



**MICHIGAN DEPARTMENT OF ENVIRONMENT, GREAT LAKES, AND ENERGY
WATER RESOURCES DIVISION
PERMIT**

Issued To:

**City of Ann Arbor
Attn: Hillary Hanzel
301 East Huron Street
Guy C Larcom City Hall
Ann Arbor, Michigan 48104**

**Permit No: WRP040020 v.1
Submission No.: HPW-WZNZ-8D98W
Site Name: 81-Bandemer Barton Tunnel-Ann Arbor
Issued: January 9, 2024
Revised:
Expires: January 9, 2029**

This permit is being issued by the Michigan Department of Environment, Great Lakes, and Energy (EGLE), Water Resources Division, under the provisions of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA); specifically:

- | | |
|---|---|
| <input type="checkbox"/> Part 301, Inland Lakes and Streams | <input type="checkbox"/> Part 323, Shorelands Protection and Management |
| <input checked="" type="checkbox"/> Part 303, Wetlands Protection | <input type="checkbox"/> Part 325, Great Lakes Submerged Lands |
| <input type="checkbox"/> Part 315, Dam Safety | <input type="checkbox"/> Part 353, Sand Dunes Protection and Management |
| <input checked="" type="checkbox"/> Part 31, Water Resources Protection (Floodplain Regulatory Authority) | |

EGLE certifies that the activities authorized under this permit are in compliance with the State Coastal Zone Management Program and certifies without conditions under the Federal Clean Water Act, Section 401 that the discharge from the activities authorized under this permit will comply with Michigan’s water quality requirements in Part 31, Water Resources Protection, of the NREPA and associated administrative rules, where applicable.

Permission is hereby granted, based on permittee assurance of adherence to State of Michigan requirements and permit conditions, to:

Authorized Activity:

Place approximately 121 cubic yards of fill in 0.05 acres of wetland for the pavement of an existing gravel trail. Install a 15-foot long, 12-inch diameter equalization culvert and associated riprap in wetland. Install a 10-foot long, 6-inch diameter extension of an existing equalization culvert and associated riprap in wetland. Install a 12-inch diameter storm water outfall structure in upland to discharge treated storm water to wetland. Project results in approximately 273 CYD of fill within the Huron River floodplain. Filling in the FEMA mapped floodway is not authorized by this permit.

All work shall be completed in accordance with the approved plans and specifications of this permit.

**EGLE
WRP040020 v1.0
Approved
Issued On:01/09/2024
Expires On:01/09/2029**

Waterbody Affected: Wetland, Huron River
Property Location: Washtenaw County, City of Ann Arbor, Town 02S, Range 06E, Section 17,
Property Tax No. H-09-17-200-001/H-09-17-300-001

Authority granted by this permit is subject to the following limitations:

- A. Initiation of any work on the permitted project confirms the permittee's acceptance and agreement to comply with all terms and conditions of this permit.
- B. The permittee, in exercising the authority granted by this permit, shall not cause unlawful pollution as defined by Part 31 of the NREPA.
- C. This permit shall be kept at the site of the work and available for inspection at all times during the duration of the project or until its date of expiration.
- D. All work shall be completed in accordance with the approved plans and specifications submitted with the application and/or plans and specifications attached to this permit.
- E. No attempt shall be made by the permittee to forbid the full and free use by the public of public waters at or adjacent to the structure or work approved.
- F. It is made a requirement of this permit that the permittee give notice to public utilities in accordance with 2013 PA 174 (Act 174) and comply with each of the requirements of Act 174.
- G. This permit does not convey property rights in either real estate or material, nor does it authorize any injury to private property or invasion of public or private rights, nor does it waive the necessity of seeking federal assent, all local permits, or complying with other state statutes.
- H. This permit does not prejudice or limit the right of a riparian owner or other person to institute proceedings in any circuit court of this state when necessary to protect his rights.
- I. Permittee shall notify EGLE within one week after the completion of the activity authorized by this permit by completing and forwarding the attached preaddressed postcard to the office addressed thereon.
- J. This permit shall not be assigned or transferred without the written approval of EGLE.
- K. Failure to comply with conditions of this permit may subject the permittee to revocation of permit and criminal and/or civil action as cited by the specific state act, federal act, and/or rule under which this permit is granted.
- L. All dredged or excavated materials shall be disposed of in an upland site (outside of floodplains, unless exempt under Part 31 of the NREPA, and wetlands).
- M. In issuing this permit, EGLE has relied on the information and data that the permittee has provided in connection with the submitted application for permit. If, subsequent to the issuance of a permit, such information and data prove to be false, incomplete, or inaccurate, EGLE may modify, revoke, or suspend the permit, in whole or in part, in accordance with the new information.
- N. The permittee shall indemnify and hold harmless the State of Michigan and its departments, agencies, officials, employees, agents, and representatives for any and all claims or causes of action arising from acts or omissions of the permittee, or employees, agents, or representative of the permittee, undertaken in connection with this permit. The permittee's obligation to indemnify the State of Michigan applies only if the state: (1) provides the permittee or its designated representative written notice of the claim or cause of action within 30 days after it is received by the state, and (2) consents to the permittee's participation in the proceeding on the claim or cause of action. It does not apply to contested case proceedings under the Administrative Procedures Act, 1969 PA 306, as amended, challenging the permit. This permit shall not be construed as an indemnity by the State of Michigan for the benefit of the permittee or any other person.

- O. Noncompliance with these terms and conditions and/or the initiation of other regulated activities not specifically authorized shall be cause for the modification, suspension, or revocation of this permit, in whole or in part. Further, EGLE may initiate criminal and/or civil proceedings as may be deemed necessary to correct project deficiencies, protect natural resource values, and secure compliance with statutes.
- P. If any change or deviation from the permitted activity becomes necessary, the permittee shall request, in writing, a revision of the permitted activity from EGLE. Such revision request shall include complete documentation supporting the modification and revised plans detailing the proposed modification. Proposed modifications must be approved, in writing, by EGLE prior to being implemented.
- Q. This permit may be transferred to another person upon written approval of EGLE. The permittee must submit a written request to EGLE to transfer the permit to the new owner. The new owner must also submit a written request to EGLE to accept transfer. The new owner must agree, in writing, to accept all conditions of the permit. A single letter signed by both parties that includes all the above information may be provided to EGLE. EGLE will review the request and, if approved, will provide written notification to the new owner.
- R. Prior to initiating permitted construction, the permittee is required to provide a copy of the permit to the contractor(s) for review. The property owner, contractor(s), and any agent involved in exercising the permit are held responsible to ensure that the project is constructed in accordance with all drawings and specifications. The contractor is required to provide a copy of the permit to all subcontractors doing work authorized by the permit.
- S. Construction must be undertaken and completed during the dry period of the wetland. If the area does not dry out, construction shall be done on equipment mats to prevent compaction of the soil.
- T. Authority granted by this permit does not waive permit requirements under Part 91, Soil Erosion and Sedimentation Control, of the NREPA, or the need to acquire applicable permits from the County Enforcing Agent (CEA).
- U. Authority granted by this permit does not waive permit requirements under the authority of Part 305, Natural Rivers, of the NREPA. A Natural Rivers Zoning Permit may be required for construction, land alteration, streambank stabilization, or vegetation removal along or near a natural river.
- V. The permittee is cautioned that grade changes resulting in increased runoff onto adjacent property is subject to civil damage litigation.
- W. Unless specifically stated in this permit, construction pads, haul roads, temporary structures, or other structural appurtenances to be placed in a wetland or on bottomland of the water body are not authorized and shall not be constructed unless authorized by a separate permit or permit revision granted in accordance with the applicable law.
- X. For projects with potential impacts to fish spawning or migration, no work shall occur within fish spawning or migration timelines (i.e., windows) unless otherwise approved in writing by the Michigan Department of Natural Resources, Fisheries Division.
- Y. Work to be done under authority of this permit is further subject to the following special instructions and specifications:

1. Prior to the initiation of any permitted construction activities, a sedimentation barrier shall be constructed immediately down gradient of the construction site. Sedimentation barriers shall be specifically designed to handle the sediment type, load, water depth, and flow conditions of each construction site throughout the anticipated time of construction and unstable site conditions. The sedimentation barrier shall be maintained in good working order throughout the duration of the project. Upon project completion, the accumulated materials shall be removed and disposed of at an upland (non-wetland, non-floodplain) site and stabilized with seed and mulch. The sedimentation barrier shall then be removed in its entirety and the area restored to its original configuration and cover.
2. Prior to the start of construction, all adjacent non-work wetland areas shall be protected by properly trenched sedimentation barrier to prevent sediment from entering the wetland. Orange construction fencing shall be installed as needed to prohibit construction personnel and equipment from entering or performing work in these areas. Fence shall be maintained daily throughout the construction process. Upon project completion, the accumulated materials shall be removed and disposed of at an upland site, the sedimentation barrier shall then be re-moved in its entirety and the area restored to its original configuration and cover.
3. All raw areas in uplands resulting from the permitted construction activity shall be effectively stabilized with sod and/or seed and mulch (or other technology specified by this permit or project plans) in a sufficient quantity and manner to prevent erosion and any potential siltation to surface waters or wetlands. Temporary stabilization measures shall be installed before or upon commencement of the permitted activity and shall be maintained until permanent measures are in place. Permanent measures shall be in place within five (5) days of achieving final grade.
4. All dredge/excavated spoils including organic and inorganic soils, vegetation, and other material removed shall be placed on upland (non-wetland, non-floodplain or non-bottomland), prepared for stabilization, and stabilized with sod and/or seed and mulch in such a manner to prevent and ensure against erosion of any material into any waterbody, wetland, or floodplain.
5. All fill/backfill shall consist of clean inert material that will not cause siltation nor contain soluble chemicals, organic matter, pollutants, or contaminants. All fill shall be contained in such a manner so as not to erode into any surface water, floodplain, or wetland. All raw areas associated with the permitted activity shall be stabilized with sod and/or seed and mulch, riprap, or other technically effective methods as necessary to prevent erosion.
6. This permit is limited to authorizing the construction as specified above and carries with it no assurances or implications that associated wetland or floodplain areas can be developed and serviced by the structures authorized by this permit.
7. The local unit of government in which this project site is located has a wetland ordinance. Authority granted by this permit does not waive permit requirements or the need to obtain a separate permit from the local unit of government.

Floodplain Conditions

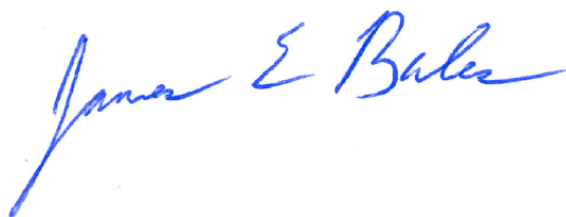
8. The design flood or one percent (1%) annual chance (100-year) floodplain elevation at this location on the Huron River is 778.6 feet NAVD-88.
9. Any other filling, grading, or construction within the 100-year floodplain that is not specifically authorized by this permit will require a separate EGLE permit before starting the work.
10. The permittee is cautioned that grade changes resulting in increased runoff onto adjacent property is subject to civil damage litigation.
11. Fill shall not be placed to prevent surface water drainage across the site. Site runoff shall be directed to public or natural drainage ways and not unnaturally discharged onto adjacent properties.

Threatened and Endangered Species Conditions

12. Materials used for erosion control and site restoration must be wildlife-friendly. Do not use erosion control products containing plastic mesh netting or other similar material that could entangle eastern massasauga rattlesnake (EMR). Several products for soil erosion and control exist that do not contain plastic netting including net-less erosion control blankets (for example, made of excelsior), loose mulch, hydraulic mulch, soil binders, unreinforced silt fences, and straw bales. Others are made from natural fibers (such as jute) and loosely woven together in a manner that allows wildlife to wiggle free.
13. To increase human safety and awareness of EMR, those implementing the project must first review the EMR factsheet (available at <https://www.fws.gov/media/eastern-massasauga-rattlesnake-fact-sheet>), and watch MDNR's "60-Second Snakes: The Eastern Massasauga Rattlesnake" video (available at https://youtu.be/~PFnXe_e02w).
14. During project implementation, report sightings of any federally listed species, including EMR, to the Service within 24 hours.
15. The project will not result in permanent loss of more than one acre of wetland or conversion of more than ten acres of EMR upland habitat (uplands associated with high quality wetland habitat) to other land uses.
16. Any cutting/trimming of potential roost trees for Indiana bat (trees ≥ 5 inches in diameter [at breast height] with cracks, crevices and/or exfoliating bark) must occur OUTSIDE the non-volant ("pup") season for Indiana bat (June 1 through July 31). Prescribed fire and/or pesticide application must also occur outside June-July where potential roost trees are present.
17. Tree cutting/trimming and/or prescribed burning will not clear ≥ 20 contiguous acres of forest or fragment a connective corridor between two or more forest patches of at least five acres.
18. The action will not include temporary or permanent lighting of roadway(s), facility(ies), and/or parking lot(s).

General Conditions

19. Authority granted by this permit does not waive permit or program requirements under Part 91, Soil Erosion and Sedimentation Control, of the NREPA or the need to acquire applicable permits from the CEA. To locate the Soil Erosion Program Administrator for your county, visit <https://www.michigan.gov/egle/about/organization/water-resources/soil-erosion/sesc-overview> and select "Soil Erosion and Sedimentation Control Agencies".
20. The authority to conduct the activity as authorized by this permit is granted solely under the provisions of the governing act as identified above. This permit does not convey, provide, or otherwise imply approval of any other governing act, ordinance, or regulation, nor does it waive the permittee's obligation to acquire any local, county, state, or federal approval or authorization necessary to conduct the activity.
21. No fill, excess soil, or other material shall be placed in any wetland, floodplain, or surface water area not specifically authorized by this permit, its plans, and specifications.
22. This permit does not authorize or sanction work that has been completed in violation of applicable federal, state, or local statutes.
23. The permit placard shall be kept posted at the work site in a prominent location at all times for the duration of the project or until permit expiration.
24. This permit is being issued for the maximum time allowed and no extensions of this permit will be granted. Initiation of the construction work authorized by this permit indicates the permittee's acceptance of this condition. The permit, when signed by EGLE, will be for a five-year period beginning on the date of issuance. If the project is not completed by the expiration date, a new permit must be sought.



Issued By: _____

James Bales
Jackson District Office
Water Resources Division
517-257-4532

THIS PERMIT MUST BE SIGNED BY THE PERMITTEE TO BE VALID.

I hereby assure that I have read, am familiar with, and agree to adhere to the terms and conditions of this permit.

Permittee Signature

Date

cc: City of Ann Arbor Clerk
Washtenaw County Drain Commissioner
Matt Byrne, OHM Advisors
Joshua Gleason, EGLE