibited from conveying "any land utilized for the purpose of a public water supply". Section 1 of P.L. 1998 C163. The Act permits the Watershed Property Review Board (the "Board") to grant an exemption from the moratorium under three circumstances. Section 2(a) of P.L. 1998 C163. The Board may permit the conveyance of watershed property if it finds "(1) that there is a compelling public need for the conveyance of the property; (2) the denial of the exemption would result in extraordinary hardship; or (3) the sale or development of the watershed property is otherwise consistent with the purposes of this act" (which generally is interpreted as protecting water quality and encouraging open space preservation). Any person applying for an exemption must submit to the Board appropriate documentation addressing any impact on buffer areas and proposing mitigation as appropriate.

It is respectfully submitted that the proposed easement transaction with Monmouth County satisfies the "Compelling Public Need" criteria. The Application seeks relief on that basis. As an ancillary matter, the exhibits presented herewith address how the County's proposed project offers mitigation proposals that the Act invites.

Compelling Public Need:

The replacement of Bridge A-38 is required since, as explained in this application, the bridge is in a state of deterioration, and, as set forth in Exhibit D, is deemed unsafe and in need of replacement. While not at that stage yet, should it deteriorate further and collapse, it will not only prevent access over the Swimming River Reservoir for the general public and prevent partial access to the property for Applicant's employees but also, should any debris from the deteriorating bridge fall into the Reservoir, it could impact the intake facilities of the Applicant, to the detriment of NJAW and its ratepayers.

Monmouth County has prioritized this public project as a safety issue and has strict funding deadlines. As referenced above, jurisdiction of the WPRB is triggered because the County has requested an easement over 1.426 acres of watershed land from the Applicant in order to provide a properly designed ROW for safe vehicular traffic and to provide access over the easement area to allow for maintenance of the roadway and other improvements referenced herein and in Exhibit E. It is important to emphasize that a properly redesigned ROW for Phalanx Road, as located in the easement area, is not only consistent with the need for public safety, but in this instance is required to bring the roadway into compliance with design standards. As referenced above, the existing reverse S-curve must be posted for an advisory speed limit of 35 mph instead of the design speed of 45 mph. Even with such cautionary signage, the reverse S-curve has been the site of vehicular accidents including a fatality. The realigned roadway eliminates the reverse S-curve, and creates a single curve having a radius of 900' which meets the minimum requirement of a 50-mph roadway. Because the heavily travelled road is adjacent to significant residential development in the area and is an important roadway for public access to Brookdale Community college, a commuter facility, 5-foot-wide shoulders are provided for bicycle accommodation and provisions for two sidewalks are proposed for the entire length of the project in deference to the development in the area which will generate pedestrian traffic.

It is submitted that a finding of compelling public need in this matter is consistent with findings made by the WPRB in other matters involving bridge replacements, including Orders entered in Closter/Harrington Park (5/18/2017); Closter/Norwood (4/22/2021) and Old Tappan (2/28/2022). The need for a responsible road realignment which also includes a single curve within the bridge design further supports a compelling public need finding.

It should also be noted that this Application for Exemption addresses mitigation and other protocol matters which the WPRB may consider as being in furtherance of the Act and its purposes. The County proposes an aggressive/tree replacement plan guided by Green Acres standards. It proposes to use an existing ROW so as to avoid temporary construction easements. It proposes the placement of sheeting using the existing ROW so as to avoid disturbance to the existing embankments supporting Phalanx Road and the Reservoir itself. It proposes to eliminate obstructions within the Reservoir. It proposes not only safer passage for vehicular traffic but seeks to provide for safe bicycle and pedestrian passage in the existing undocumented Right-of-Way space without seeking to encroach into a larger area of watershed land. In that connection, the proposed easement defines and limits the extent of the Right-of-Way to as narrow an area as possible (approximately 12' less than what the County of Monmouth's generally obtains). The proposed Deed of Right-of-Way Easement (Exhibit H) provides its own constraints on activities, including any potential future tree removal in the Right-of-Way and it also incorporates any conditions which the WPRB deems necessary to carry out the purposes of the Act.

It is submitted that the use of the proposed easement and the improvements proposed in that area will not detrimentally impact the Property, the operations or maintenance of the facilities located on the Property and will not restrict water quality. As such, the permanent easement over the small Easement Area is consistent with the Act's intent to minimize, to the extent possible, impact on watershed lands while recognizing that utility operations must be responsibly carried out on the Property. In that regard, Applicant has provided its attached

affirmative statement regarding the absence of negative impact as related to the bridge replacement and the proposed easement request (Exhibit K).

Finally, simply as a matter of creating an appropriate record for future reference and WPRB administrative purposes, the full ROW over Applicant's Watershed Property will now be documented.

Conclusion:

For the foregoing reasons, and based on the thorough review of the record by the WPRB. Staff (the "Staff") including the attached exhibits, its site visit and any supplemental submission that may be requested by Staff, it is respectfully requested that the Staff affirmatively consider the application and, if satisfied, provide positive recommendations and advice to the Board so that thereafter the Board may consider and approve the exemption request of the Applicant as presented by issue an appropriate Order at its next scheduled meeting.

EXHIBIT A



State of New Jersey

CHRIS CHRISTIE
GOVERNOR

KIM GUADAGNO
LT. GOVERNOR

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Mail Code 401-04Q
Division of Water Supply & Geoscience
New Jersey Geological and Water Survey Element
Bureau of Water Allocation & Well Permitting
401 E. State Street - P.O. Box 420
Trenton, New Jersey 08625-0420
Tel #: (609) 984-6831 - Fax #: (609) 633-1231
<http://www.nj.gov/dep/watersupply/>

BOB MARTIN
COMMISSIONER

December 28, 2016

NJ American Water Union Beach & Monmouth
1025 Laurel Oak Rd
Voorhees Twp, NJ 08043
Attn: Kenneth Seelig

Dear Mr. Seelig:

Re: **Water Allocation Permit - Minor Modification**
Program Interest ID/ Permit No. 5018X
Activity No. WAP160001

Enclosed is a permit issued pursuant to the Water Supply Management Act, N.J.S.A. 58:1A-1 et seq. This permit becomes effective on December 29, 2016 and is to divert water from 3 wells and 1 intake in the following Municipalities and County:

MUNICIPALITY	COUNTY
Colts Neck Twp	Monmouth
Middletown Twp	Monmouth

5018X is your Program Interest ID and WAP160001 is your Permit Activity Number, and will appear on all forms and correspondence from the Bureau of Water Allocation & Well Permitting. Reference your Program Interest ID and Activity No. in all correspondence.

Be advised that as you are responsible for complying with the terms and conditions of the enclosed permit you should review them thoroughly. Failure to comply with any or all of the terms and conditions could result in penalties and/or revocation of the permit.

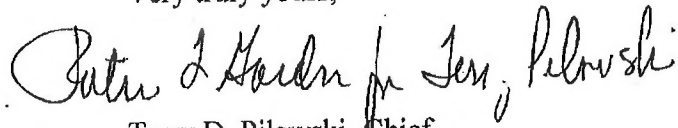
Within 20 calendar days following your receipt of this permit you may submit a request for an adjudicatory hearing to contest the conditions of this permit. Regulations regarding the format and requirements for requesting an adjudicatory hearing may be found in N.J.A.C. 7:19-2.13.

To request a hearing, the permittee must complete the enclosed Tracking Form and supply all the information specified in Part III of the Tracking Form. A copy of the completed, signed and dated Tracking Form, together with all of the information required by Part III of the Tracking Form, including attachments where specified, must be submitted to:

1. Janis Hoagland, Director
New Jersey Department of Environmental Protection
Office of Legal Affairs
P.O. Box 402
Trenton, New Jersey 08625

2. Terry D. Pilawski, Chief
New Jersey Department of Environmental Protection
Mail Code 401-04Q
Division of Water Supply & Geoscience
Bureau of Water Allocation & Well Permitting
P.O. Box 420
Trenton, New Jersey 08625-0420

Very truly yours,



Terry D. Pilawski, Chief
Bureau of Water Allocation & Well Permitting

Enclosure

Certified Mail No.:

C: Bureau of Water Allocation & Well Permitting
Central Bureau of Water Compliance & Enforcement
Robert Hudgins, BWAWP



State of New Jersey
Department of Environmental Protection
Bureau of Water Allocation
PO Box 426, Trenton, New Jersey 08625-0426



Water Allocation Permit

The New Jersey Department of Environmental Protection grants this permit* in accordance with your application, attachments accompanying same application, and applicable laws and regulations. This permit is also subject to further conditions and stipulations enumerated in the supporting documents.

**Program Interest ID/
Permit Number:**
5018X
Activity Number:
WAP160001

Issuance Date: 12/28/2016

Effective Date: 12/29/2016

Expiration Date: 12/31/2020

Name and Address of Applicant
NJ AMERICAN WATER UNION BEACH &
MONMOUTH
1025 Laurel Oak Rd
Voorhees Twp, NJ 08043

Location of Activity/Facility
Colts Neck Twp & Middletown Twp
Monmouth County

Type of Permit
Water Allocation Permit -
Minor Modification

Statute(s)
N.J.S.A. 58:1A-1

This permit grants permission to divert water from the approved sources in the attached permit inventory, in the following municipalities, for the following water uses:

MUNICIPALITY	COUNTY
Colts Neck Twp	Monmouth
Middletown Twp	Monmouth

Water Uses: Public Community Supply

This permit is subject to the attached Conditions.

Approved by the authority of:
Bob Martin, Commissioner
Department of Environmental Protection

Terry D. Pilawski

Terry D. Pilawski, Chief
Bureau of Water Allocation & Well Permitting Date

* Permit means Certification, Approval, Registration, Equivalency, etc.

**NJ AMERICAN WATER UNION BEACH & MONMOUTH
5018X**

Water Allocation Permit : WAP160001

Permit Inventory

Water Diversion Sources - Water may be diverted under this permit from the following sources:

Source Designation (Well Permit No. or Intake No.)	Description	Subject Item ID
INTAKE 1	SWIMMING RIVER	WSIN0000075723
2900021610	WELL 1	WSWL0000066581
2900021611	WELL 2	WSWL0000066582
2900021612	WELL 3	WSWL0000066583

Remaining Subject Items (monitoring wells, wells to be sealed, etc) - The following items are present but are not approved diversion sources:

Source Designation	Source Description	Subject Item ID
2900023948	WELL MW-1	WSWL0000138379

Group Subject Items - The following items are grouped sources for the purpose of setting permit requirements outlined in this document:

Group Designation	Group Description	Group Subject Item ID	Group Members
NJ AMERICAN WATER - SWIMMING RIVER	5018 WA PERMIT - ALL DIVERSION SOURCES	WSWA0000075730	CRITICAL AREA 1 UPPER PRM AQUIFER SOURCES, WELL 1, WELL 2, & WELL 3 (WARG810153)
			SWIMMING RIVER RESERVOIR SOURCE, SWIMMING RIVER (WARG810154)
CRITICAL AREA 1 UPPER PRM AQUIFER SOURCES	WELL 1, WELL 2, & WELL 3	WARG0000810153	2900021610, WELL 1 (WSWL066581)
			2900021611, WELL 2 (WSWL066582)
			2900021612, WELL 3 (WSWL066583)
SWIMMING RIVER RESERVOIR SOURCE	SWIMMING RIVER	WARG0000810154	INTAKE 1, SWIMMING RIVER (WSIN075723)

**NJ AMERICAN WATER UNION BEACH & MONMOUTH
5018X**

Water Allocation Permit : WAP160001

Permit Requirements

Limit Requirements

The following limits apply and are the maximum permitted allocation:

Initial Permit Phase from 12/29/2016 - 12/31/2016

Subject Item	Parameter	Limit
NJ AMERICAN WATER - SWIMMING RIVER , 5018 WA PERMIT - ALL DIVERSION SOURCES (WSWA75730)	Maximum Diversion Rate	<= 32467 Gallons Per Minute. [N.J.A.C. 7:19- 2]
	Water Diverted	<= 1139.31 Million Gallons Per Month. [N.J.A.C. 7:19- 2]
		<= 9407.67 Million Gallons Per Year. [N.J.A.C. 7:19- 2]
CRITICAL AREA 1 UPPER PRM AQUIFER SOURCES, WELL 1, WELL 2, & WELL 3 (WARG810153)	Maximum Diversion Rate	<= 3300 Gallons Per Minute. [N.J.A.C. 7:19- 2]
	Water Diverted	<= 147.31 Million Gallons Per Month. [N.J.A.C. 7:19- 2]
		<= 282.67 Million Gallons Per Year. [N.J.A.C. 7:19- 2]
SWIMMING RIVER RESERVOIR SOURCE, SWIMMING RIVER (WARG810154)	Water Diverted	<= 992 Million Gallons Per Month. [N.J.A.C. 7:19- 2]
		<= 9125 Million Gallons Per Year. [N.J.A.C. 7:19- 2]

Interim Permit Phase

Subject Item	Parameter	Limit
NJ AMERICAN WATER - SWIMMING RIVER , 5018 WA PERMIT - ALL DIVERSION SOURCES (WSWA75730)	Maximum Diversion Rate	<= 32467 Gallons Per Minute. [N.J.A.C. 7:19- 2]
	Water Diverted	<= 1139.31 Million Gallons Per Month. [N.J.A.C. 7:19- 2]
CRITICAL AREA 1 UPPER PRM AQUIFER SOURCES, WELL 1, WELL 2, & WELL 3 (WARG810153)	Maximum Diversion Rate	<= 2200 Gallons Per Minute. [N.J.A.C. 7:19- 2]
	Water Diverted	<= 93 Million Gallons Per Month. [N.J.A.C. 7:19- 2]
SWIMMING RIVER RESERVOIR SOURCE, SWIMMING RIVER (WARG810154)	Water Diverted	<= 992 Million Gallons Per Month. [N.J.A.C. 7:19- 2]

**NJ AMERICAN WATER UNION BEACH & MONMOUTH
5018X**

Water Allocation Permit : WAP160001

Limit Requirements

The following limits apply and are the maximum permitted allocation:

Interim Permit Phase

Subject Item	Parameter	Limit
	Water Diverted	<= 9125 Million Gallons Per Year. [N.J.A.C. 7:19- 2]

Final Permit Phase from 01/01/2017 -

Subject Item	Parameter	Limit
NJ AMERICAN WATER - SWIMMING RIVER , 5018 WA PERMIT - ALL DIVERSION SOURCES (WSWA75730)	Maximum Diversion Rate	<= 32467 Gallons Per Minute. [N.J.A.C. 7:19- 2]
	Water Diverted	<= 1139.31 Million Gallons Per Month. [N.J.A.C. 7:19- 2]
		<= 9404.62 Million Gallons Per Year. [N.J.A.C. 7:19- 2]
CRITICAL AREA 1 UPPER PRM AQUIFER SOURCES, WELL 1, WELL 2, & WELL 3 (WARG810153)	Maximum Diversion Rate	<= 3300 Gallons Per Minute. [N.J.A.C. 7:19- 2]
	Water Diverted	<= 147.31 Million Gallons Per Month. [N.J.A.C. 7:19- 2]
		<= 279.62 Million Gallons Per Year. [N.J.A.C. 7:19- 2]
SWIMMING RIVER RESERVOIR SOURCE, SWIMMING RIVER (WARG810154)	Water Diverted	<= 992 Million Gallons Per Month. [N.J.A.C. 7:19- 2]
		<= 9125 Million Gallons Per Year. [N.J.A.C. 7:19- 2]

Other Limit Requirements

Initial Permit Phase from 12/29/2016 - 12/31/2016

Subject Item	Parameter	Limit
INTAKE 1, SWIMMING RIVER (WSIN75723)	Rated Pump Capacity	<= 29167 Gallons Per Minute. [N.J.A.C. 7:19- 2]
2900021610, WELL 1 (WSWL66581)	Rated Pump Capacity	<= 1100 Gallons Per Minute. [N.J.A.C. 7:19- 2]
2900021611, WELL 2 (WSWL66582)	Rated Pump Capacity	<= 1100 Gallons Per Minute. [N.J.A.C. 7:19- 2]
2900021612, WELL 3 (WSWL66583)	Rated Pump Capacity	<= 1100 Gallons Per Minute. [N.J.A.C. 7:19- 2]

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Other Limit Requirements

Interim Permit Phase

Subject Item	Parameter	Limit
INTAKE 1, SWIMMING RIVER (WSIN75723)	Rated Pump Capacity	<= 29167 Gallons Per Minute. [N.J.A.C. 7:19- 2]
2900021610, WELL 1 (WSWL66581)	Rated Pump Capacity	<= 1100 Gallons Per Minute. [N.J.A.C. 7:19- 2]
2900021611, WELL 2 (WSWL66582)	Rated Pump Capacity	<= 1100 Gallons Per Minute. [N.J.A.C. 7:19- 2]
2900021612, WELL 3 (WSWL66583)	Rated Pump Capacity	<= 1100 Gallons Per Minute. [N.J.A.C. 7:19- 2]

Final Permit Phase from 01/01/2017 -

Subject Item	Parameter	Limit
INTAKE 1, SWIMMING RIVER (WSIN75723)	Rated Pump Capacity	<= 29167 Gallons Per Minute. [N.J.A.C. 7:19- 2]
2900021610, WELL 1 (WSWL66581)	Rated Pump Capacity	<= 1100 Gallons Per Minute. [N.J.A.C. 7:19- 2]
2900021611, WELL 2 (WSWL66582)	Rated Pump Capacity	<= 1100 Gallons Per Minute. [N.J.A.C. 7:19- 2]
2900021612, WELL 3 (WSWL66583)	Rated Pump Capacity	<= 1100 Gallons Per Minute. [N.J.A.C. 7:19- 2]

Monitoring Requirements

Initial Permit Phase from 12/29/2016 - 12/31/2016

Subject Item	Requirement	Frequency	Monitored Parameter	Monitoring Method
2900021610, WELL 1 (WSWL66581)	Static water levels for each well indicated shall be monitored. [N.J.A.C. 7:19- 2]	Each Month	Static Water Level	Airline, Tape, or Gage
2900021611, WELL 2 (WSWL66582)				
2900021612, WELL 3 (WSWL66583)				
2900023948, WELL MW-1 (WSWL138379)				
INTAKE 1, SWIMMING RIVER (WSIN75723)	The monthly diversion from each source indicated shall be monitored. [N.J.A.C. 7:19- 2]	Each Month	Water Diverted	Meter
2900021610, WELL 1 (WSWL66581)				

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Monitoring Requirements

Initial Permit Phase from 12/29/2016 - 12/31/2016

Subject Item	Requirement	Frequency	Monitored Parameter	Monitoring Method
2900021611, WELL 2 (WSWL66582)	The monthly diversion from each source indicated shall be monitored. [N.J.A.C. 7:19- 2]	Each Month	Water Diverted	Meter
2900021612, WELL 3 (WSWL66583)				
2900021610, WELL 1 (WSWL66581)	A raw water sample from each well indicated shall be analyzed for chloride concentration. [N.J.A.C. 7:19- 2]	Annually in September	Chloride	Total sample
2900021611, WELL 2 (WSWL66582)				
2900021612, WELL 3 (WSWL66583)				

Interim Permit Phase

Subject Item	Requirement	Frequency	Monitored Parameter	Monitoring Method
2900021610, WELL 1 (WSWL66581)	Static water levels for each well indicated shall be monitored. [N.J.A.C. 7:19- 2]	Each Month	Static Water Level	Airline, Tape, or Gage
2900021611, WELL 2 (WSWL66582)				
2900021612, WELL 3 (WSWL66583)				
2900023948, WELL MW-1 (WSWL138379)				
INTAKE 1, SWIMMING RIVER (WSIN75723)	The monthly diversion from each source indicated shall be monitored. [N.J.A.C. 7:19- 2]	Each Month	Water Diverted	Meter
2900021610, WELL 1 (WSWL66581)				
2900021611, WELL 2 (WSWL66582)				
2900021612, WELL 3 (WSWL66583)				
2900021610, WELL 1 (WSWL66581)	A raw water sample from each well indicated shall be analyzed for chloride concentration. [N.J.A.C. 7:19- 2]	Annually in September	Chloride	Total sample
2900021611, WELL 2 (WSWL66582)				

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Monitoring Requirements

Interim Permit Phase

Subject Item	Requirement	Frequency	Monitored Parameter	Monitoring Method
2900021612, WELL 3 (WSWL66583)	A raw water sample from each well indicated shall be analyzed for chloride concentration. [N.J.A.C. 7:19-2]	Annually in September	Chloride	Total sample

Final Permit Phase from 01/01/2017 -

Subject Item	Requirement	Frequency	Monitored Parameter	Monitoring Method
2900021610, WELL 1 (WSWL66581)	Static water levels for each well indicated shall be monitored. [N.J.A.C. 7:19- 2]	Each Month	Static Water Level	Airline, Tape, or Gage
2900021611, WELL 2 (WSWL66582)				
2900021612, WELL 3 (WSWL66583)				
2900023948, WELL MW-1 (WSWL138379)				
INTAKE 1, SWIMMING RIVER (WSIN75723)	The monthly diversion from each source indicated shall be monitored. [N.J.A.C. 7:19- 2]	Each Month	Water Diverted	Meter
2900021610, WELL 1 (WSWL66581)				
2900021611, WELL 2 (WSWL66582)				
2900021612, WELL 3 (WSWL66583)				
2900021610, WELL 1 (WSWL66581)	A raw water sample from each well indicated shall be analyzed for chloride concentration. [N.J.A.C. 7:19-2]	Annually in September	Chloride	Total sample
2900021611, WELL 2 (WSWL66582)				
2900021612, WELL 3 (WSWL66583)				

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Record Keeping Requirements

Initial Permit Phase from 12/29/2016 - 12/31/2016

Subject Item	Requirement	Frequency	Monitored Parameter	Record Keeping Method
NJ AMERICAN WATER - SWIMMING RIVER , 5018 WA PERMIT - ALL DIVERSION SOURCES (WSWA75730)	A log book of month end meter readings for each diversion source shall be maintained on site. [N.J.A.C. 7:19- 2]	Each Month	Meter Reading	Log Book

Interim Permit Phase

Subject Item	Requirement	Frequency	Monitored Parameter	Record Keeping Method
NJ AMERICAN WATER - SWIMMING RIVER , 5018 WA PERMIT - ALL DIVERSION SOURCES (WSWA75730)	A log book of month end meter readings for each diversion source shall be maintained on site. [N.J.A.C. 7:19- 2]	Each Month	Meter Reading	Log Book

Final Permit Phase from 01/01/2017 -

Subject Item	Requirement	Frequency	Monitored Parameter	Record Keeping Method
NJ AMERICAN WATER - SWIMMING RIVER , 5018 WA PERMIT - ALL DIVERSION SOURCES (WSWA75730)	A log book of month end meter readings for each diversion source shall be maintained on site. [N.J.A.C. 7:19- 2]	Each Month	Meter Reading	Log Book

Submittal/Action Requirements

Initial Permit Phase from 12/29/2016 - 12/31/2016

Applicable Subject Items	Submittal/Action Type	Requirement
INTAKE 1, SWIMMING RIVER (WSIN75723)	Submit Public Quarterly Report	The required monitoring results shall be recorded on the form provided by the Department. The completed form shall be submitted within 30 days after the end of each quarter. [N.J.A.C. 7:19- 2]
2900021610, WELL 1 (WSWL66581)		

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Submittal/Action Requirements

Initial Permit Phase from 12/29/2016 - 12/31/2016

Applicable Subject Items	Submittal/Action Type	Requirement
2900021611, WELL 2 (WSWL66582)	Submit Public Quarterly Report	The required monitoring results shall be recorded on the form provided by the Department. The completed form shall be submitted within 30 days after the end of each quarter. [N.J.A.C. 7:19- 2]
2900021612, WELL 3 (WSWL66583)		
2900023948, WELL MW-1 (WSWL138379)		

Interim Permit Phase

Applicable Subject Items	Submittal/Action Type	Requirement
INTAKE 1, SWIMMING RIVER (WSIN75723)	Submit Public Quarterly Report	The required monitoring results shall be recorded on the form provided by the Department. The completed form shall be submitted within 30 days after the end of each quarter. [N.J.A.C. 7:19- 2].
2900021610, WELL 1 (WSWL66581)		
2900021611, WELL 2 (WSWL66582)		
2900021612, WELL 3 (WSWL66583)		
2900023948, WELL MW-1 (WSWL138379)		
NJ AMERICAN WATER - SWIMMING RIVER , 5018 WA PERMIT - ALL DIVERSION SOURCES (WSWA75730)	Submit Water Conservation and Drought Management Plan	The permittee shall continue to implement, to the satisfaction of the Department, a water conservation and drought management program. The program shall encourage water conservation in all types of use within the area served by the permittee, including actions taken pursuant to this program and the impact thereof. Submit according to the following schedule: An update to the water conservation and drought management plan shall be submitted on or before April 30, 2017 and every other year thereafter. [N.J.A.C. 7:19- 2]
NJ AMERICAN WATER - SWIMMING RIVER , 5018 WA PERMIT - ALL DIVERSION SOURCES (WSWA75730)	Submit Renewal Application	A renewal application shall be submitted three months prior to the expiration date. [N.J.A.C. 7:19- 2]

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Submittal/Action Requirements

Final Permit Phase from 01/01/2017 -

Applicable Subject Items	Submittal/Action Type	Requirement
INTAKE 1, SWIMMING RIVER (WSIN75723)	Submit Public Quarterly Report	The required monitoring results shall be recorded on the form provided by the Department. The completed form shall be submitted within 30 days after the end of each quarter. [N.J.A.C. 7:19- 2]
2900021610, WELL 1 (WSWL66581)		
2900021611, WELL 2 (WSWL66582)		
2900021612, WELL 3 (WSWL66583)		
2900023948, WELL MW-1 (WSWL138379)		
NJ AMERICAN WATER - SWIMMING RIVER , 5018 WA PERMIT - ALL DIVERSION SOURCES (WSWA75730)	Submit Water Conservation and Drought Management Plan	The permittee shall continue to implement, to the satisfaction of the Department, a water conservation and drought management program. The program shall encourage water conservation in all types of use within the area served by the permittee, including actions taken pursuant to this program and the impact thereof. Submit according to the following schedule: An update to the water conservation and drought management plan shall be submitted on or before April 30, 2017 and every other year thereafter. [N.J.A.C. 7:19- 2]
NJ AMERICAN WATER - SWIMMING RIVER , 5018 WA PERMIT - ALL DIVERSION SOURCES (WSWA75730)	Submit Renewal Application	A renewal application shall be submitted three months prior to the expiration date. [N.J.A.C. 7:19- 2]

Text Requirements

All Phases

2900023948, WELL MW-1 (WSWL138379)

1. Monitoring Well MW-1 (well permit no. 2900023948) shall be maintained in order to document the water usage/level relationship and to monitor water quality of the aquifer. The permittee shall be responsible for the maintenance and if necessary the eventual decommissioning of the well. [N.J.A.C. 7:19- 2]

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Text Requirements

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CRITICAL AREA 1 UPPER PRM AQUIFER SOURCES, WELL 1, WELL 2, & WELL 3 (WARG810153)

2. During a Drought Emergency as may be declared by Monmouth County or by the State of New Jersey under N.J.A.C. 7:19-1.1 et seq., Wells 1, 2, and 3 can be used as emergency sources after the base allocation is fully utilized. The maximum monthly allocation shall be limited to 93 million gallons per month at a maximum rate of 2,200 gallons per minute as indicated in the Limit Requirements Interim Phase Section of the permit. During a Drought Warning or Drought Watch as declared by the State of New Jersey, the Department may temporally approve the utilization of Wells 1, 2, and 3 as emergency sources, and the maximum monthly allocation shall be 93 million gallons per month at a maximum rate of 2,200 gallons per minute as indicated in the Limit Requirements Interim Phase Section of the permit. During Drought Watch, Drought Warning, or Drought Emergency, there shall be no annual allocation limit for the wells. However, any use of Wells 1, 2, and 3 as emergency sources, shall occur only after first maximizing the available supply from the New Jersey Water Supply Authority Manasquan Reservoir and notifying the New Jersey Department of Environmental Protection. The Department may, at its sole discretion, rescind the use of Wells 1, 2 and 3 as emergency sources, at any time if the Department determines the situation no longer warrants such use. During all other times, Wells 1, 2 and 3 shall be used as non-emergency sources and the maximum monthly allocation shall be 147.31 million gallons per month at a maximum diversion rate of 3,300 gallons per minute. Written approval from the Department shall be received prior to utilizing Wells 1, 2 and 3 as emergency sources as indicated above and shall immediately cease upon notification by the Department. [N.J.A.C. 7:19- 2]

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3. Prior to requesting that the Interim Phase of the permit be made effective, as provided for under Text Condition No. 2, New Jersey American Water (NJAW) shall coordinate with the Monmouth County Office of Emergency Management to implement water use restrictions and/or shall petition all municipalities within the service area to adopt a resolution implementing water use restrictions. NJAW shall use reasonable efforts to cause, to the extent it can legally do so, the municipalities to adopt resolutions for water use restrictions. The Department acknowledges that NJAW has no legal authority to require the county and/or municipalities to enforce water use restrictions and can only make a good faith effort to request them to do so.

NJAW will announce and post restrictions on their website prior to implementing the emergency diversion. The restrictions will include at a minimum, the following:

1. Odd/Even lawn and landscape watering only between the hours of 6-9 am and 5-8 pm.;
2. No residential car washing.;
3. No street washing with potable water.;
4. No washing of driveways or sidewalks unless performed by a contractor, or unless the municipal or county health department determines that such washing is necessary to avert a threat to public health. [N.J.A.C. 7:19- 2]
4. Once approvals are received from NJPDES and BWSE for the operation of Well 1 as a recharge source, NJAW shall notify the Bureau of Water Allocation and Well Permitting to modify this permit to include the ASR designation and operating conditions. [N.J.A.C. 7:19- 2]
5. This permit should be issued with an initial, interim, and final phase. The initial phase will reduce the UPRM annual diversion limit by 11.95 MGY (from 294.62 MGY to 282.67 MGY) to reflect the lease of this base allocation from NJAW SRTP Wells to TNCN Irrigation Wells 1 and 2. The initial phase will expire on December 31, 2016. The interim phase will include the provisions that allow for the diversion of 93 mgm with no annual limit from the UPRM aquifer during times when Monmouth County and/or the State of New Jersey is in a declared Drought Emergency. The final phase will become effective on January 1, 2017 and will reduce the UPRM annual base allocation by 15 mgy (294.62 MGY to 279.62 MGY) as the minimum contractually agreed to be leased from NJAW SRTP Wells to TNCN Irrigation Wells 1 and 2. [N.J.A.C. 7:19- 2]
6. Water may be diverted under this modified permit for public community supply. However, water shall not be used to serve non-potable, consumptive purposes for new projects that are greater than 50 percent non-potable and greater than 50 percent consumptive, where, as determined by the Department, alternate water sources, including but not limited to reclaimed water for beneficial reuse, are feasible to serve the non-potable, consumptive needs of the project. [N.J.A.C. 7:19- 2]

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7. Water may be diverted under this permit only from the approved diversion sources at the maximum rates specified. [N.J.A.C. 7:19- 1]
8. A major modification of this permit may be required in order to request the approval of any additional diversion sources or an increase in the pumping capacity. [N.J.A.C. 7:19- 2]
9. All diversion sources shall be metered with a totalizing flow meter. [N.J.A.C. 7:19- 2]
10. At a minimum, each diversion source flow meter shall be calibrated at least once every five years. [N.J.A.C. 7:19- 2]
11. Each flow meter shall be calibrated to within five percent accuracy. [N.J.A.C. 7:19- 2]
12. All wells shall be equipped with a metal tag showing the well permit numbers (source designation) as listed in the allocation permit inventory or have the well permit numbers painted on the casings. [N.J.A.C. 7:19- 2]
13. The pumping equipment capacity shall not be increased without prior approval from the Bureau of Water Allocation and Well Permitting. [N.J.A.C. 7:19- 1]
14. Any well not intended for use shall be decommissioned in accordance with N.J.A.C. 7:9D-3.1 et seq. [N.J.A.C. 7: 9D- 3]
15. Any required chemical analysis shall be performed by a New Jersey Certified Laboratory. [N.J.A.C. 7:19- 2]
16. Wells shall be constructed so that static water level (depth to water) can be determined at any time. [N.J.A.C. 7:19- 2]
17. Static water level shall be measured and reported as depth to water, in feet, from ground surface. [N.J.A.C. 7:19- 2]
18. For pumping wells, static water level (depth to water) shall be taken when the well pump has been shut down for a recovery period of at least 12 hours. If the well cannot be shut down for the required period, it must be noted on an addendum to the Quarterly Monitoring Report form. Please note on the addendum the number of hours the well was shut down or that the reading is a pumping level. [N.J.A.C. 7:19- 2]
19. All new services shall be metered in accordance with all applicable laws, regulations or codes including, but not limited to, the Water Supply Management Act. [N.J.A.C. 7:19- 6]
20. All existing services shall be metered. [N.J.A.C. 7:19- 6]
21. Water charges for each service connection shall be based in part on metered usage. [N.J.A.C. 7:19- 6]
22. The monthly quantity of water transferred and delivered to/received from interconnections shall be reported as part of the water system monitoring on separate forms provided by the Department. [N.J.A.C. 7:19- 2]
23. The Department may modify, suspend or terminate this permit, after due process, for violations of permit conditions, N.J.S.A. 58:1A-1, N.J.A.C. 7:19-1 et seq., any orders issued by the Department, or when in the public interest. [N.J.A.C. 7:19- 2]
24. The permittee shall investigate to the Department's satisfaction complaints by users of wells or surface water supplies within the zone of influence of its diversion to determine what impact the diversion has had on such wells or surface water supplies. A report on these investigations shall be forwarded to the Bureau of Water Allocation and Well Permitting. Any well or surface water supply which becomes damaged, dry, has reduced capacity, reduced water quality or is otherwise rendered unusable as a water source as a result of the permittee's diversions shall be repaired or replaced at the expense of the permittee. Work shall be in accordance with all State, County and Municipal construction standards for potable water. After reviewing all applicable investigational reports the Department of Environmental Protection will make the final determination regarding the validity of such complaints, the scope or sufficiency of such investigations, and will determine how to resolve any problems resulting from the diversion. [N.J.A.C. 7:19- 2]
25. This permit is issued for a limited period, and is not subject to automatic renewal. [N.J.A.C. 7:19- 2]
26. The permittee shall be subject to such requirements as may be necessary pursuant to N.J.A.C. 7:19-8.1 et seq. [N.J.A.C. 7:19- 8]
27. The permittee is subject to such fees as may be prescribed by the regulations. [N.J.A.C. 7:19- 3]
28. The permittee shall have the right to apply at any time for modification of this permit by submission of the appropriate application forms. [N.J.A.C. 7:19- 2]
29. The permittee may informally discuss the terms and conditions of this permit at any time with the Bureau of Water Allocation and Well Permitting. [N.J.A.C. 7:19- 2]

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30. The permittee shall obtain approval from the Bureau of Water System Engineering before using the diversion for public water supply. [N.J.A.C. 7:19- 2]
31. In addition to the specific management requirements cited above, and when so directed by the Department, the permittee shall comply with applicable portions of the Water Supply Management Rules (N.J.A.C. 7:19-6 et seq. and N.J.A.C. 7:19-8 et seq.) to include the determination of dependable yield; unaccounted-for water; rehabilitation; system pressure and storage; interconnections; and operation of interconnections. [N.J.A.C. 7:19- 6]
32. If the permittee violates any condition of this permit, the permittee is subject to administrative penalties up to \$25,000 per day per offense as specified. [N.J.S.A. 58: 1A-16]
33. If the permittee exceeds the annual allocation limits as specified in this permit, Administrative penalties up to \$25,000 per day per offense may be assessed. Such charge shall not apply if the diversion had been requested of and determined by the Department to be an extraordinary demand or where the permittee has been ordered to divert more water by action or order of the Department. [N.J.S.A. 58: 1A-16]
34. The issuance of this permit shall not be deemed to affect in any way action by the Department of Environmental Protection of the State of New Jersey on any future application. [N.J.A.C. 7:19- 2]
35. No change in plans or specifications shall be made except with the prior written permission of the Department of Environmental Protection of the State of New Jersey. [N.J.A.C. 7:19- 2]
36. The granting of this permit shall not be construed to in any way affect the title or ownership of property, and shall not make the Department of Environmental Protection or the State a party in any suit or question of ownership of property. [N.J.A.C. 7:19- 2]
37. This permit does not waive the obtaining of Federal or other State or local government consent when necessary. This permit is not valid and no work shall be undertaken until such time as all other required approvals and permits have been obtained. [N.J.A.C. 7:19- 2]
38. A copy of this permit shall be kept at the facility site, and shall be exhibited upon request of any authorized Department representative. [N.J.A.C. 7:19- 2]
39. The Department has the right to enter and inspect any site, building, or equipment, or any portion thereof, owned or operated by the permittee, at any time, in order to ascertain compliance or noncompliance with N.J.S.A. 58:1A-1 et seq., 58:4A-4.1 et seq., 58:12A-1 et seq., these rules, or any other agreement or order issued or entered into pursuant thereto. Such right shall include, but not be limited to, the right to require the testing of any equipment at the facility, to sketch or photograph any portion of the site, building or equipment, to copy or photograph any document or records necessary to determine such compliance or noncompliance, and to interview any employees or representative of the owner, operator, or permittee. Such right shall be absolute and shall not be conditioned upon any action by the Department, except the presentation of appropriate credentials as requested and compliance with appropriate standard safety procedures. [N.J.A.C. 7:19- 2]
40. This permit may be transferred, with the consent of the Department, but only for the identical use of the waters. [N.J.A.C. 7:19- 2]
41. If the authorized diversion privileges are not currently diverted, subject to contract, or reasonably required for a demonstrated future need, they shall revert back to the State upon renewal or modification of the permit. [N.J.A.C. 7:19- 2]
42. The permittee shall protect each source from vandalism, tampering, and contamination at all times. [N.J.A.C. 7:19- 2]
43. This permit shall expire as indicated on the permit approval cover page; however, any action required pursuant to a critical area designation shall take precedence over this expiration date. [N.J.A.C. 7:19- 2]

**STAFF REPORT
ADDENDUM**

In the matter of New Jersey American Water – Swimming River

Minor Modification Water Allocation Permit No. 5018 to divert water from 3 wells and the Swimming River Reservoir in the following Municipality and County:

Monmouth County

Background

On December 16, 2016, NJAW submitted a request to lease 11.95 MGY of Upper Potomac Raritan Magothy (UPRM) aquifer base allocation from Swimming River Treatment Plant (SRTP) Wells to Trump National Golf Club (TNCN) Irrigation Wells 1 and 2. In addition, on September 26, 2016, TNCN executed a Water Transfer Agreement with New Jersey-American Water Company (NJAW). An Amended and Restated Water Transfer Agreement (Agreement) was executed by the parties on December 12, 2016. In this Agreement, NJAW may either lease a minimum of 15 MGY of UPRM base allocation from Wells at SRTP to TNCN Irrigation Wells 1 and 2 or recharge water at SRTP Well 1. NJAW is proposing to apply for approvals to recharge water at SRTP Well 1 which will be withdrawn by TNCN from their Irrigation Wells 1 and 2.

Findings of Fact

1. In this Agreement, NJAW may either lease a minimum of 15 MGY of UPRM base allocation from Wells at SRTP or recharge water at SRTP Well 1 for withdrawal at TNCN Irrigation Wells 1 and 2. When the parties utilize the recharge and recovery component of the Agreement, the contract year for the transfer will be from October 1st to September 30th of the following calendar year. When the parties utilize the base allocation lease component of the Agreement, the contract year for the base allocation lease will be from January 1st to December 31st. Any increase to the ASR Transfer Amount above that selected by TNCN in accordance with Section 5 of the Agreement should be made via a base allocation lease only. The contract allows TNCN to increase the or decrease the purchase volume as long as the request is made prior to August 1st of the preceding year.

In a letter dated December 16, 2016 NJAW requested approval of a base allocation lease to TNCN of 11.95 MGY for 2016 and a minimum lease purchase volume of 15 MGY for 2017. The terms for purchasing water are outlined in the Agreement. A minor permit modification will be required for the NJAW water allocation permit on an annual basis after 2017 to reflect the volume of purchased water should it change from year to year. The contract is executed for a term of 5 years with an option to renew for two successive 5 year terms.

2. Because there is no direct physical connection between NJAW and TNCN, the Agreement specifies the manner in which NJAW will transfer water to TNCN. The proposed primary method of transfer will be through aquifer recharge at NJAW SRTP at Well 1 during the Agreement year with recovery by the existing Irrigation Wells 1 and 2 located at TNCN. At this time, NJAW does not have the necessary approvals to operate Well 1 at SRTP as a recharge well. Therefore, an interim base allocation lease from wells located at SRTP to TNCN Irrigation Wells 1 and 2 has been requested by NJAW until such time as the necessary approvals are obtained for the recharge operation.
3. NJAW has demonstrated that a base allocation lease of 15 MGY to TNCN meets the criteria established in N.J.A.C. 7:19-8.7 et. seq. The diversion is from the same aquifer; the diversion being leased is from an area of lower potentiometric surface to an area of higher potentiometric surface; and the diversion will be leased to a location that is further from the salt front.
4. For the 2016 diversion year, TNCN has requested, and NJAW has agreed to contract for the transfer of 11.95 MGY of UPRM base allocation. NJAW will lease a minimum of 15 MGY of UPRM base allocation for 2017.

NJAW has a base allocation of 294.62 MGY and has sufficient unused allocation to supply TNCN with the requested base allocation lease for 2016 and a minimum of 15 MGY for 2017 as outlined in the December 16th letter. As mentioned in FOF # 3 above, the request meets the regulatory criteria for a base allocation transfer.

Staff Analysis

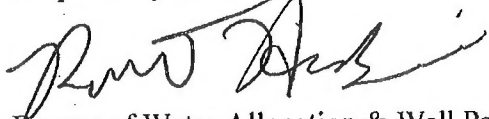
1. The Bureau determined that the recharge of water at the SRTP and recovery of the water at TNCN's irrigation wells can be permitted in this instance because SRTP Well 1 is constructed in the same formation as the TNCN irrigation wells in accordance with N.J.A.C. 7:19-8.3(i)5. In addition, the projected capture zone of the wells operated by TNCN have the potential to intercept the recharge at the SRTP. NJAW must obtain all necessary approvals to operate the recharge well.
2. The Bureau concurs that a base allocation lease meets the criteria identified in N.J.A.C. 7:19-8.7.
3. The Agreement is effective for a 5-year period, but is considered a year to year contract because TNCN is able to increase or decrease the leased volume provided the request is not below the minimum purchase requirement of 15 MGY. Modification of this permit is required should TNCN increase the base allocation lease volume from the minimum purchase requirement of 15 MGY agreed to for 2017, for approval to operate Well 1 as a recharge well, or to specify the volume of base allocation leased beyond 2017.
4. NJAW should be required to notify the Bureau prior to October 1st of each year of the TNCN contractual purchase amount for the following year and/or a request for additional water for the current year as a base allocation lease. The Department, at its discretion, may approve or deny requests for additional purchase requests made for the current irrigation season.

5. Once the necessary approvals are received for the operation of SRTP Well 1 as a recharge source, NJAW should notify the Bureau of Water Allocation and Well Permitting to modify the permit to include the aquifer recharge designation and operating conditions.
6. Upon termination or expiration of the Agreement, any base allocation volumes leased will revert back to NJAW.
7. This minor permit modification should be issued with an initial, interim, and final phase. The initial phase will reduce the UPRM annual diversion limit by 11.95 MGY (from 294.62 MGY to 282.67 MGY) to reflect the lease of this base allocation from NJAW SRTP Wells to TNCN Irrigation Wells 1 and 2. The initial phase will expire on December 31, 2016. The interim phase will include the provisions that allow for the diversion of 93 MGM with no annual limit from the UPRM aquifer during times when Monmouth County and/or the State of New Jersey is in a declared Drought Emergency. The final phase will become effective on January 1, 2017 and will reduce the UPRM annual base allocation by 15 MGY (294.62 MGY to 279.62 MGY) as contractually agreed to be leased from NJAW SRTP Wells to TNCN Irrigation Wells 1 and 2 for 2017.
8. Additional modifications may be necessary to reflect base allocation lease amounts after December 31, 2017.

Recommendations

It is recommended that the permit be issued with the current expiration date of December 31, 2020, the changes noted above, and subject to the attached specific conditions:

Respectfully submitted,


Bureau of Water Allocation & Well Permitting

Y66 12/27/16
12/27/16 My TP
12/28/16

EXHIBIT B



SOURCE: GOOGLE MAPS – MIDDLETOWN, NEW JERSEY

Location: Latitude - 40°19'05.8"N 74°07'46.6"W



**303 West Main Street
Freehold, NJ 07728**

LOCATION MAP
SCALE: NOT TO SCALE

**Replacement of Bridge A-38
Phalanx Road over Swimming River Reservoir
Township of Middletown and Township of Colts
Neck
Monmouth County, New Jersey**

EXHIBIT C

TREE EVALUATION REPORT
FOR THE
REPLACEMENT OF COUNTY BRIDGE NO. A-38, PHALANX ROAD CR 54
OVER SWIMMING RIVER RESERVOIR
MONMOUTH COUNTY, NJ

Department of Public Works and Engineering, Shade Tree Division

01-10-2024



Prepared By:

Shawn R. Heslin, LPE

Shawn R. Heslin, LPE#700, License No. 834076

Monmouth County Board of County Commissioners

DEPARTMENT OF PUBLIC WORKS & ENGINEERING

JOHN W. TOBIA

Director

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Gary Fread

Superintendent

Divisions of Highway/Shade Tree

Email: Gary.Fread@co.monmouth.nj.us

250 Center Street
Freehold, New Jersey 07728
Telephone: (732) 431-6550
Fax: (732) 431-7833

Site Location: Monmouth County Route 54 (Phalanx Road) and Bridge A-38
Township of Colts Neck and Lincroft section within the Township of Middletown

Scope of Work:

Survey the deciduous and coniferous trees (greater than 6"DBH) starting in the Township of Colts Neck in the southwestern most part of the site, then traversing north along the eastern side of CR 54 Phalanx Road, across Bridge A-38 ending in the Lincroft section within the Township of Middletown. The lands in question are embankments owned by American Water Company as part of the Swimming River Reservoir, which are adjacent to the Monmouth County Right-of-Way and Bridge A-38. Trees shall be assessed by a New Jersey Licensed Tree Expert with an ISA Tree Risk Assessment Qualification. If cavities are present and/or suspected, the tree(s) in question may be sounded by use of mallet and/or measured by use of a probe.

The general condition of the trees shall be evaluated which will exceed that of a level one but will not meet the qualifications of a level two Basic Tree Risk Assessment, as per the International Society of Arboriculture. A level two risk assessment, including risk mitigation recommendations, would be moot as the trees are proposed to be removed. Furthermore, the overall health of a tree may or may not be directly correlated to their level of risk, which may be misleading for the purposes of this exercise.

All trees are to be tagged with a round brass numbered tag to coincide with the attached plan. Please refer to said plan for tree locations.

Observations:

A total of 74 trees were identified for this survey, of which 13 were determined to be dead and an additional 4 were less than the required six-inch diameter measured at breast height (DBH). The aforementioned trees shall be noted in the list of field observations, located in error, but should not be taken into consideration, nor shall they be included in any computations.

The site consists primarily of wooded roadway embankment which has been stunted by utility maintenance, bore infestations, invasive species, and an eroding soil condition. The dominant deciduous tree species are Black Locust, Green Ash and Red Maple. The only coniferous tree identified in this study was the Eastern Red Cedar. Invasive species are abundant, including but not limited to Callery Pear, Japanese Tree-of-Heaven,

Japanese Flowering Crabapple, Multiflora Rose, Oriental Bittersweet and Japanese Honeysuckle. Native species present which appear to be in thriving are Red Maple, Butternut, Eastern Red Cedar, and Northern Bayberry.

Discussion & Recommendations:

Special attention should be paid by the American Water Company to the trees located in the southwestern most part of the site as they have many structural defects. While the area is not open for public access, it would appear the area may be frequented by trespassers. It would be advisable that these concerns be addressed, and/or the section of chain-link fencing downed, be repaired as soon as possible, regardless of the outcome of this proposal.

The site in question is not desirable from multiple perspectives and the proposal offered, should be viewed as an opportunity to make improvements, not only in county infrastructure but to that of the American Water Company and the community at large. Planning for a more stable embankment with suitable vegetation, given a chance to thrive, will create better habitat and aesthetics. Relocating the overhead utilities to the western side of the road and bridge will prevent the continued damage from line clearance and allow the trees to grow and mature.

The removal of invasive species, especially invasive exotics are paramount to the success of the future landscape of this site. The presence of Callery Pear, Japanese Tree-of-Heaven, Japanese Flowering Crabapple is a threat to the diversity of the adjacent woodlands and should be viewed as such.

New Jersey is not part of Black Locust's native range but it has naturalized and is often seen in early successional forests till it is shaded out by more dominant species. Being a legume, it can fix nitrogen making it quite suitable on eroded sites, so much that it is often considered invasive. The locusts on this site are not thriving, only one is in fair condition while the others are either poor or dead. The black locusts on this site appear to be more of a liability than an asset and should not be considered for the future of this site.

Due to the introduction of the Emerald Ash Borer (EAB) our once beloved native ash trees are no longer considered to be an asset. The structural integrity of an infected ash is severely diminished in a very short time. Our policy at the county is to remove and destroy any ash on-site, suspected of being infested with EAB. Despite being one of the dominant trees on site, only four Ash are still alive and several telltale signs of EAB have been observed. It is our suggestion that no ash on this site should be considered suitable and should be destroyed, as soon as possible.

Future plantings should include natives currently found on-site and a reintroduction of others which are suitable. It would be advisable to provide credit for understory trees and shrubs in lieu of trees removed to help discourage the growth of invasives.

CR 54 & A-38 Improvement - Field Observations

Tag	Botanical Name	Common Name	Multi	DBH	Cond.	Date	Comments
1	<i>Robinia pseudoacacia</i>	Black Locust	yes	13/10 "	Fair	1/3/24	Codominant stem, declining, invasive
2	<i>Robinia pseudoacacia</i>	Black Locust	no	6 "	DEAD	1/3/24	Removal required
3	<i>Robinia pseudoacacia</i>	Black Locust	yes	11/3 "	DEAD	1/3/24	Removal required
4	<i>Fraxinus pennsylvanica</i>	Green Ash	yes	5/3 "	DEAD	1/3/24	Removal required
5	<i>Fraxinus pennsylvanica</i>	Green Ash	no	8 "	DEAD	1/3/24	Removal required
6	<i>Acer rubrum</i>	Red Maple	no	11 "	Poor	1/3/24	Struct. crown/trunk defects, 50% DB
7	<i>Acer rubrum</i>	Red Maple	yes	8/4 "	Good	1/3/24	Codominant stem
8	<i>Robinia pseudoacacia</i>	Black Locust	no	7 "	Poor	1/3/24	Struct. crown/trunk defects, 50% DB, invasive
9	<i>Robinia pseudoacacia</i>	Black Locust	no	< 6 "	Poor	1/3/24	Struct. crown/trunk defects, 50% DB, RC buried
10	<i>Robinia pseudoacacia</i>	Black Locust	yes	< 6 "	Fair	1/3/24	Uncorrected 30° lean, RC part submerged, invasive
11	<i>Acer rubrum</i>	Red Maple	no	18 "	Good	1/3/24	Root crown partially submerged
12	<i>Sassafras albidum</i>	Sassafras	no	6 "	DEAD	1/3/24	Removal required
13	<i>Pyrus calleryana</i>	Callery pear	yes	6/6 "	Good	1/3/24	Invasive exotic
14	<i>Acer rubrum</i>	Red Maple	no	11 "	Fair	1/3/24	Codom. stem w/ included bark
15	<i>Robinia pseudoacacia</i>	Black Locust	yes	6 "	DEAD	1/3/24	Removal required
16	<i>Fraxinus pennsylvanica</i>	Green Ash	no	6 "	DEAD	1/3/24	Removal required
17	<i>Acer rubrum</i>	Red Maple	no	10 "	Good	1/3/24	Crown req. cleaning
18	Unknown	-	no	6 "	DEAD	1/3/24	Unable to ID, no bark, removal required
19	<i>Fraxinus pennsylvanica</i>	Green Ash	no	6 "	Poor	1/3/24	Struct. trunk defects, borer & fungal infest.
20	<i>Fraxinus pennsylvanica</i>	Green Ash	no	6 "	Poor	1/3/24	UC 20° lean, struct. trunk defects, borer infest.
21	<i>Robinia pseudoacacia</i>	Black Locust	no	8 "	DEAD	1/3/24	Removal required
22	<i>Fraxinus pennsylvanica</i>	Green Ash	no	15 "	DEAD	1/3/24	Removal required
23	<i>Robinia pseudoacacia</i>	Black Locust	no	6 "	DEAD	1/3/24	Removal required
24	<i>Malus floribunda</i>	Crabapple Sp.	yes	8/6 "	Poor	1/3/24	Struct. crown & trunk defects, including cavities
25	<i>Robinia pseudoacacia</i>	Black Locust	no	8 "	DEAD	1/3/24	Removal required
26	<i>Fraxinus pennsylvanica</i>	Green Ash	no	7 "	DEAD	1/3/24	Removal required
27	<i>Robinia pseudoacacia</i>	Black Locust	no	16 "	Poor	1/3/24	Struct. crown & trunk defects, including cavities
28	<i>Pyrus calleryana</i>	Callery pear	no	< 6 "	Good	1/3/24	Invasive exotic
29	<i>Robinia pseudoacacia</i>	Black Locust	no	14 "	Poor	1/3/24	Struct. crown & trunk defects, decay at codom.
30	<i>Fraxinus pennsylvanica</i>	Green Ash	no	< 6 "	Poor	1/3/24	Struct. crown & trunk defects, borer damage
31	<i>Malus floribunda</i>	Crabapple Sp.	no	6 "	Poor	1/3/24	Struct. crown defects, 30% dieback
32	<i>Robinia pseudoacacia</i>	Black Locust	yes	11/10 "	Poor	1/3/24	Struct. crown & trunk defects, decay at codom.
33	<i>Fraxinus pennsylvanica</i>	Green Ash	no	6 "	DEAD	1/3/24	Removal required
34	<i>Fraxinus pennsylvanica</i>	Green Ash	no	10 "	DEAD	1/4/24	Removal required
35	<i>Fraxinus pennsylvanica</i>	Green Ash	no	8 "	DEAD	1/4/24	Removal required
36	<i>Quercus marilandica</i>	Blackjack Oak	yes	8/3/4 "	Poor	1/4/24	Struct. crown & trunk defects, fungi & borers
37	<i>Juniperus virginiana</i>	E. Red Cedar	no	6 "	Fair	1/4/24	Previously topped for line clearance

CR 54 & A-38 Improvement - Field Observations (Continued)

Tag	Botanical Name	Common Name	Multi	DBH	Cond.	Date	Comments
38	<i>Juniperus virginiana</i>	E. Red Cedar	yes	6/4 "	Good	1/4/24	Codominant stem
39	<i>Acer rubrum</i>	Red Maple	yes	11/8 "	Poor	1/4/24	Previously topped for line clearance
40	<i>Juniperus virginiana</i>	E. Red Cedar	no	9 "	Good	1/4/24	Potential conflict with overhead wires
41	<i>Juniperus virginiana</i>	E. Red Cedar	no	10 "	Good	1/4/24	Potential conflict with overhead wires
42	<i>Juniperus virginiana</i>	E. Red Cedar	no	8 "	Good	1/4/24	Corrected 90° lean, RC partially submerged
43	<i>Fraxinus pennsylvanica</i>	Green Ash	no	7 "	Poor	1/4/24	Struct. crown & trunk defects, EAB, top 1/2 dead
44	<i>Robinia pseudoacacia</i>	Black Locust	no	10 "	Poor	1/4/24	Struct. crown & trunk defects, topped, 30% cavity
45	<i>Acer rubrum</i>	Red Maple	no	10 "	Good	1/4/24	Crown req. cleaning
46	<i>Robinia pseudoacacia</i>	Black Locust	no	8 "	Poor	1/4/24	Struct. crown & trunk defects, adv. fungal decay
47	<i>Acer rubrum</i>	Red Maple	no	13 "	Fair	1/4/24	Previously topped for line clearance
48	<i>Acer rubrum</i>	Red Maple	no	14 "	Good	1/4/24	Potential conflict with overhead wires
49	<i>Acer rubrum</i>	Red Maple	yes	8/14 "	Fair	1/4/24	Codominant stem w/ weak attachment
50	<i>Juniperus virginiana</i>	E. Red Cedar	no	9 "	Good	1/4/24	Potential conflict with overhead wires
51	<i>Robinia pseudoacacia</i>	Black Locust	no	10 "	Poor	1/4/24	Struct. crown & trunk defects, cavity w/ adv. decay
52	<i>Juniperus virginiana</i>	E. Red Cedar	no	6 "	Good	1/4/24	Potential conflict with overhead wires
53	<i>Robinia pseudoacacia</i>	Black Locust	no	10 "	Poor	1/4/24	Struct. trunk defects, topped, adv. fungal decay
54	<i>Fraxinus pennsylvanica</i>	Green Ash	no	6 "	Poor	1/4/24	Struct. crown & trunk defects, fungi & borers
55	<i>Robinia pseudoacacia</i>	Black Locust	no	9 "	Poor	1/4/24	Struct. crown & trunk defects, adv. fungal decay
56	<i>Robinia pseudoacacia</i>	Black Locust	no	9 "	Poor	1/4/24	Struct. crown & trunk defects, adv. fungal decay
57	<i>Acer rubrum</i>	Red Maple	yes	18/10/12 "	Good	1/4/24	Codominant stems w/ weak attachments
58	<i>Acer rubrum</i>	Red Maple	yes	11/11 "	Poor	1/4/24	Codominant stems, 1 dead, + large decaying wound
59	<i>Prunus serotina</i>	Black Cherry	yes	10/8 "	Poor	1/4/24	Codominant stems w/ incl. bark & weak attach.
60	<i>Juniperus virginiana</i>	E. Red Cedar	yes	7/4 "	Good	1/4/24	Potential conflict with overhead wires
61	<i>Acer rubrum</i>	Red Maple	yes	18/6 "	Good	1/8/24	Codominant stems, crown req. cleaning
62	<i>Robinia pseudoacacia</i>	Black Locust	no	6 "	Poor	1/8/24	Struct. crown & trunk defects, adv. fungal decay
63	<i>Celtis occidentalis</i>	Hackberry	no	7 "	Poor	1/8/24	Struct. crown & trunk defects, adv. fungal decay
64	<i>Juniperus virginiana</i>	E. Red Cedar	no	8 "	Good	1/8/24	Potential conflict with overhead wires
65	<i>Juglans cinerea</i>	Butternut	no	10 "	Fair	1/8/24	Unbalanced crown from utility pruning
66	<i>Juglans cinerea</i>	Butternut	no	8 "	Fair	1/8/24	Unbalanced crown from utility pruning
67	<i>Allanthus altissima</i>	Tree-of-Heaven	no	7 "	Poor	1/8/24	Struct. crown & trunk defects, invasive exotic
68	<i>Quercus hybrida</i>	Hybrid Oak	no	10/10 "	Fair	1/8/24	Codominant stems
69	<i>Juglans cinerea</i>	Butternut	no	7 "	Good	1/8/24	Crown req. cleaning
70	<i>Quercus stellata</i>	Post Oak	no	10 "	Poor	1/8/24	Struct. crown & trunk defects, adv. fungal decay
71	<i>Juglans cinerea</i>	Butternut	no	7 "	Poor	1/8/24	Heavily pruned by overhead utilities
72	<i>Juglans cinerea</i>	Butternut	no	8 "	Good	1/8/24	Potential conflict with overhead wires
73	<i>Robinia pseudoacacia</i>	Black Locust	no	9 "	Poor	1/8/24	Struct. crown & trunk defects, adv. fungal decay
74	<i>Fagus grandifolia</i>	American Beech	yes	15/9 "	Poor	1/8/24	Struct. crown & trunk defects, adv. fungal decay

Tree Identification:

The genus identification should be accurate, but the species may not. Tree identification when dormant becomes more difficult when some identifying features are not expressed. For example, the dendrology of oaks is further complicated by their tendency to naturally hybridize with one another. The hybrids themselves can cross pollinate and can create further identification difficulties. When the oaks leaf-out they may express features which contradict the species listed. This may be modified in future inspections but should be accurate enough for the purposes of this assessment.

General Assessment Notes:

The information provided is based upon the conditions present at the time of the inspection. Risks may be present that are not identifiable during inspection. There is an inherent risk in every tree; however, the risks are often outweighed by the tree's many benefits. The cost of mitigation will typically be a worthy investment because of the value provided by the tree(s).

While information about a given tree's health may be noted, the overall health of a tree may or may not be directly correlated to their risk. A healthy tree may be at a high risk, if not mitigated, while a tree in decline may be at a lower risk of failure.

The assessment is provided to inform the management of the tree risks observed during inspection but does not dictate how it must be mitigated. Those decisions must be made by the manager(s) of the trees based upon their own determinations and allocation of resources. Please feel free to contact our office if there are any further questions or concerns.

EXHIBIT D

Permit Compliance Document

Introduction

The applicant, Monmouth County Engineering, is proposing to replace Monmouth County Bridge A-38 carrying Phalanx Road (CR 522) over the Swimming River Reservoir in the Townships of Colts Neck and Middletown, Monmouth County, New Jersey. The proposed project is being undertaken to address structural and safety deficiencies with the existing bridge and roadway as determined through engineering analyses and field inspections. The extent of the roadwork will be limited to that which is necessary for replacement of the structure. The proposed construction activities include roadway realignment, regrading, removal of piers, replacement of the existing three-span bridge with a single-span structure, installation of a sidewalk, guiderail and utility poles.

The project will require a New Jersey Department of Environmental Protection (NJDEP) Freshwater Wetlands General Permit 10B (FWW GP-10B), Freshwater Wetlands General Permit 21 (FWW GP-21) and a Flood Hazard Area General Permit 10 (FHA GP-10) as a result of proposed impacts to regulated resources within the project area. Accordingly, this compliance statement addresses all required information set forth in the NJDEP Freshwater Wetlands Protection Act Rules (N.J.A.C. 7:7A) and Flood Hazard Area Control Act Rules (N.J.A.C. 7:13).

Project Description

The proposed project includes the replacement of the existing superstructure of the A-38 Bridge carrying Phalanx Road over the Swimming River Reservoir. The proposed bridge replacement will eliminate the current S-curve at the western approach to the bridge and will replace it with a single curve that is more appropriate for the design speed of 45 MPH. A significant portion of the proposed single curve alignment will extend over the reservoir. The proposed bridge will also fall entirely within the single curve.

The existing bridge consists of 3 spans and has 2 piers within the reservoir. The proposed bridge will eliminate these piers and replace the structure with a single span bridge approximately in the same location as the existing bridge, but shifted slightly northwest to accommodate the proposed alignment. Eliminating the piers in the reservoir will decrease the potential for scour and remove obstructions from the waterway that could catch debris.

The proposed bridge will have a span length of 117'-2". The proposed girders are 69.5" deep prestressed concrete bulb-tee beams. These beams provide an increase in the structure height of about 4.5'. Raising the roadway allows the project to minimize impacts on environmental resources and the adjacent properties. To limit the impacts of raising the roadway on the embankments across the reservoir, sheeting is proposed. The sheeting allows for the existing embankments to remain largely undisturbed while the roadway is lifted.

Additionally, the project will mill and overlay the existing roadway approaches to remain, realign and regrade the existing roadway approach to remove the s-curve, install a sidewalk, guiderail and utility poles.

Existing Conditions

Bridge A-38 is located in the Townships of Colts Neck and Middletown within predominately residential and agricultural sections of land use. Within the project area, Bridge A-38 carries Phalanx Road over the Swimming River Reservoir, which flows west to east and is dammed at the confluence with the Navesink River. Phalanx Road is classified as an Urban Collector, with a posted speed limit of 40 MPH. The road carries 2 lanes of traffic in each direction (east-west). Traffic volume taken south of the intersection of Phalanx Road and Campus drive range from 4256 to 8067. At the west approach to the bridge, there is an existing substandard reverse curve with an advisory posting of 35 MPH. Bridge A-38 is a three-span structure consisting of adjacent prestressed beams with bituminous wearing surface supported on 2 concrete pile bent piers and stub abutments. The total existing length is 119'-4" and each span is 38'-0" center to center of bearings. The structure is not on a skew. The existing curb to curb width is 30 feet, with 3'-8" sidewalk on the north side and 1-foot-wide parapet consisting of concrete vertical wall with 2 bar aluminum railing. The south side has similar parapet but only 8" wide curb. The US Survey Feet State Plan Coordinates for the center of the bridge are 74.1296383°W and 40.3183021°N.

Wetlands and Waterways

Bridge A-38 is located over the Swimming River Reservoir. The NJDEP Surface Water Quality Standards (N.J.A.C. 7:9B) designation is a Fresh Water-Non Trout/Category (FW2-NTC1) water. A wetlands delineation was performed by Colliers Engineering & Design on January 30, 2023. Forested wetlands were identified in the northwestern and northeastern quadrants adjacent to the roadway and banks of the reservoir. As a result of the Category 1 designation, the stream has a 300-foot riparian zone buffer. In addition, the wetlands are classified as exceptional resource value wetlands due to the potential presence of threatened and/or endangered species and will therefore have a 150-foot wetland transition area. Potential impacts to regulated resources are a result of guiderail installation and grading to facilitate the new structure, sidewalk and roadway alignment within the wetland transition area and riparian zone; and removal of the existing structure and piers and installation of the new single-span structure over a State open water. No impacts to wetlands are anticipated due to project activities.

Historic, Cultural, and Archaeological Resources

The project area lies within identified archaeological site grid ES144. Additionally, the project is located adjacent to the Historic Property 769 Newman Springs Road (Brookdale Community College) which is individually identified by the NJ SHPO. The project is also lies within mapped historic fill. A Phase 1A archaeological survey and intensive architectural survey is being submitted with this application by Hunter Research, Inc. A copy of the report is included in Attachment 10 for your reference.

Threatened and Endangered Species Habitat

The project area was reviewed for rare wildlife species or wildlife habitat by the NJ Natural Heritage Database and Landscape Project (Version 3.3) and an NJDEP Natural Heritage Program (NHP) data request was submitted to identify any records of rare species or their habitat on or within one mile of the proposed project. Correspondence dated November 25, 2023 identified species of Special Concern within the project area and within the vicinity of the project area including nesting and foraging habitat for bald eagle (*Haliaeetus leucocephalus*, State endangered), foraging habitat for common tern (*Sterna hirundo*, special concern), and foraging habitat for osprey (*Pandion haliaetus*, State threatened).

Environmental Impacts Summary

Impacts to environmental resources were minimized to the greatest extent possible. However, due to the nature of the project, all impacts could not be avoided. As a result, the project proposed minimal impacts to freshwater wetland transition areas, State open water, and riparian zones. Below is a summary of the proposed project impacts:

Table 1 Project Impacts

Proposed Regulated Activity	Proposed Impact (Acres)	Proposed Impact (Square Feet)
State open water – Permanent	0.188	8,210.27
State open water – Temporary	0.032	1,382.27
Wetland transition area	0.045	1,941
Total	0.088	11,533.54
Riparian Zone – Actively Disturbed	0.367	16,378
Riparian Zone – Herbaceous/Shrub	0.607	26,426
Total	0.983	42,804

Freshwater Wetlands (N.J.A.C. 7:7A-7.10B)– General Permit 10B –Minor Road Crossings

(a) General permit 10B authorizes the following activities in freshwater wetlands, transition areas, and/or State open waters:

- 1. Construction of one or more new road crossings necessary to gain access to an otherwise inaccessible, developable, upland site, including attendant features such as shoulders, sidewalks and embankments;*
- 2. Expansion, widening, or upgrading of one or more existing paved or unpaved roads, including attendant features such as shoulders, sidewalks and embankments; and*
- 3. Activities necessary to reduce horizontal curves in an existing paved road to comply with New Jersey Department of Transportation safety regulations.*

The project proposes to upgrade an existing paved road crossing and structure to comply with NJDOT safety regulations.

(b) The Department shall issue a general permit 10B authorization only if all applicable requirements at N.J.A.C. 7:7A-5.7 and 20.3 are met and:

- 1. The applicant demonstrates in accordance with (d) below that there is no alternative onsite location and/or configuration for the road crossing that would provide access to the developable upland with less adverse environmental impact; and*
- 2. The total area of freshwater wetlands, transition areas, and/or State open waters disturbed under general permit 10B shall not exceed one-quarter of an acre.*

Due to the nature of the proposed project and the location of the existing structure, there is no alternative onsite location and/or configuration with less environmental impacts that would meet the project's purpose and need. The realignment of the roadway is required to eliminate the s-curve to bring the crossing up to current standards and address safety concerns. The only way to accomplish this is to shift the alignment of the structure and approach roadways. Since the existing superstructure is being replaced, there is no alternative that would minimize impacts to State open water. A no-build alternative would not address structure and safety deficiencies. Therefore, impacts to State open water and wetland transition areas have been minimized to the maximum extent practicable while still satisfying the project's purpose and need. Total disturbance to freshwater wetlands, transition areas, and State open waters are 0.233 acres which is less than the one quarter of an acre threshold. Shading impacts due to the project activities in the amount of 0.045 acres were excluded from this calculation since no disturbance is proposed as a result of these impacts.

The applicable requirements in N.J.A.C. 7:7A and 20.3 will be met.

(c) Activities under general permit 10B shall minimize environmental impact as follows:

1. *The applicant shall design the crossing to ensure that fish passage is unimpeded during times when the water level is at its lowest, unless the applicant demonstrates that the water body is unsuitable for habitation by fish and will remain so for the foreseeable future. The applicant shall ensure fish passage by maintaining the existing gradient and bottom contours of the water body to the extent possible, and by using arches, culverts, or other structures that will ensure fish passage;*

The project is proposing to remove the existing three-span structure and piers and replace it with a single-span structure, creating less obstruction within the waterway. This will ensure fish passage is unimpeded when the water level is at its lowest. The existing gradient and bottom contours of the water body will be preserved.

2. *The applicant shall install cross drains or other devices to ensure that the crossing does not alter the hydrology of the freshwater wetlands and/or State open waters on either side of the crossing;*

The proposed activities will replace the existing structure and approach. The crossing will not alter the hydrology of freshwater wetland or State open waters on either side of the crossing.

3. *The amount of rip-rap or other energy dissipating material used shall be the minimum necessary to prevent erosion, and shall not exceed 200 cubic yards of fill below the top of bank or high water mark, unless a larger amount is required in order to comply with the Standards for Soil Erosion and Sediment Control in New Jersey at N.J.A.C. 2:90; and*

The amount of riprap used will be the minimum amount necessary to prevent erosion. As currently proposed, the project will result in 1,338 SF of rip-rap (0.031 acres).

4. *The cartway, shoulder, and side slopes of the roadway shall be the minimum necessary for the crossing and shall not exceed the limits in the New Jersey Department of Community Affairs' Residential Site Improvement Standards at N.J.A.C. 5:21. If the project is not a residential development, the cartway, shoulder, and side slopes of the roadway shall be the minimum necessary for safety.*

The cartway, shoulder, and side slopes of the roadway will be the minimum necessary for the crossing and shall not exceed the standards at N.J.A.C. 5:21. The project is not a residential development.

(d) In evaluating whether there is an alternative onsite location and/or configuration for a road crossing under (b)1 above, the Department shall make the presumptions at (d)1 through 5 below. However, these presumptions may be rebutted based on site-specific or unusual circumstances:

1. *Disturbance of a non-transition area upland would have less adverse environmental impact than disturbance of a transition area, State open water or freshwater wetland;*
2. *Disturbance of a transition area would have less adverse environmental impact than disturbance of a freshwater wetland or State open water;*

3. *Disturbance of a freshwater wetland would have less adverse environmental impact than disturbance of a State open water;*
4. *Expansion or upgrading of an existing and currently serviceable drive or crossing would have less adverse environmental impact than placement of a new crossing; and*
5. *Placement of a new crossing in an area that is already significantly disturbed would have less adverse environmental impact than disturbance of a previously undisturbed wetland and/or State open water.*

The structure is being replaced in generally the same location as the existing structure. As a result, the location of the replacement is restricted to the existing area, which is over a State open water and within wetland transition areas. There is no alternative that would have less environmental impacts to regulated resources within the project area that satisfies the project's purpose and need.

- (e) *Mitigation shall be performed for all permanent loss and/or disturbance of 0.1 acres or greater of freshwater wetlands or State open waters. Mitigation shall be performed for permanent loss and/or disturbance of less than 0.1 acres of freshwater wetlands or State open waters unless the applicant demonstrates to the Department that all activities have been designed to avoid and minimize impacts to wetlands. For purposes of this subsection, "minimize" means that the project is configured so that most or all of it is contained in the uplands on the site, and that the wetlands are avoided to the greatest extent possible. An applicant is not required to reduce the scope of the project or to consider offsite alternatives to comply with this requirement.*
1. *The mitigation shall meet the substantive and procedural requirements at N.J.A.C. 7:7A11 and shall be submitted to the Department for review and approval no later than 90- calendar days prior to the initiation of regulated activities authorized by this general permit.*

As proposed, the total permanent loss of State open waters is 0.188 acres. This area includes the sections of the roadway that will be on new alignment. Impacts as a result of shading of the new structure are considered temporary and not included in this calculation. Therefore, mitigation is not anticipated to be required due to project activities.

Freshwater Wetlands (N.J.A.C. 7:7A-7.21)– General Permit 21 – Above Ground Utilities

- (a) *General permit 21 authorizes the following activities in freshwater wetlands, transition areas, and/or State open waters necessary for the construction of an above ground utility line:*
1. *Installation of poles, towers, or other supports from which to suspend a pipe, wire or cable;*
 2. *Construction of a pad mounted transformer;*
 3. *Placement of an above ground pipe, wire or cable;*
 4. *Clearing of vegetation under and around utility lines, within the limits at (b) below; and*
 5. *Minor, temporary disturbances, necessary for access during construction.;*

The project proposes to install utility poles to suspend wire. Vegetation will be cleared under and around utility lines within the limits of (b) below.

(b) Activities under general permit 21 shall comply with the applicable requirements at N.J.A.C. 7:7A-5.7 and 20.3 and the following limits:

- 1. Temporary disturbance of freshwater wetlands, transition areas, and/or State open waters during construction shall be no more than 60 feet wide, including vegetative clearing and disturbance for access under (a)5 above; and*
- 2. Permanent disturbance of freshwater wetlands, transition areas, and/or State open waters, including the area of vegetative clearing to be maintained underneath the utility line shall be no greater than 0.5 acre and no wider than 20 feet, unless the applicant demonstrates that a wider disturbance is necessary to comply with applicable laws or regulations. For the purposes of this paragraph, installation of a utility line in scrub shrub or emergent wetlands shall not be considered permanent disturbance.*

No temporary disturbance is proposed due to project activities regulated under GP-21. Permanent disturbance proposed due to project activities regulated under GP-21 is 0.001 acres, which is less than the 0.5 acre threshold and will be no wider than 20 feet.

(c) Activities under general permit 21 shall not interfere with the natural hydrologic characteristics of the wetland, transition area, or State open water. The applicant shall place the utility line on pilings if necessary, in order to satisfy this condition.

The installation of the utility polls will not interfere with the natural hydrologic characteristics of wetlands, transition areas, or the State open water.

(d) After the utility line is constructed, any freshwater wetlands, transition areas, or State open waters disturbed, which are not within the cleared area to be maintained under (b)2 above, shall be allowed to revert to their natural condition.

After the utility line is construction, the freshwater wetland transition areas and State open waters disturbed, which are not within the cleared area to be maintained under (b)2 above, will be allowed to revert to their natural condition.

(e) Mitigation shall be performed for all permanent loss and/or disturbance of 0.1 acres or greater of freshwater wetlands or State open waters. Mitigation shall be performed for permanent loss and/or disturbance of less than 0.1 acres of freshwater wetlands or State open waters unless the applicant demonstrates to the Department that all activities have been designed to avoid and minimize impacts to wetlands. For purposes of this subsection, "minimize" means that the project is configured so that most or all of it is contained in the uplands on the site, and that the wetlands are avoided to the greatest extent possible. An applicant is not required to reduce the scope of the project or to consider offsite alternatives to comply with this requirement.

1. *The mitigation shall meet the substantive and procedural requirements at N.J.A.C. 7:7A11 and shall be submitted to the Department for review and approval no later than 90- calendar days prior to the initiation of regulated activities authorized by this general permit.*

As proposed, the total permanent loss of State open waters is 0.188 acres. Therefore, mitigation is not anticipated to be required due to project activities.

A list of all limits and requirements at N.J.A.C 7:7A-5.7, Conditions applicable to an authorization pursuant to a general permit-by-certificate or general permit, that apply to the proposed activities and an explanation of how the activities comply with each requirement.

- A. *Activities performed under a general permit shall be associated with a proposed project. The Department shall not authorize activities under a general permit for the purpose of eliminating a natural resource in order to avoid regulation.*

This permit application is to obtain a Freshwater Wetland General Permit 10B (Minor Road Crossing) for activities related to a bridge replacement and a General Permit 21 for utility poll installation. While partial impacts to resources are proposed, the resources will remain.

- B. *The regulated activities shall not occur in the proximity of a public water supply intake.*

The bridge replacement project will not occur in the proximity of a public water supply intake.

- C. *The activities 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.*

The project area was reviewed for rare wildlife species or wildlife habitat by the NJ Natural Heritage Database and Landscape Project (Version 3.3) and an NJDEP Natural Heritage Program (NHP) data request was submitted to identify any records of rare species or their habitat on or within one mile of the proposed project. Correspondence dated November 25, 2023 identified species of Special Concern within the project area and within the vicinity of the project area including nesting and foraging habitat for bald eagle (*Haliaeetus leucocephalus*, State endangered), foraging habitat for common tern (*Sterna hirundo*, special concern), and foraging habitat for osprey (*Pandion haliaetus*, State threatened).

No impacts are anticipated to threatened or endangered species as a result of the proposed project due to the existing disturbed nature of the project area. No wildlife species crossings are required to be attached under the new bridge.

- D. *The activities will not occur in a component of either the Federal or State Wild and Scenic River System; nor in a river officially designated by Congress or the State Legislature as a "study River" for possible inclusion in either system while the river is in an official study status.*

Per the National Wild and Scenic Rivers System and NJDEP Land Resource Protection Web Application, the Swimming River Reservoir is not listed as a National Wild and Scenic River, nor a river officially designated as a study river.

- E. The activities shall not adversely affect properties which are listed or are eligible for listing on the New Jersey or National Register of Historic Places unless the applicant demonstrates to the Department that the proposed activity avoids or minimizes impacts to the maximum extent practicable.*

The project area lies within identified archaeological site grid ES144. Additionally, the project is located adjacent to the Historic Property 769 Newman Springs Road (Brookdale Community College) which is individually identified by the NJ SHPO. The project is also lies within mapped historic fill. Coordination with the NJ SHPO is being submitted concurrently with this application by Hunter Research, Inc. A Phase 1A archaeological survey and intensive architectural survey is being submitted with this application by Hunter Research, Inc. A copy of the report is included in Attachment 10 for your reference. However, it is not anticipated that project impacts will adversely affect properties which are listed or are eligible for listing on the New Jersey or National Register of Historic Places.

- F. Any discharge of dredged or fill material shall consist of clean, suitable material free from toxic pollutants (see 40 CFR 401) in toxic amounts and shall comply with all applicable Department rules regarding use of dredged or fill material.*

All dredged or fill material will consist of clean, suitable material free from toxic pollutants in toxic amounts and will comply with all applicable Department rules regarding use of dredged or fill material.

- G. Any structure or fill authorized shall be maintained as specified in the construction plans.*

The replaced structure will be maintained as specified in the construction plans.

- H. The activities will not result in a violation of the Flood Hazard Area Control Act, N.J.S.A. 58:16A-50, or implementing rules at N.J.A.C. 7:13.*

The proposed project will not result in a violation of the NJDEP Flood Hazard Area Control Act or implementing rules. The bridge replacement project requires an NJDEP Flood Hazard Area General Permit 10, which is being submitted as part of this application. Please refer to the narrative below which demonstrates compliance with the Flood Hazard Area Control Act.

- I. If activities under the general permit meet the definition of "major development" at the N.J.A.C. 7:8-1.2, then the project of which the activities are a part shall comply in its entirety with the Stormwater Management Rules at N.J.A.C. 7:8.*

The total area of disturbance is under 1.0 acre and the total area of "new" impervious ground cover is less than ¼ acre. As a result, the project is not considered a "major development" and the stormwater management rules do not apply.

- J. If activities under the general permit-by-certification or general permit involve excavation or dredging, the applicant shall use an acceptable disposal site for the excavated or dredged material. No material shall be deposited or dewatered in freshwater wetlands, transition areas, State open waters or other environmental sensitive areas.*

If required, an acceptable disposal site will be used for any dredged or excavated material. No material will be deposited or dewatered in freshwater wetlands, transition areas, State open waters, or any other environmentally sensitive areas.

- K. *The amount of rip-rap or other energy dissipating material shall not exceed the minimum necessary to prevent erosion, as calculated under the Standards for Soils Erosion and Sediment Control in New Jersey at N.J.A.C 2:90.*

As currently designed, the amount of rip-rap shall not exceed the minimum necessary to prevent erosion.

- L. *The timing requirements in N.J.A.C. 7:7A-5.7c shall be met.*

The proposed project crosses the Swimming River Reservoir, which is not designated as a trout maintenance water. As a result, a seasonal timing restriction are not anticipated for the proposed project.

- M. *Activities authorized under a general permit shall not take place in a vernal habitat, or in a transition area adjacent to a vernal habitat.*

No vernal habitats or transitions areas adjacent to vernal habitat are located adjacent to or near the proposed project area.

If the site is known or suspected to be contaminated with toxic substances, and if the Department requests it, a laboratory analysis of representative samples of the soil or sediment on site.

The site is not known or suspected to be contaminated with toxic substances.

Documentation regarding when the lot, that is the subject of the general permit was created by subdivision.

Not applicable – the project is located on a public road.

A history of the ownership of the property beginning June 30, 1988 to present.

Phalanx Road has been designated as a public road prior to June 30, 1988.

A listing of contiguous lots that were in common ownership with the lot on which the activities are proposed and the ownership history of each lot beginning June 30, 1988 to present.

Not applicable – the project is located on a public road.

If the site is located in a municipality with the endangered plant know as swamp pink (*Helonias bullata*), a signed statement from the applicant, certifying that the proposed activities will not result in any direct or indirect adverse impacts to swamp pink or its documented habitat.

According to the NJDEP Freshwater Wetlands Attachment C, Colts Neck Township is listed as a known location of swamp pink in New Jersey. However, the wetland delineation did not note the presence of

swamp pink within the data point locations documented for the proposed project. The forested wetlands adjacent to the bridge do not contain the habitat this is typical for swamp pink. There are no headwater wetlands, sphagnous Atlantic white-cedar swamps, or spring seepage areas near the bridge.

Besides red maple there are no other wetland species noted in the wetlands delineated near the existing bridge that are common vegetative associates of swamp pink. A search of the NJ Natural Heritage Database and the Landscape Project (Version 3.3) did not indicate that swamp pink was identified within the wetlands delineated at the project site.

A signed statement from the applicant certifying that the proposed project activities will not result in any direct or indirect adverse impacts to swamp pink is included with this application.

x: If the site is located in a municipality with the endangered bog turtles, a signed statement from the applicant, certifying that the proposed activities will not result in any direct or indirect adverse impacts to the bog turtles or to their documented habitat.

According to the NJDEP Freshwater Wetlands Attachment D, Colts Neck and Middletown Townships are not listed as a known locations of bog turtles in New Jersey. As a result, no certification is required for bog turtle.

If the site is located in area designated a Wild and Scenic River, or under study for such designation, a letter from the National Park Service approving the proposed activities.

Per research on the Land Use Permit Screening web application the Swimming River Reservoir is not listed as a National Wild and Scenic River.

Flood Hazard Area (N.J.A.C. 7:13-9.10) – General Permit 10 – Reconstruction of a bridge or culvert across a regulated water with a drainage area of 50 acres or more

(a) General permit 10 authorizes the reconstruction of one existing bridge or culvert that crosses a regulated water that has a drainage area of 50 acres or more, provided the conditions at N.J.A.C. 7:13-6.7 are met and:

- 1. The applicant provides an engineering certification confirming that the proposed bridge or culvert is designed to not increase the frequency or depth of offsite flooding during any flood event described in N.J.A.C. 7:13-12.1(i);*

A hydraulic and hydrology analysis certified by an engineer is included with this application. The Hydrologic and Hydraulic Analysis Report is included in Attachment 7.

- 2. In order to ensure that the hydraulic capacity of the reconstructed bridge or culvert is substantially equivalent to the hydraulic capacity of the existing bridge or culvert, all the following are met:*

- i. The cross-sectional area of the new structure is at least equal to, and not more than five percent greater than, the cross-sectional area of the existing structure;*
- ii. The width-to-height ratio of the new structure does not deviate by more than 10 percent from the width-to-height ratio of the existing structure;*
- iii. The length of the new structure does not deviate by more than 10 feet from the length of the existing structure or more than 10 percent of the length of the existing structure, whichever is greater;*
- iv. The orientation of any new abutments and headwalls is aligned as closely as feasible to the orientation of the existing abutments and headwalls; and*
- v. The elevation of the crown of the roadway profile above the bridge or culvert is not altered within the flood hazard area;*

The cross-sectional area is equal to the existing structure, the width-to-height ratio of the new structure does not deviate more than 10 percent from the existing structure, the existing abutments are to remain, and the elevation of the crown of the bridge is not being altered. Please see the Hydrologic and Hydraulic Analysis Report included with this application in Attachment 7 for further information.

- 3. The bridge or culvert is designed to remain stable, scour resistant, and resistant to displacement and/or damage. At a minimum, each bridge shall have stable abutments, each culvert shall have stable headwalls, and each abutment and headwall shall have footings that extend no less than three feet below the invert of the channel;*

The bridge has been designed to remain stable, scour resistant, and resistant to displacement and/or damage. The existing abutments are to remain.

4. *The bridge or culvert is designed to avoid any adverse impacts to aquatic, semi-aquatic, and terrestrial resources. Where possible, a stable, natural, earthen channel with lowflow aquatic passage shall be preserved and/or provided within the bridge or culvert as well as any section of channel disturbed to accommodate its construction;*

The bridge improvements have been designed to avoid any adverse impacts to aquatic, semi-aquatic, and terrestrial resources. The earthen channel will be preserved during construction.

5. *No armoring is placed under or across the channel bed, unless such armoring is necessary to prevent scour along the proposed abutments or footings. In such a case, the armoring shall be buried beneath at least two feet of native substrate, where feasible;*

No armoring will be placed under or across the channel bed as part of construction except where necessary to prevent scour along the proposed abutments or footings. It will be buried at beneath at least two feet of native substrate, where feasible.

6. *Any temporarily disturbed sections of the channel are restored to pre-construction conditions immediately after completion of the disturbance. Characteristics that shall be replicated include channel shape, width, and meandering, ratio of shallow areas to deep areas, anticipated flow rate, and velocity and substrate type;*

Temporarily disturbed areas of the channel will be restored to pre-construction conditions immediately after completion of the disturbance. The pre-construction characteristics will be replicated to the maximum extent practicable.

7. *No riparian zone vegetation is cleared, cut, and/or removed, except for vegetation within 20 feet of the bridge or culvert, where such disturbance is necessary to facilitate its reconstruction; and*

No riparian zone vegetation will be cleared, cut, and/or removed except where necessary to facilitate reconstruction. Grading is proposed within 20 feet of the bridge. Additional impacts to riparian zone vegetation are proposed to remove the existing guiderail and will be limited to guiderail removal activities only. Areas of riparian zone disturbance beyond 20 feet from the bridge is limited to actively disturbed, maintained and mowed roadside grasses and are proposed for installation of new guiderail.

8. *The timing restrictions set forth at N.J.A.C. 7:13-11.5(d) are observed.*

The timing restriction set for in N.J.A.C. 7:13-11.5(d) will be adhered to.

EXHIBIT E

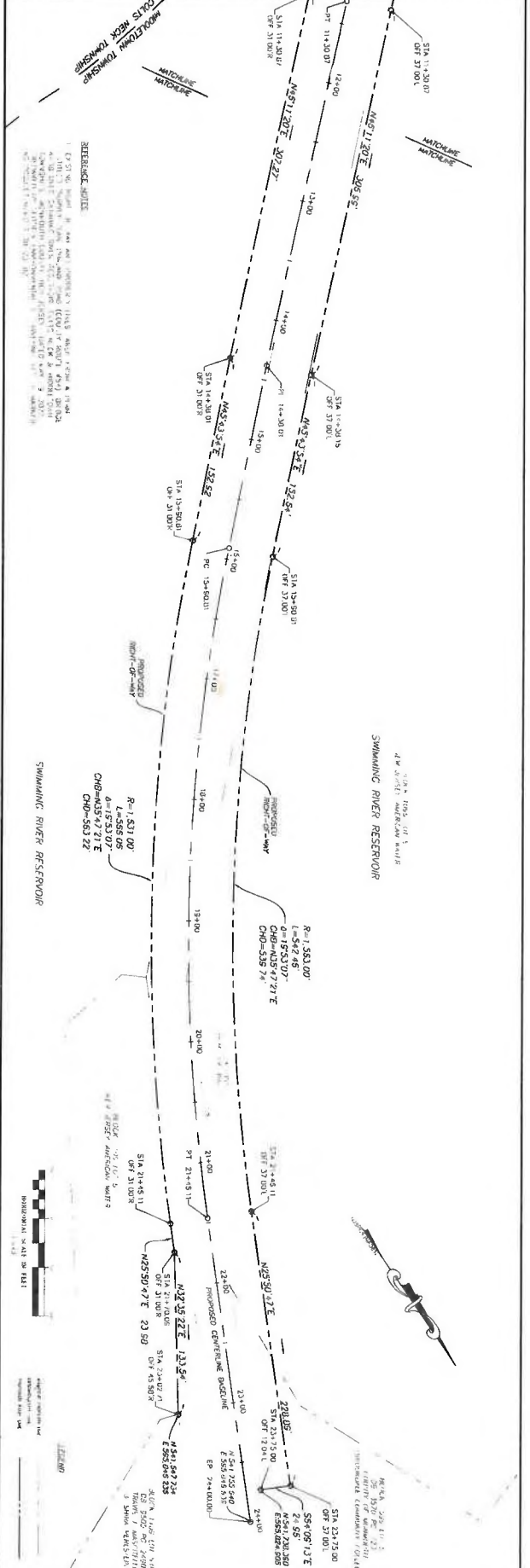
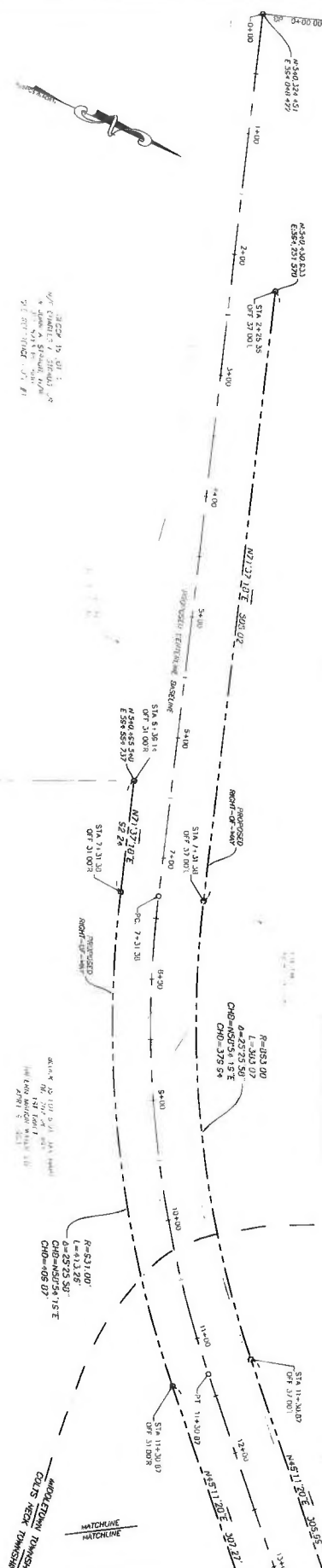


EXHIBIT F



Metes and Bounds Description
For The Proposed
Right-of-Way of Phalanx Road
COLTS NECK & MIDDLETOWN TOWNSHIPS
MONMOUTH COUNTY, NEW JERSEY

NORTHERLY RIGHT-OF-WAY LINE

All that certain right-of-way line located on the northerly line of Phalanx Road in the Townships of Colts Neck & Middletown, County of Monmouth, and State of New Jersey, being more particularly bounded and described as follows:

BEGINNING at a point (New Jersey State Plane Coordinate System North American Datum 1983 (2011), feet): (N 540,430.933, E 594,251.570) (Station 2+26.36, Offset 37.00' Left of proposed centerline baseline) in the existing northerly right-of-way (to be vacated) of Phalanx Road (R.O.W. Varies) where it intersects the proposed right-of-way, said point being along Lot 1, Block 21 (Colts Neck Township) as shown on a plan entitled "Proposed Right-of-Way Plan, Replacement of County Bridge No. A-38, Phalanx Road (CR 522) Over Swimming River Reservoir, Colts Neck & Middletown Townships, Monmouth County, New Jersey", Prepared by GeoTrek Environmental & Surveying, LLC, Dated August 12/20/23, last revised December 28, 2023, and running, thence;

1. Along the said proposed northly line of Phalanx Road, North 71° 37' 18" East, a distance of 505.02 feet to a point of curvature (PC Station 7+31.38, Offset 37.00 feet Left of proposed centerline baseline), thence;
2. Continuing along the said northerly line, on a curve bearing to the left, crossing into Middletown Township, said curve having a Radius of 863.00 feet, an arc length of 383.07 feet, a delta angle of 25° 25' 58", a chord bearing of North 58° 54' 19" East, and a chord distance of 379.94 feet to a point of tangency (PT Station 11+30.87, Offset 37.00 feet Left of proposed centerline baseline), thence;
3. Continuing along the said northerly line, transitioning to the westerly line, North 46° 11' 20" East, a distance of 306.99 feet to an angle point (PI Station 14+38.02, Offset 37.00 feet Left of proposed centerline baseline), thence;
4. Continuing along the said westerly line, North 45° 43' 54" East, a distance of 152.64 feet to a point of curvature (PC Station 15+90.81, Offset 37.00 feet Left of proposed centerline baseline), thence;
5. Continuing along the said westerly line, on a curve bearing to the left, said curve having a Radius of 1,563.00 feet, an arc length of 542.46 feet, a delta angle of 19° 53' 07", a chord bearing of North 35° 47' 21" East, and a chord distance of 539.74 feet to a point of tangency (PT Station 21+46.11, Offset 37.00 feet Left of proposed centerline baseline), thence;



6. Continuing along the said westerly line, North $25^{\circ} 50' 47''$ East, a distance of 228.89 feet to an angle point (Station 23+75.00, Offset 37.00 feet Left of proposed centerline baseline), thence;
7. Continuing along the said westerly line, South $64^{\circ} 09' 13''$ East, a distance of 24.96 feet to a point where the proposed right-of-way intersects with the existing westerly line of Phalanx Road (R.O.W. Varies), (Station 23+75.00, Offset 12.04 feet Left of proposed centerline baseline) (New Jersey State Plane Coordinate System North American Datum 1983 (2011), feet): (N 541,738.390, E 595,824.905).

SOUTHERLY RIGHT-OF-WAY LINE

All that certain right-of-way line located on the southerly line of Phalanx Road in the Townships of Colts Neck & Middletown, County of Monmouth, and State of New Jersey, being more particularly bounded and described as follows:

BEGINNING at a point (New Jersey State Plane Coordinate System North American Datum 1983 (2011), feet): (N 540,496.548, E 594,664.737) (Station 6+39.14, Offset 31.00' Right of proposed centerline baseline) in the existing southerly right-of-way (to be vacated) of Phalanx Road (R.O.W. Varies) where it intersects the proposed right-of-way, said point being on the common line of Lots 3 & 6.01, Block 35 (Colts Neck Township) as shown on a plan entitled "Proposed Right-of-Way Plan, Replacement of County Bridge No. A-38, Phalanx Road (CR 522) Over Swimming River Reservoir, Colts Neck & Middletown Townships, Monmouth County, New Jersey", Prepared by GeoTrek Environmental & Surveying, LLC, Dated August 12/20/23, last revised December 28, 2023, and running, thence;

1. Along the said proposed southerly line of Phalanx Road, North $71^{\circ} 37' 18''$ East, a distance of 92.24 feet to a point of curvature (PC Station 7+31.38, Offset 31.00 feet Right of proposed centerline baseline), thence;
2. Continuing along the said southerly line, on a curve bearing to the left, crossing into Middletown Township, said curve having a Radius of 931.00 feet, an arc length of 413.26 feet, a delta angle of $25^{\circ} 25' 58''$, a chord bearing of North $58^{\circ} 54' 19''$ East, and a chord distance of 409.87 feet to a point of tangency (PT Station 11+30.87, Offset 31.00 feet Right of proposed centerline baseline), thence;
3. Continuing along the said southerly line, transitioning to the easterly line, North $46^{\circ} 11' 20''$ East, a distance of 307.27 feet to an angle point (PI Station 14+38.02, Offset 31.00 feet Right of proposed centerline baseline), thence;
4. Continuing along the said easterly line, North $45^{\circ} 43' 54''$ East, a distance of 152.92 feet to a point of curvature (PC Station 15+90.81, Offset 31.00 feet Right of proposed centerline baseline), thence;
5. Continuing along the said easterly line, on a curve bearing to the left, said curve having a Radius of 1,631.00 feet, an arc length of 566.06 feet, a delta angle of $19^{\circ} 53' 07''$, a chord bearing of North $35^{\circ} 47' 21''$ East, and a chord distance of 563.22 feet to a point of tangency (PT Station 21+46.11, Offset 31.00 feet Right of proposed centerline baseline), thence;



6. Continuing along the said easterly line, North $25^{\circ} 50' 47''$ East, a distance of 23.98 feet to an angle point (Station 21+70.09, Offset 31.00 feet Right of proposed centerline baseline), thence;
7. Continuing along the said easterly line, North $32^{\circ} 35' 22''$ East, a distance of 133.54 feet to a point where the proposed right-of-way intersects with the existing easterly line of Phalanx Road (R.O.W. Varies), (Station 23+02.71, Offset 46.68 feet Right of proposed centerline baseline) (New Jersey State Plane Coordinate System North American Datum 1983 (2011), feet): (N 541,647.734, E 595,846.236).

The above descriptions were written pursuant to a plan entitled "Proposed Right-of-Way Plan, Replacement of County Bridge No. A-38, Phalanx Road (CR 522) Over Swimming River Reservoir, Colts Neck & Middletown Townships, Monmouth County, New Jersey", Prepared by GeoTrek Environmental & Surveying, LLC, Dated August 12/20/23, & last revised December 28, 2023.

A handwritten signature in black ink that reads "Michael J. McGuire". The signature is written in a cursive, flowing style.

Michael J. McGuire
New Jersey Professional Land Surveyor
License No. 24GS03674800

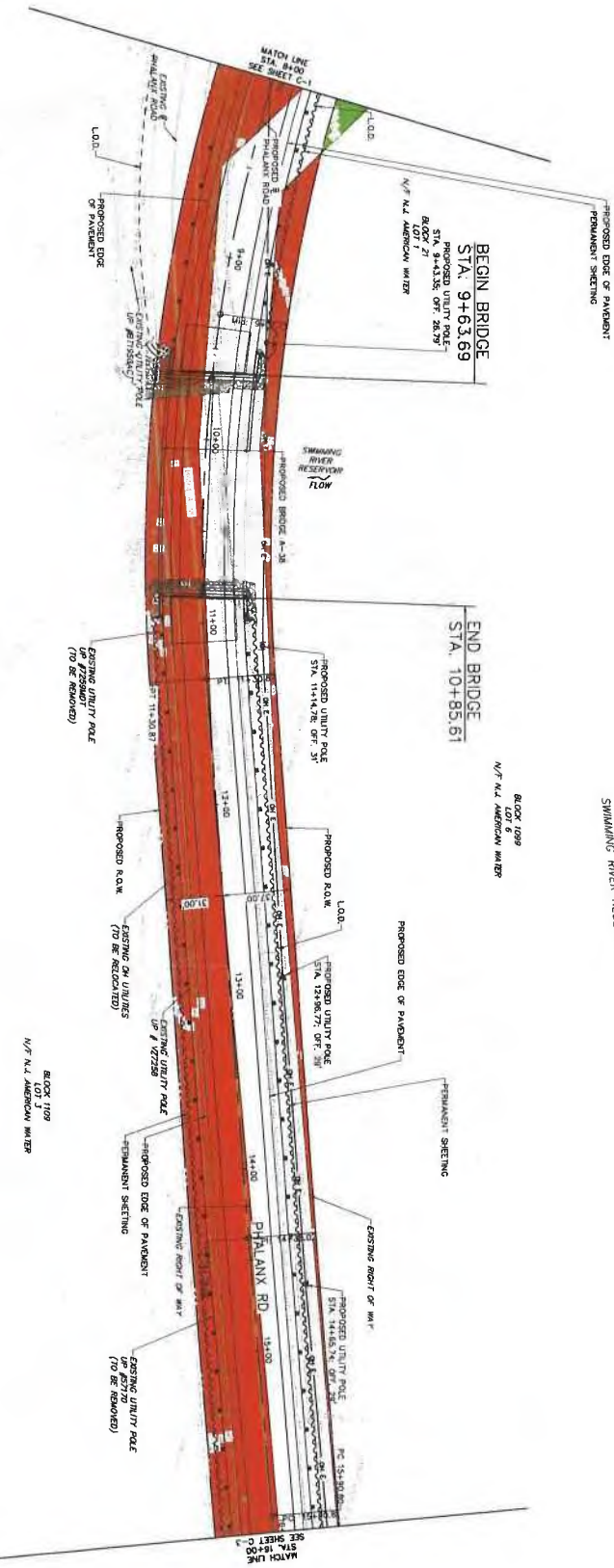
EXHIBIT G

- LEGEND:**
- PROPOSED RIGHT-OF-WAY BOUNDARY
 - 24' (0.007 ACRES) THIS SHEET
 - 2786' 8" (0.049 ACRES) PROJECT TOTAL
 - PROPOSED RIGHT-OF-WAY ACQUISITION
 - 2786' 8" (0.049 ACRES) THIS SHEET
 - 627' 1" (0.012 ACRES) PROJECT TOTAL

SWIMMING RIVER RESERVOIR

SWIMMING RIVER RESERVOIR

BLOCK 15
 LOT 6, 27
 N/F N.L. AMERICAN WATER



SWIMMING RIVER RESERVOIR

BLOCK 1099
 LOT 6
 N/F N.L. AMERICAN WATER

BLOCK 109
 LOT 1
 N/F N.L. AMERICAN WATER



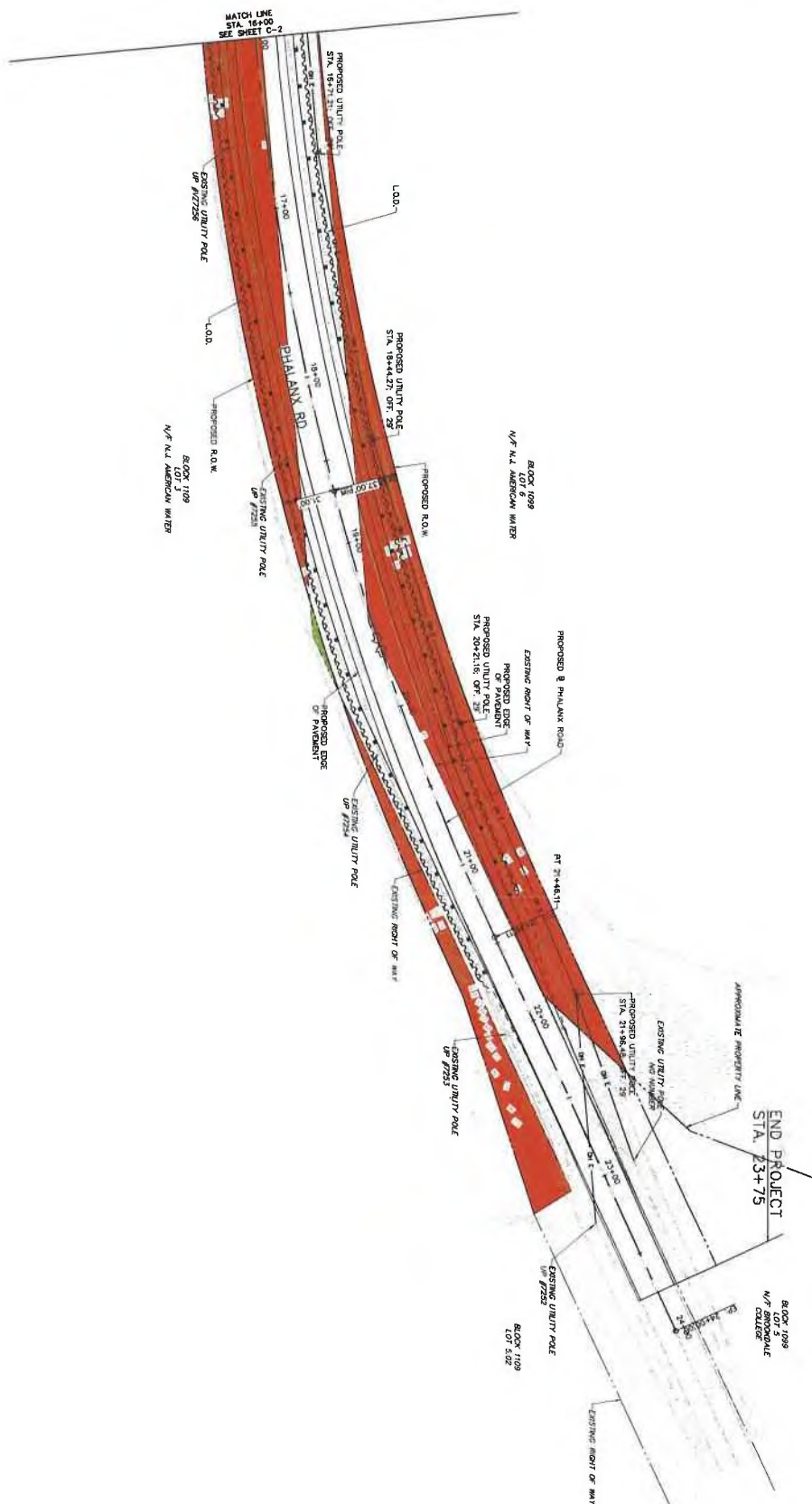
DATE	BY	REVISIONS

MONMOUTH COUNTY ENGINEERING
 RIGHT-OF-WAY CHANGES - 2
 REPLACEMENT OF COUNTY BRIDGE NO. A-38
 PHALANX ROAD (CR 522) OVER
 SWIMMING RIVER RESERVOIR
 GREGORY D. BITSKO
 COLTS NECK TOWNSHIP, MONMOUTH COUNTY, NEW JERSEY
 NEW JERSEY PROFESSIONAL ENGINEER LICENSE NUMBER JH020326

SCALE	DATE
1" = 30'	AUGUST 2023
SHEET 27 OF 30	
SHEET 27 OF 30	

ROW-2
 ROW-3

- LEGEND:**
- PROPOSED RIGHT-OF-WAY SWAP/RENDER
 - PROPOSED RIGHT-OF-WAY SWAP/RENDER
 - 27888 SF (0.640 ACRES) PROJECT TOTAL
 - PROPOSED RIGHT-OF-WAY ACQUISITION
 - 23450 SF (0.538 ACRES) THIS SHEET
 - 5437 SF (0.125 ACRES) PROJECT TOTAL



DATE	AUTH.	BY

REVISIONS

DATE

MONMOUTH COUNTY ENGINEERING
 RIGHT-OF-WAY CHANGES - 3
 REPLACEMENT OF COUNTY BRIDGE NO. A-38
 PHALANX ROAD (CR 522) OVER
 SWIMMING RIVER RESERVOIR
 COL'S NECK TOWNSHIP, MONMOUTH COUNTY, NEW JERSEY
 GREGORY D. BUTSKO
 NEW JERSEY PROFESSIONAL ENGINEER LICENSE NUMBER 34623333

ROW-3

	SCALE	DATE
	1" = 30'	AUGUST 2023
SHEET NO. 102 OF 102	SHEET NO. 102 OF 102	SHEET NO. 102 OF 102

EXHIBIT H

PREPARED BY: _____
THOMAS J. HERTEN, ESQ.

DEED OF PERMANENT RIGHT -OF-WAY EASEMENT

This Indenture made this day of 2024 by and between:

NEW JERSEY-AMERICAN WATER COMPANY, INC., A Public Utility Corporation of the State of New Jersey, having an address of **1 Water Street, Camden, New Jersey 08102**,
(hereinafter referred to as "Grantor")

AND:

COUNTY OF MONMOUTH, a public body corporate of the State of New Jersey having an address: **C/O County Clerk, Hall of Records, Freehold, New Jersey 07728**
(hereinafter referred to as "Grantee")

WITNESSETH

WHEREAS, the County of Monmouth ("Grantee") is undertaking certain improvements including the replacement of Bridge A-38, over the Swimming River Reservoir, in the Townships of Colts Neck and Middletown, County of Monmouth and State of New Jersey, which necessitates the realignment of Phalanx Road (County Road 522), an existing roadway that traverses Grantor's Property on either side of Bridge A-38 (the "R.O.W."); and

WHEREAS, there is a public necessity and regulatory requirement to identify and memorialize the limits of the R.O.W.; and

WHEREAS, the limits of the R.O.W. are described on a plan entitled: **"Proposed Right -of-Way Plan, Replacement of County Bridge No. A-38, Phalanx Road (CR 522) over Swimming River Reservoir, Colts Neck and Middletown Townships, New Jersey"**, Sheet 1 of 1, dated August 8, 2023, and last revised December 28, 2023, signed and sealed by Michael J. McGuire, PLS; (the "Plan"), which for reference purposes is attached hereto as Exhibit A; and

WHEREAS the Plan is more fully described on that certain document entitled **"Metes and Bounds Description for the Proposed Right-of-Way-of Phalanx Road, Colts Neck and Middletown Townships, Monmouth County, New Jersey"**, signed and sealed by Michael J McGuire, PLS, which is attached hereto as Exhibit B and incorporated herein as if fully set forth to define the limits of the R.O.W.; and

WHEREAS, the Grantor makes this Instrument as the owner of, *inter alia*, Block 21, Lot 1 and Block 35, Lot 6.01 on the tax map of the Township of Colts Neck and Block 1099, Lot 6 and Block 1109, Lot 3 on the tax map of the Township of Middletown, both Townships located in the County of Monmouth and State of New Jersey ("Grantor's Property"); and

WHEREAS, without eliminating all of the Grantor's right to cross over the easement area to access Grantor's property, the Grantee desires to obtain a permanent easement over that portion of the Grantor's property identified as the R.O.W., for the purpose of bridge replacement, roadway realignment, maintenance and repairs, placement of utility poles with aerial facilities, guy wires, and overhead utility wires, and placement of drainage facilities all within the R.O.W., as well as to construct, relocate and maintain public utilities, including but not limited to utility poles, guy wires, and overhead utility wires; the right to trim and/or remove trees; the right to construct, reconstruct, or otherwise maintain Phalanx Road (CR 522) within the R.O.W. and to construct and install all customary and usual roadway appurtenances, including curbs, sidewalks, drainage facilities consistent with water quality standards, signing and/or other appurtenances without eliminating Grantor's access to its property that is used for public water utility services, up to the limits of the R.O.W., as identified on Exhibit A and more fully described in the metes and bounds description attached hereto as Exhibit B and made a part hereof, and to complete any additional work as may be required in connection with the enjoyment of such easement purposes, all upon the lands of the owner and within the easement limits as set forth in the legal description of the R.O.W., attached hereto and made a part hereof; and

WHEREAS, to enable the Grantee to go forward with the planned improvements, the Grantor is agreeable to convey to the Grantee a Deed of Permanent Right-of-Way Easement on a portion of the Grantor's Property as more particularly described as the R.O.W, metes and bounds description attached hereto as Exhibit B and as shown on Exhibit A as and for the purposes stated herein; and

WHEREAS, subject to existing encumbrances on the Property and such conditions dictated by the New Jersey Watershed Property Review Board in its Order dated-----, attached hereto as Exhibit C, Grantor does agree to convey a perpetual easement and right-of-way for the purposes stated herein, for Grantee's use and the use of its successors and assigns, upon the conditions, covenants, promises and terms hereinafter set forth for the mutual benefit of the Grantor and

Grantee, with the Grantee not being precluded from crossing accessing the easement area so long as the Grantor does not interfere with any of the purposes of the easement.

NOW, THEREFORE, for the consideration of **\$TBD and 00/100 Dollars (\$TBD.00)**, lawful money of the United States, paid by the Grantee to the Grantor, and for other good and valuable consideration, it is hereby agreed as follows:

1. Grantor does hereby give, grant and convey forever to the Grantee, its successors and assigns, a perpetual, non-exclusive easement and a free, uninterrupted and unobstructed right-of-way, in, upon, over and across the property of the Grantor as that easement is described in Exhibits A and B, with full rights, privileges and authority for the Grantee to enter upon said lands from time to time, without notice to the Grantor, for the purpose set forth above.

2. Grantee may enter upon said easement, in its sole and absolute discretion, as it may deem necessary or proper, together with the right of the Grantee, its successors and assigns, to such free and unlimited access to, egress and ingress in, from and over the easement property as reasonable or necessary for the full use, occupancy and enjoyment of the easement herein granted; provided, however, such entry on and use of the easement area shall not interfere with Grantor's use of and access to Grantor's Property and that Grantee shall observe and follow all necessary and applicable safety procedures.

3. Grantor warrants and represents that Grantor is lawfully seized and possessed of the real property hereby subject to said easement and right-of-way, The Grantor warrants the rights, privileges and authority herein granted and conveyed and does further warrant that the Grantee shall have quiet possession of the within easement. The Grantor agrees to execute and deliver to Grantee such further documents and assurances that may be reasonably necessary in connection with such warranties.

4. Grantee agrees, by acceptance of this Deed of Right-of-Way Easement, that Grantee shall be responsible for the maintenance of the appurtenances and improvements on the easement area and in the event of damage to Grantor's Property incurred in connection with any of the purposes of this easement and right-of-way, subject to any limitations set forth by the Laws of the State of New Jersey or municipal ordinances wherein the property lies and such regulations of the State of New Jersey with respect to preserving water quality, given the Grantor's Property includes a reservoir servicing the public, and said damage to Grantor's Property shall be repaired

and restored to substantially the same condition as existed immediately prior to such damage, at the sole cost and expense of the Grantee. Grantee further agrees to release and indemnify and hold Grantor, its agents, representatives and employees, harmless from any liability for injury sustained or damage occurring to Grantee, its licensees, agents, servants and employees or otherwise incurred by said Grantee, its licensees, agents, servants and employees while on the easement property pursuant to the rights, privileges and authority granted herein. To the extent that additional trees having a diameter of six ("6") inches dbh beyond what is referenced in Exhibit C are removed by Grantee in the R.O.W., Grantee further covenants and agrees to replace said trees in accordance with standards promulgated for the Green Acres program in New Jersey. To the extent possible, without interfering with Grantor's utility obligations, the replaced trees should be planted on the Property at locations identified by Grantor in its sole discretion.

5. The easement and right-of-way herein granted, and the agreements, conditions, covenants and promises herein contained are intended to be covenants running with the land, which shall inure to the benefit of and be binding upon the respective parties hereto, their heirs, successors and assigns.

6. **Signatures.** This Deed is signed and attested to by the Grantor's proper corporate officer as of the date at the top of the first page, and its corporate seal is affixed hereto

Attest:

New Jersey-American Water Company, Inc.,
a Public Utility Corporation of New Jersey

Stephen R. Bishop, Esq.
Secretary

By: _____
Donald C. Shields
Vice President, Director of Engineering

Attest:

COUNTY OF MONMOUTH

TAMARA BROWN, Clerk Monmouth
County Board of Chosen Freeholders

Thomas A. Arnone, Director
Monmouth County Board of
Chosen Freeholders

STATE OF NEW JERSEY, COUNTY OF

I CERTIFY THAT ON , 2024,

Stephen R. Bishop, Esq., Assistant Secretary of New Jersey-American Water Company, Inc., personally came before me and this person acknowledged under oath, to my satisfaction, that:

- (a) this person is the Assistant Secretary of **New Jersey-American Water Company, Inc., a Public Utility Company of New Jersey**, the Corporation named in this Deed;
- (b) this person is the attesting witness to the signing of this instrument by the proper corporate officer, who is , for the Corporation;
- (c) this Deed was signed and delivered by the corporation as its voluntary act duly authorized by a proper resolution of its Board of Directors;
- (d) this person knows the proper seal of the corporation, which was affixed to this Deed;
- (e) this person signed this proof to attest to the truth of these facts; and
- (f) the full and actual consideration paid or to be paid for the transfer of title is **\$TBD and 00/100 Dollars (\$TBD)** (such consideration is defined in N.J.S.A. 46:15-5).

STEPHEN R. BISHOP, ESQ.
SECRETARY

(NOTARY PUBLIC TO PRINT NAME & TITLE BELOW)

STATE OF NEW JERSEY
ACKNOWLEDGMENT

COUNTY OF MONMOUTH SS:

BE IT REMEMBERED that on this day of , 2024, before me, the subscriber, personally appeared Tamara Brown, who, being by me duly sworn on her oath, deposes and proves to my satisfaction that she is the Clerk of the Monmouth County Board of Chosen Freeholders, a party named in the within instrument, that Thomas A. Arnone is the Director of said Board; that the execution, as well as the making of this instrument, has been duly authorized by a proper resolution of the Monmouth County Board of Chosen Freeholders; that deponent well knows the seal of said Board; and the seal affixed to said instrument is such Board's seal and was thereto affixed, and said instrument signed and delivered by said Director, as and for his/her voluntary act and deed and as and for the voluntary act and deed of said Board, in presence of deponent, who thereupon subscribed her name thereto as witness.

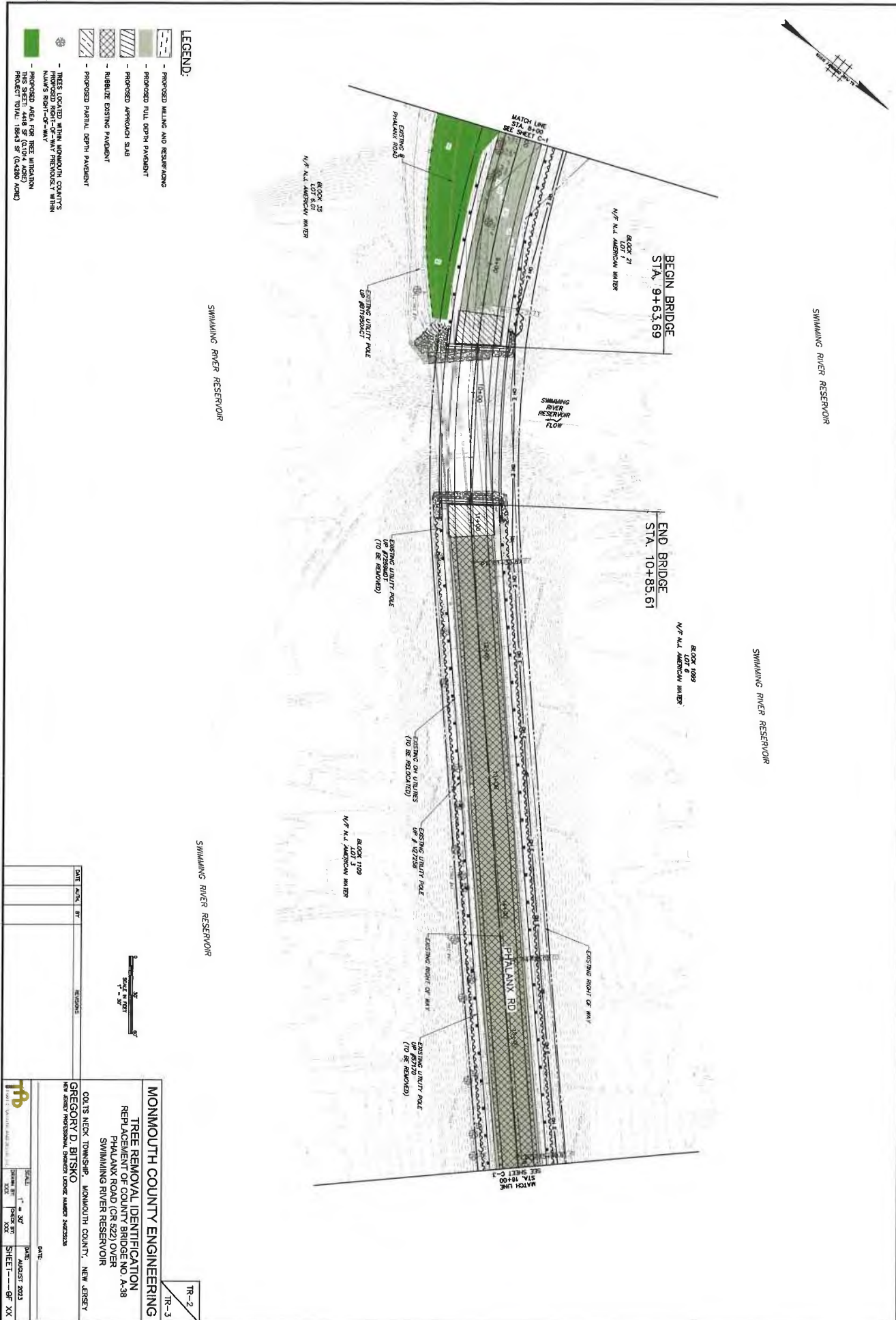
Sworn to and subscribed before me on the

_____ day of _____, 2024

Tamara Brown

(NOTARY PUBLIC TO PRINT NAME & TITLE)

EXHIBIT I



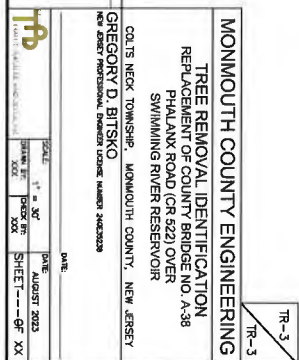


EXHIBIT J

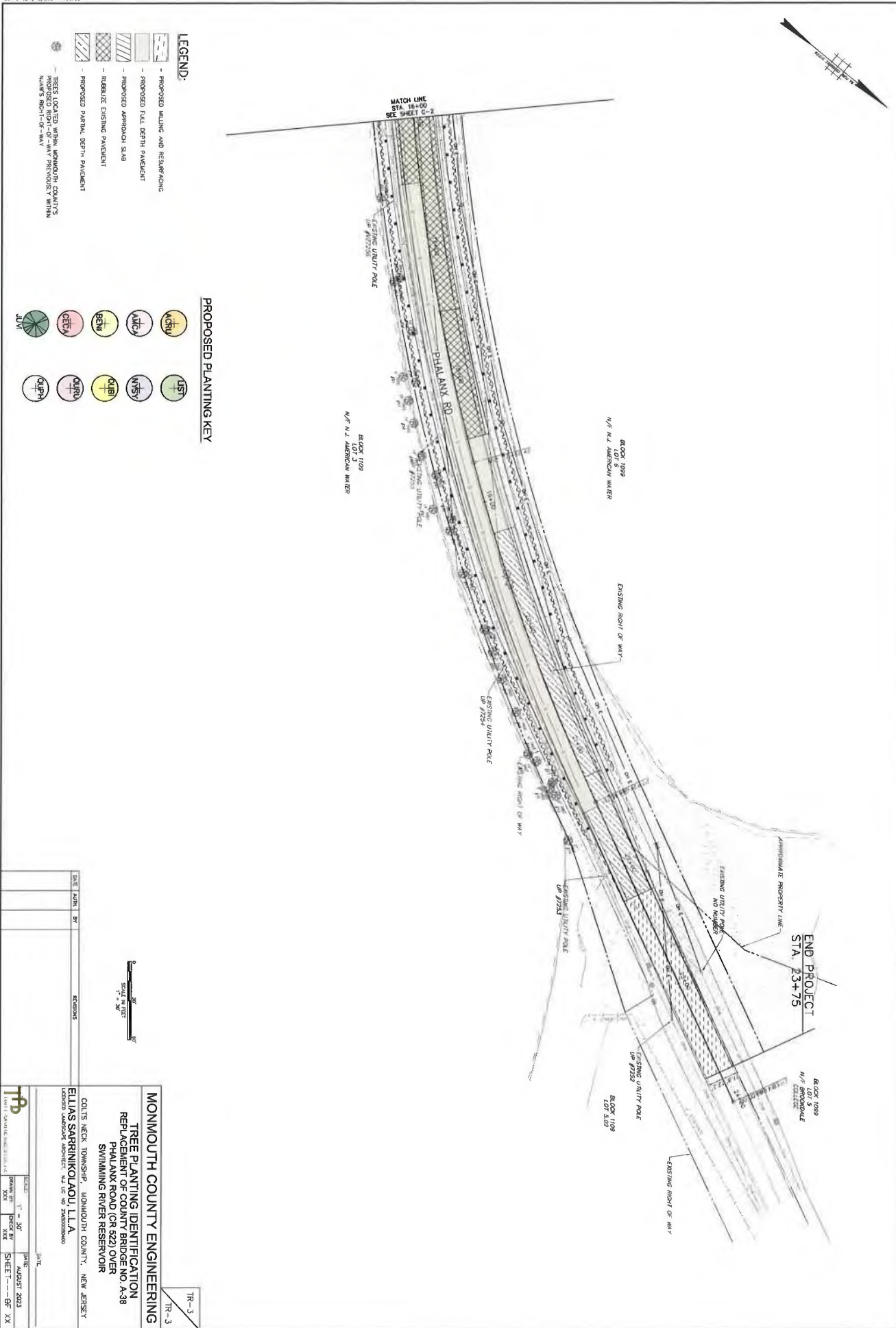


EXHIBIT K



New Jersey American Water
611 Old Codies Avenue
Neptune, NJ 07753

January __, 2024

Watershed Property Review Board
501 East State Street
Station Plaza Building 5, Ground Floor
Trenton, New Jersey 08608

**RE: Monmouth County Proposed Easement Acquisition
Phalanx Road, Colts Neck Township & Middletown Township, New Jersey**

To Whom It May Concern,

New Jersey American Water (NJAW) has reviewed the updated proposed easement request along with the proposed roadway and bridge improvements provided by the Monmouth County Engineering Department on December 28, 2023. NJAW has determined that the proposed roadway and bridge improvements for Bridge A 38 within the proposed easement will not negatively affect or restrict water quality, operation or maintenance of the NJAW Swimming River Reservoir or The Swimming River Water Treatment Plant.

If you should have any questions please feel free to contact me at

Sincerely,