

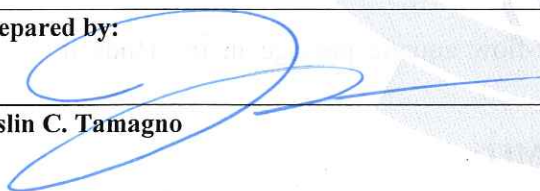


**STATE OF NEW JERSEY
DEPARTMENT OF ENVIRONMENTAL PROTECTION
DIVISION OF LAND USE REGULATION**

Mail Code 501-02A, P.O. Box 420, Trenton, New Jersey 08625-0420
Telephone: (609) 777-0454 or Fax: (609) 777-3656
www.nj.gov/dep/landuse



PERMIT

<p>In accordance with the laws and regulations of the State of New Jersey, the Department of Environmental Protection hereby grants this permit to perform the activities described below. This permit is revocable with due cause and is subject to the limitations, terms and conditions listed below and on the attached pages. For the purpose of this document, "permit" means "approval, certification, registration, authorization, waiver, etc." Violation of any term, condition or limitation of this permit is a violation of the implementing rules and may subject the permittee to enforcement action.</p>		<p>Approval Date June 26, 2018</p>
		<p>Expiration Date June 25, 2023</p>
<p>Permit Number(s):</p> <p>0908-18-0002.1; WFD 180001 WFD 180002 FHA 180001 FHA 180002 FWW 180001</p>	<p>Type of Approval(s):</p> <p>Waterfront In-Water IP, Waterfront Upland IP, Flood Hazard Area IP, Flood Hazard Area Verification, Freshwater Wetlands GP 2, and Water Quality Certificate</p>	<p>Enabling Statute(s):</p> <p>NJSA 12:5-3 et seq. NJSA 13:9B et seq. NJSA 58:16A et seq. NJSA 58:10A-1 et seq. NJSA 58:11A-1 et seq. NJSA 13:1D-29 et seq. NJSA 13:1D-1 et seq. NJSA 12:3-1 et seq.</p>
<p>Permittee:</p> <p>North Bergen Liberty Generating, LLC c/o Mr. Bohdan Buchynsky 633 West Fifth Street, Suite 1900 Los Angeles, CA 90071</p>	<p>Site Location:</p> <p>Block(s) & Lot(s): Various Locations: Township of North Bergen and Borough of Fairview, Hudson; and Borough of Edgewater, Hudson County</p>	
<p>Description of Authorized Activities:</p> <p>This permit authorizes the construction of a gas turbine combined cycle electric generating station, with related amenities including two (2) stormwater outfall structures, and the installation of an underground cable line(s) from the generating station to and under the Hudson River. The authorized activities are shown on the plans referenced on the last page of this permit.</p>		
<p>Prepared by:</p> <p> _____ Joslin C. Tamagno</p>	<p>Received and/or Recorded by County Clerk:</p>	
<p>If the permittee undertakes any regulated activity authorized under a permit, such action shall constitute the permittee's acceptance of the permit in its entirety as well as the permittee's agreement to abide by the permit and all conditions therein.</p>		
<p align="center">This permit is not valid unless authorizing signature appears on the last page.</p>		

SPECIAL CONDITIONS FOR A COASTAL PERMIT:

1. Prior to the start of any regulated activities within the Hudson River, the permittee shall obtain approval from the U.S. Army Corps. of Engineers.
2. In order to protect shortnose sturgeon and Atlantic sturgeon within the Hudson River, no grading, excavation, or construction activities is permitted within the river onsite between March 1st through June 30th of each year. In addition, any activity within the 100-year floodplain or flood hazard area of this river which would introduce sediment into the river or which could cause more than a minimum increase in the natural level of turbidity is also prohibited anytime, but especially during this period. The Department reserves the right to require additional soil conservation measures if it becomes evident that additional soil conservation measures are required to protect State regulated resources or to suspend all regulated activities on-site should it be determined that the permittee has not taken proper precautions to ensure continuous compliance with this condition.
3. Prior to the start of any regulated activities located on Block 82, Lots 1 and 2 in the Borough of Edgewater, Bergen County, the permittee shall submit a report to the Division detailing the construction activity and schedule, waterfront walkway restoration plan, property owner signature authoring construction activities, and walkway mitigation plan during construction. No activities shall begin on block 82, Lots 1 and 2 until Division approval is received.
4. Prior to the start of any regulated activities located on any formerly and currently flowed tidal areas, the permittee shall obtain a tidelands instrument (DLUR file no. 0908-18-0002.1; TDI 180001) from the NJDEP, Bureau of Tidelands Management.
5. After all activities are completed within the Hudson River, native stream bed material shall be replaced within the river.
6. De-watering of cofferdams must include properly sized temporary sediment basins or other filtering methods to reduce turbidity. The water area to receive return water discharged from cofferdams must be encompassed by a turbidity barrier.
7. This permit authorizes the temporary disturbance to 500 s.f. (0.011 acre) riparian zone vegetation and 1,000 s.f. (0.023 acre) of paved riparian zone for the installation of the underground cable lines on Block 82, Lots 1 and 2 in the Borough of Edgewater, Bergen County.
8. The regulated activity shall not expose unset or raw cement to flowing water within the Hudson River during construction.
9. The regulated activity shall not adversely affect low-flow aquatic passage in the Hudson River.

SPECIAL CONDITIONS FOR A FLOOD HAZARD PERMIT:

1. This permit authorizes the temporary disturbance to 1,940 s.f. (0.04 acre) and the permanent disturbance to 438 s.f. (0.01 acre) of riparian zone vegetation for the construction of two (2)

stormwater outfall structures at the new generating station site in the Township of North Bergen, Hudson County.

2. Any new, reconstructed, enlarged, or elevated structure within a flood hazard area shall be secured to resist flotation, collapse, and displacement due to hydrostatic and hydrodynamic forces from floodwaters.
3. Prior to the start of any regulated activities at the new generating station site in the Township of North Bergen, Hudson County, the permittee shall obtain approval from the New Jersey Sports and Exposition Authority.

SPECIAL CONDITIONS FOR A FRESHWATER WETLANDS PERMIT:

1. The total amount of disturbance associated with this authorization shall not exceed 4,548 s.f. (0.10 acre) of freshwater wetlands for the installation of an underground cable line.
2. The wetlands affected by this permit authorization are of Intermediate resource value and the standard transition area or buffer required adjacent to these wetlands is 50 feet. This permit includes a transition area waiver, which allows encroachment only in that portion of the transition area, which has been determined by the Department to be necessary to accomplish the regulated activities. Any additional regulated activities conducted within the standard transition area on-site shall require a separate transition area waiver from the Division. Regulated activities within a transition area are defined at N.J.A.C. 7:7A-2.3. Please refer to the Freshwater Wetlands Protection Act (N.J.S.A. 13:9B-1 et seq.) and implementing rules (N.J.A.C. 7:7A) for additional information.
3. If the permittee, before or during the work authorized, encounters a possible historic property, as described at N.J.A.C. 7:7A-19.5(l), that is or may be eligible for listing in the New Jersey or National Register, the permittee shall preserve the resource, and immediately notify the Department and proceed as directed.
4. Prior to the start of any regulated activities within the NYS&W Railroad Tunnel and Cut, the permittee shall contact the NJDEP, Historic Preservation Office (HPO), regarding final construction and operational design. A standard operating procedures (SOPs) were developed in a HPO letter dated December 28, 2017 (HPO file no. 17-1044-4/HPO-L2017-192). The SOPs shall be incorporated into the final construction and operational design. Please contact Ms. Jenna Solomon, from HPO at (609) 984-0850, with questions regarding the above condition.

STANDARD CONDITIONS:

1. All riparian zone vegetation that is temporarily cleared, cut, and/or removed to conduct a regulated activity, access an area where regulated activities will be conducted, or otherwise accommodate a regulated activity shall be replanted immediately after completion of the regulated activity, unless prevented by seasonal weather, in which case the vegetation shall be replanted as soon as conditions permit. The vegetation to be replanted shall:
 - a. Consist of vegetation of equal or greater ecological function and value as the vegetation that was cleared, cut, or removed. For example, herbaceous vegetation

- may be replaced with the same type of vegetation or with trees, but the trees in forested areas must be replaced with trees of equal or greater density and ecological function and value;
- b. Consist of native, non-invasive vegetation, except in an actively disturbed area. In an actively disturbed area, the vegetation may be replaced with the same type of vegetation that was cleared, cut, or removed, or with another kind of vegetation typical of an actively disturbed area. For example, lawn grass may be replaced with garden plants or agricultural crops; and
 - c. In cases where replanting would interfere with continued access to or maintenance of a structure that is required by Federal, State, or local law, the vegetation replanted shall meet the requirements to the extent feasible.
2. The issuance of a permit shall in no way expose the State of New Jersey or the Department to liability for the sufficiency or correctness of the design of any construction or structure(s). Neither the State nor the Department shall, in any way, be liable for any loss of life or property that may occur by virtue of the activity or project conducted as authorized under a permit.
 3. The issuance of a permit does not convey any property rights or any exclusive privilege.
 4. The permittee shall obtain all applicable Federal, State, and local approvals prior to commencement of regulated activities authorized under a permit.
 5. A permittee conducting an activity involving soil disturbance, the creation of drainage structures, or changes in natural contours shall obtain any required approvals from the Soil Conservation District having jurisdiction over the site.
 6. The permittee shall take all reasonable steps to prevent, minimize, or correct any adverse impact on the environment resulting from activities conducted pursuant to the permit, or from noncompliance with the permit.
 7. The permittee shall immediately inform the Department by telephone at (877) 927-6337 (Warn DEP Hotline) of any noncompliance that may endanger the public health, safety, and welfare, or the environment. In addition, the permittee shall inform the Division of Land Use Regulation by telephone at (609) 777-0454 of any other noncompliance within two working days of the time the permittee becomes aware of the noncompliance, and in writing within five working days of the time the permittee becomes aware of the noncompliance. Such notice shall not, however, serve as a defense to enforcement action if the project is found to be in violation of this chapter. The written notice shall include:
 - a. A description of the noncompliance and its cause;
 - b. The period of noncompliance, including exact dates and times;
 - c. If the noncompliance has not been corrected, the anticipated length of time it is expected to continue; and
 - d. The steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

8. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the authorized activity in order to maintain compliance with the conditions of the permit.
9. The permittee shall employ appropriate measures to minimize noise where necessary during construction, as specified in N.J.S.A. 13:1G-1 et seq. and N.J.A.C. 7:29.
10. The issuance of a permit does not relinquish the State's tidelands ownership or claim to any portion of the subject property or adjacent properties.
11. The issuance of a permit does not relinquish public rights to access and use tidal waterways and their shores.
12. The permittee shall allow an authorized representative of the Department, upon the presentation of credentials, to:
 - e. Enter upon the permittee's premises where a regulated activity is located or conducted, or where records must be kept under the conditions of the permit;
 - f. Have access to and copy, at reasonable times, any records that must be kept under the conditions of the permit; and
 - g. Inspect at reasonable times any facilities, equipment, practices, or operations regulated or required under the permit. Failure to allow reasonable access under this paragraph shall be considered a violation of this chapter and subject the permittee to enforcement action.
13. The permittee and its contractors and subcontractors shall comply with all conditions, site plans, and supporting documents approved by the permit. Any noncompliance with a permit constitutes a violation of this chapter and is grounds for enforcement action under, as well as, in the appropriate case, suspension and/or termination of the permit.
14. All conditions, site plans, and supporting documents approved by a permit shall remain in full force and effect so long as the regulated activity or project, or any portion thereof, is in existence, unless the permit is modified.
15. For Coastal Permits, Flood Hazard Permits and Flood Hazard Verifications, and Freshwater Wetlands Permits, the permittee shall record the permit, including all conditions listed therein, with the Office of the County Clerk (the Registrar of Deeds and Mortgages, if applicable) of each county in which the site is located. The permit shall be recorded within 30 calendar days of receipt by the permittee, unless the permit authorizes activities within two or more counties, in which case the permit shall be recorded within 90 calendar days of receipt. Upon completion of all recording, a copy of the recorded permit shall be forwarded to the Division of Land Use Regulation at the address set forth in the rules.
16. If any condition or permit is determined to be legally unenforceable, modifications and additional conditions may be imposed by the Department as necessary to protect public health, safety, and welfare, or the environment.

17. A copy of the permit and all approved site plans and supporting documents shall be maintained at the site at all times and made available to Department representatives or their designated agents immediately upon request.
18. A permit shall be transferred to another person only in accordance with the regulations.
19. A permit can be suspended or terminated by the Department for cause.
20. The submittal of a request to modify a permit by the permittee, or a notification of planned changes or anticipated noncompliance, does not stay any condition of a permit.
21. Where the permittee becomes aware that it failed to submit any relevant facts in an application, or submitted incorrect information in an application or in any report to the Department, it shall promptly submit such facts or information.
22. The permittee shall submit written notification to the Bureau of Coastal and Land Use Compliance and Enforcement, 401 East State Street, 4th Floor, P.O. Box 420, Mail Code 401-04C, Trenton, NJ 08625, at least three working days prior to the commencement of regulated activities.
23. The permittee shall not cause or allow any unreasonable interference with the free flow of a regulated water by placing or dumping any materials, equipment, debris, or structures within or adjacent to the channel while the regulated activity(ies) is being undertaken. Upon completion of the regulated activity(ies), the permittee shall remove and dispose of in a lawful manner, all excess materials, debris, equipment, and silt fences and other temporary soil erosion and sediment control devices from all regulated areas.
24. The regulated activity shall not destroy, jeopardize, or adversely modify a present or documented habitat for threatened or endangered species, and shall not jeopardize the continued existence of any local population of a threatened or endangered species.

APPROVED PLANS:

The drawings hereby approved are entitled:

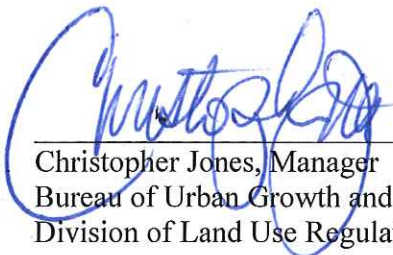
1. "Plan of Survey and Topography, Power Engineers, Inc., Atla/NSPS Land Title Survey, 2531 94th Street, Block 480, Lots 1, 1.01, 1.03, 6, 9 & 9.01, Township of North Bergen, Hudson County, New Jersey" (Sheet 2 of 2), dated November 8, 2017, last revised June 18, 2018, and prepared by T&M.
2. "NJDEP Permit Plans – NBLG Generator Lead", dated March 5, 2018, last revised March 29, 2018, and prepared by AECOM.
 - "Station 0+00 Through 5+60" (Sheet 3);
 - "Station 5+60 Through 14+60" (Sheet 4);
 - "Station 14+60 Through 23+80" (Sheet 5);
 - "Station 23+80 Through 33+00" (Sheet 6);
 - "Station 33+00 Through 42+00" (Sheet 7);
 - "Station 107+00 Through 113+00" (Sheet 15); and
 - "Station 113+00 Through 116+48" (Sheet 16).

3. "North Bergen Liberty Generating Station", dated March 9, 2018, and prepared by AKRF, Inc.
- "General Arrangement Plan Overall" (Sheet C-400), last revised May 21, 2018;
 - "General Arrangement Plan" (Sheets C-401 & C-402), last revised March 16, 2018;
 - "Grading and Drainage Plan Overall" (Sheet C-500), last revised May 21, 2018;
 - "Grading and Drainage Plan" (Sheets C-501 & C-502), last revised May 21, 2018;
 - "Erosion and Sediment Control Plan" (Sheets C-701 & C-702), last revised March 16, 2018; and
 - "Details 6 of 6" (Sheet C-906), last revised March 16, 2018.

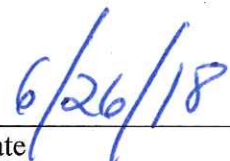
In accordance with N.J.A.C. 7:7A-21, any person who is aggrieved by this decision may request a hearing within 30 days of the date the decision is published in the DEP Bulletin by writing to: New Jersey Department of Environmental Protection, Office of Legal Affairs, Attention: Adjudicatory Hearing Requests, Mail Code 401-04L, P.O. Box 402, 401 East State Street, 7th Floor, Trenton, NJ 08625-0402. This request must include a completed copy of the Administrative Hearing Request Checklist found at www.state.nj.us/dep/landuse/forms. Hearing requests received after 30 days of publication notice may be denied. The DEP Bulletin is available on the Department's website at www.state.nj.us/dep/bulletin. In addition to your hearing request, you may file a request with the Office of Dispute Resolution to engage in alternative dispute resolution. Please see the website www.nj.gov/dep/odr for more information on this process.

If you need clarification on any section of this permit or conditions, please contact the Division of Land Use Regulation's Technical Support Call Center at (609) 777-0454.

Approved By:



Christopher Jones, Manager
Bureau of Urban Growth and Redevelopment
Division of Land Use Regulation



Date

Original sent to Agent to record

- c: Mr. B. Buchynshy, N. Bergen Liberty Generating, LLC, Permittee
Mr. R. Rech, AKRF, Inc., Agent
Township of North Bergen Construction Official
Borough of Fairview Construction Official
Borough of Edgewater Construction Official

