



**PERMIT**  
**Under the Environmental Conservation Law (ECL)**

**Permittee and Facility Information**

**Permit Issued To:**  
Hudson Highlands Fjord Trail Inc  
c/o Amy Kacala  
85 Civic Center Plz Ste 300  
Poughkeepsie, NY 12601  
(845) 473-4440

**Facility:**  
HUDSON HIGHLANDS FJORD TRAIL  
Along the Hudson River|Cold Spring to  
Beacon, NY

**Facility Location:** in SEVERAL COUNTIES in THIS REGION

**Facility Principal Reference Point:** NYTM-E: 584.812 NYTM-N: 4589.874  
Latitude: 41°27'21.5" Longitude: 73°59'04.3"

**Project Location:** From the Breakneck Ridge Station to the NYC DEP Hudson River Drainage Chamber

**Authorized Activity:** This permit authorizes disturbance to ~325 linear feet of the bed and banks of the Hudson River and excavation/fill below mean high water of 260 linear feet (106 cubic yards) of temporary shoreline stabilization associated with the construction of expanded trail and a bridge over the railroad tracks at Breakneck Ridge. The project will also be covered by the DEC's Blanket Water Quality Certification for Nationwide Permits.

**Permit Authorizations**

**Excavation & Fill in Navigable Waters - Under Article 15, Title 5**

Permit ID 3-9903-00108/00004

New Permit

Effective Date: 12/19/2023

Expiration Date: 12/31/2028

**Stream Disturbance - Under Article 15, Title 5**

Permit ID 3-9903-00108/00005

New Permit

Effective Date: 12/19/2023

Expiration Date: 12/31/2028

**NYSDEC Approval**

**By acceptance of this permit, the permittee agrees that the permit is contingent upon strict compliance with the ECL, all applicable regulations, and all conditions included as part of this permit.**

Permit Administrator: REBECCA S CRIST, Deputy Regional Permit Administrator

Address: NYSDEC Region 3 Headquarters  
21 S Putt Corners Rd  
New Paltz, NY 12561

Authorized Signature: Rebecca S. Crist

Date 12 / 19 / 2023



## Permit Components

NATURAL RESOURCE PERMIT CONDITIONS

GENERAL CONDITIONS, APPLY TO ALL AUTHORIZED PERMITS

NOTIFICATION OF OTHER PERMITTEE OBLIGATIONS

### **NATURAL RESOURCE PERMIT CONDITIONS - Apply to the Following Permits: EXCAVATION & FILL IN NAVIGABLE WATERS; STREAM DISTURBANCE**

**1. Conformance With Plans** All activities authorized by this permit must be in strict conformance with the approved plans submitted by the applicant or applicant's agent as part of the permit application. Such approved plans were prepared by SCAPE, Langan, and TMS Waterfront, and consisting of the plans listed in Natural Resource Permit Condition #2.

**2. Approved Plans** The approved plans consist of the following:  
By SCAPE

1. Landscape Site Sections BNB L-800 and Planting Plan Sheets BNB L-401 and L-400 dated 08/23/2023,
2. Hudson Highlands Fjord Trail Breakneck Bridge Drawings dated 01/26/2023,

By LANGAN

3. Revised Wetland Drawings WL101-105, WL110-114 dated 08/10/2023,

By TMS Waterfront

4. Metro-North Railroad Platform Drawings MR-1.0-5.0 dated 01/20/2023,
5. Marine Logistics Drawings dated 01/23/2023.

**3. Prior Approval of Changes** If the permittee desires to make any minor changes to the scope of work shown in the approved plans referenced in Natural Resource Permit Conditions 1 & 2, or seeks minor changes to timeframes or deadlines in any conditions of this permit, the permittee shall submit a request via email to Angela Schimizzi, [Angela.Schimizzi@dec.ny.gov](mailto:Angela.Schimizzi@dec.ny.gov), to make such proposed changes. The proposed changes shall not be implemented unless authorized in writing by the Department. Issuance of such approval without modification of the permit is at the Department's discretion.

**4. Education and Encounter Plan for Threatened Species** An Education and Encounter Plan must be approved by DEC for each species prior to the start of construction; once approved these plans will become part of the Approved Plans listed in Natural Resource Permit Conditions 1 & 2. The approved plans must be implemented and all workers will sign a log to be maintained on site which certifies that they have received the training specified in the Education and Encounter Plan.



**5. Threatened Species Encounter Procedures** The procedures below shall be followed in the event that a rattlesnake or fence lizard is encountered on the work site:

- If a threatened species is seen, stop all ground disturbing work, machinery and vehicles immediately.
- Contact the contractor in charge and cease work in the area until the animal has moved safely from the area. Allow the threatened species to continue on its way.
- If the threatened species does not move along on its own, contact the NYS DEC Licensed monitor for the project to relocate the animal.
- Only a qualified biologist with knowledge of the threatened species and relocation procedures who is licensed by the NYSDEC to handle the threatened species may touch the animal.
- Contact the NYSDEC Wildlife Office to report the incident within 24 hours at 845-256-3098 or Wildlife.R3@dec.ny.gov . Provide the location, the project name, and a description of the incident.

**6. Threatened Species Construction Monitors** Species Monitors must be used during all work that includes vegetation removal, heavy equipment use, and ground disturbance associated with the project during the critical habitat timeframe, between April 1<sup>st</sup> and October 31<sup>st</sup> of any given year. The appropriately qualified monitor must be licensed by the NYSDEC to handle the threatened species, timber rattlesnakes or fence lizards. The name of the NYSDEC-licensed monitor(s) must be provided to the Department before work can start during the habitat timeframe of any given year and if any change in monitor takes place over the course of the project. Vegetated areas must be inspected for the presence of threatened species by the licensed monitor immediately before any vegetation removal or ground disturbance work takes place. The permittee is responsible for insuring that the monitor shall also:

- Conduct reconnaissance surveys for timber rattlesnakes and fence lizard within the work area each day prior to the initiation of activities, and relocating snakes or lizards, as required.
- Train personnel working at the site on the details of the DEC-approved Education and Encounter Plan, including how to identify threatened species and what to do in the event of an encounter.
- Monitor throughout each workday to clear work areas of threatened species as needed.
- Ensure that no trap hazards, as defined in the accepted Education and Encounter Plan, are left overnight.
- Provide any necessary reports or notifications to NYSDEC on threatened species encounters.

**7. Filling of Rock Voids** To reduce the creation of new habitat for threatened species in close proximity to trail users on the new trail, all stone placement voids under placed rock must be filled completely so as not to leave any gaps that may be used by the threatened species.

**8. Source of Stone for Construction** The project sponsor must source the stone for the project from a facility that is permitted pursuant to Article 23, Title 27 of the Environmental Conservation Law, Mined Land Reclamation or, if from a non-permitted facility, with written approval of the source by DEC staff.

**9. Endangered/Threatened Species Signage** Interpretive signage must be installed at the trailheads and trail steward shed. Signage must be DEC-approved and explain the protected status of the endangered or threatened species and potential for impacts to the surrounding habitat by leaving the trail. This must be completed before the expiration of the permit.



## PRE-CONSTRUCTION REQUIREMENTS

**10. Post Permit Sign** The permit sign enclosed with this permit shall be posted in a conspicuous location on the worksite and adequately protected from the weather.

**11. Spill Prevention Control and Countermeasures** At least 45 days before construction begins for the Authorized Activity the Permittee must submit a detailed Spill Prevention Control and Countermeasures plan that includes plans and descriptions of the means of concrete production, delivery, and placement. Discharge of concrete and concrete leachate is prohibited. In-water concrete production, delivery, and placement, and actions preliminary to same, may start when the Department has given written approval of these plans. Once approved by the Department, the Spill Prevention Control and Countermeasures Plan becomes part of the Approved Plans as specified in Natural Resource Permit Conditions 1 & 2.

**12. Notice of Intent to Commence Work** The permittee shall submit a Notice of Intent to Commence Work to Angela Schimizzi, [Angela.Schimizzi@dec.ny.gov](mailto:Angela.Schimizzi@dec.ny.gov), at least 48 hours in advance of the time of commencement.

**13. Install and Maintain Erosion Controls** The erosion control measures specified in the referenced plans must be put in place before any disturbance of the ground occurs and is to be maintained in a functional condition over the life of construction and revegetation phase.

**14. Biodegradable Erosion Controls** All erosion control materials must be completely biodegradable material without the use of any plastic in the mesh. Degradable, photodegradable, UV-degradable, oxo-degradable, or oxo-degradable plastic netting (including polypropylene, nylon, polyethylene, and polyester) materials are not permitted.

## CONSTRUCTION REQUIREMENTS

**15. Clean Fill Only** All fill shall consist of clean soil, sand and/or gravel that is free of the following substances: asphalt, slag, flyash, broken concrete, demolition debris, garbage, household refuse, tires, woody materials including tree or landscape debris, and metal objects. The introduction of materials toxic to aquatic life is expressly prohibited.

**16. Protection of Bald Eagles and Peregrine Falcons** To protect threatened bald eagles and endangered peregrine falcons, a perch deterrent shall be utilized on any crane in use on the site.

**17. Storage of Materials** Soil, fill stockpiles, and excavated materials may not be stored on top of stream banks, where materials could erode into the stream or cause the bank to collapse.

**18. No Equipment in the Water** Heavy equipment operation in the water is prohibited. With backhoes and similar heavy equipment, the bucket may enter the water.

**19. Concrete Leachate** During construction, no wet or fresh concrete or leachate shall be allowed to escape into any wetlands or waters of New York State, nor shall washings from ready-mixed concrete trucks, mixers, or other devices be allowed to enter any wetland or waters. Only watertight or waterproof forms shall be used. Wet concrete shall not be poured to displace water within the forms.



## POST-CONSTRUCTION REQUIREMENTS

**20. Disposal of Material** Any demolition debris, excess construction materials, and/or excess excavated materials shall be immediately and completely disposed of on an approved upland site more than 100 feet from any regulated waterbody or wetland. These materials shall be suitably stabilized so as not to re-enter any water body, wetland, or wetland adjacent area; and must be disposed of in accordance with all local, state, and federal statutes, regulations, or ordinances.

**21. 2 Year Plant Survival** All plantings shown on the drawings made a part of this permit must survive for a minimum of two growing seasons. If mortality exceeds fifteen percent, or bare areas occur, dead plants must be replaced.

**22. Notify DEC of Completion of Work** The permittee shall notify the Department within **seven days** of project completion. Notice shall be sent to Angela Schimizzi, [Angela.Schimizzi@dec.ny.gov](mailto:Angela.Schimizzi@dec.ny.gov).

## GENERAL REQUIREMENTS

**23. Precautions Against Contamination of Waters** All necessary precautions shall be taken to preclude contamination of any wetland or waterway by suspended solids, sediments, fuels, solvents, lubricants, epoxy coatings, paints, concrete, leachate or any other environmentally deleterious materials associated with the project.

**24. No Interference With Navigation** There shall be no unreasonable interference with navigation by the work herein authorized.

**25. State May Require Site Restoration** If upon the expiration or revocation of this permit, the project hereby authorized has not been completed, the applicant shall, without expense to the State, and to such extent and in such time and manner as the Department of Environmental Conservation may lawfully require, remove all or any portion of the uncompleted structure or fill and restore the site to its former condition. No claim shall be made against the State of New York on account of any such removal or alteration.

**26. State May Order Removal or Alteration of Work** If future operations by the State of New York require an alteration in the position of the structure or work herein authorized, or if, in the opinion of the Department of Environmental Conservation it shall cause unreasonable obstruction to the free navigation of said waters or flood flows or endanger the health, safety or welfare of the people of the State, or cause loss or destruction of the natural resources of the State, the owner may be ordered by the Department to remove or alter the structural work, obstructions, or hazards caused thereby without expense to the State, and if, upon the expiration or revocation of this permit, the structure, fill, excavation, or other modification of the watercourse hereby authorized shall not be completed, the owners, shall, without expense to the State, and to such extent and in such time and manner as the Department of Environmental Conservation may require, remove all or any portion of the uncompleted structure or fill and restore to its former condition the navigable and flood capacity of the watercourse. No claim shall be made against the State of New York on account of any such removal or alteration.

**27. State Not Liable for Damage** The State of New York shall in no case be liable for any damage or injury to the structure or work herein authorized which may be caused by or result from future operations undertaken by the State for the conservation or improvement of navigation, or for other purposes, and no claim or right to compensation shall accrue from any such damage.



**GENERAL CONDITIONS - Apply to ALL Authorized Permits:**

**1. Facility Inspection by The Department** The permitted site or facility, including relevant records, is subject to inspection at reasonable hours and intervals by an authorized representative of the Department of Environmental Conservation (the Department) to determine whether the permittee is complying with this permit and the ECL. Such representative may order the work suspended pursuant to ECL 71- 0301 and SAPA 401(3).

The permittee shall provide a person to accompany the Department's representative during an inspection to the permit area when requested by the Department.

A copy of this permit, including all referenced maps, drawings and special conditions, must be available for inspection by the Department at all times at the project site or facility. Failure to produce a copy of the permit upon request by a Department representative is a violation of this permit.

**2. Relationship of this Permit to Other Department Orders and Determinations** Unless expressly provided for by the Department, issuance of this permit does not modify, supersede or rescind any order or determination previously issued by the Department or any of the terms, conditions or requirements contained in such order or determination.

**3. Applications For Permit Renewals, Modifications or Transfers** The permittee must submit a separate written application to the Department for permit renewal, modification or transfer of this permit. Such application must include any forms or supplemental information the Department requires. Any renewal, modification or transfer granted by the Department must be in writing. Submission of applications for permit renewal, modification or transfer are to be submitted to:

Regional Permit Administrator  
NYSDEC Region 3 Headquarters  
21 S Putt Corners Rd  
New Paltz, NY12561

**4. Submission of Renewal Application** The permittee must submit a renewal application at least 30 days before permit expiration for the following permit authorizations: Excavation & Fill in Navigable Waters, Stream Disturbance.

**5. Permit Modifications, Suspensions and Revocations by the Department** The Department reserves the right to exercise all available authority to modify, suspend or revoke this permit. The grounds for modification, suspension or revocation include:

- a. materially false or inaccurate statements in the permit application or supporting papers;
- b. failure by the permittee to comply with any terms or conditions of the permit;
- c. exceeding the scope of the project as described in the permit application;
- d. newly discovered material information or a material change in environmental conditions,



relevant technology or applicable law or regulations since the issuance of the existing permit;

- e. noncompliance with previously issued permit conditions, orders of the commissioner, any provisions of the Environmental Conservation Law or regulations of the Department related to the permitted activity.

**6. Permit Transfer** Permits are transferrable unless specifically prohibited by statute, regulation or another permit condition. Applications for permit transfer should be submitted prior to actual transfer of ownership.

## NOTIFICATION OF OTHER PERMITTEE OBLIGATIONS

### **Item A: Permittee Accepts Legal Responsibility and Agrees to Indemnification**

The permittee, excepting state or federal agencies, expressly agrees to indemnify and hold harmless the Department of Environmental Conservation of the State of New York, its representatives, employees, and agents ("DEC") for all claims, suits, actions, and damages, to the extent attributable to the permittee's acts or omissions in connection with the permittee's undertaking of activities in connection with, or operation and maintenance of, the facility or facilities authorized by the permit whether in compliance or not in compliance with the terms and conditions of the permit. This indemnification does not extend to any claims, suits, actions, or damages to the extent attributable to DEC's own negligent or intentional acts or omissions, or to any claims, suits, or actions naming the DEC and arising under Article 78 of the New York Civil Practice Laws and Rules or any citizen suit or civil rights provision under federal or state laws.

### **Item B: Permittee's Contractors to Comply with Permit**

The permittee is responsible for informing its independent contractors, employees, agents and assigns of their responsibility to comply with this permit, including all special conditions while acting as the permittee's agent with respect to the permitted activities, and such persons shall be subject to the same sanctions for violations of the Environmental Conservation Law as those prescribed for the permittee.

### **Item C: Permittee Responsible for Obtaining Other Required Permits**

The permittee is responsible for obtaining any other permits, approvals, lands, easements and rights-of-way that may be required to carry out the activities that are authorized by this permit.

### **Item D: No Right to Trespass or Interfere with Riparian Rights**

This permit does not convey to the permittee any right to trespass upon the lands or interfere with the riparian rights of others in order to perform the permitted work nor does it authorize the impairment of any rights, title, or interest in real or personal property held or vested in a person not a party to the permit.

**Item E: SEQR Type I Action, No Significant Impact** Under the State Environmental Quality Review Act (SEQR), the project associated with this permit is classified as a Type I Action with NYS Office of Parks Recreation & Historic Preservation designated as the lead agency. It has been determined that the project will not have a significant effect on the environment.