

## 7.0 Permits and Approvals

The Proposed Project will require that various agency reviews be conducted, actions taken and procedures followed before land acquisition, construction and/or operation can be initiated. A number of permits and/or certifications must be obtained and consultations conducted prior to undertaking a Federal action. These authorizations are often related to other Federal programs or laws that are administered by the individual states. In the case of consultations with other governmental agencies, the consultation is generally initiated during the National Environmental Policy Act (NEPA) Environmental Impact Statement (EIS) process. Similarly, state and/or municipal actions or permits may require, or be dependent upon, the state agency or municipality's compliance with a state or locally mandated NEPA-like environmental review processes such as the New York State Environmental Quality Review Act (SEQRA) and associated implementing regulations, such as New York City's Environmental Quality Review (CEQR).

Various permits and approvals that may be required for the Proposed Project are presented in the tables below, although those listed below may not be exhaustive. The permits and approvals presented are focused on those that are being prepared or applied for concurrent to the NEPA process and/or early in the final design stage, rather than during later final design or during the actual construction phase.

### 7.1 Federal Permits and Approvals

The Federal permit approvals required for the Proposed Project are those required by the U.S. Coast Guard (USCG) and the U.S. Army Corps of Engineers (USACE) (see Table 7.1-1 below). The USCG has regulatory authority over the construction, reconstruction, or modification of bridges and causeways across navigable waters of the United States. USCG's bridge regulatory program is governed by regulations published in Title 33 of the Code of Federal Regulations (CFR), Parts 114 – 115. The U.S. Army Corps of Engineers (USACE) has regulatory authority over construction of structures, except bridges, and for discharge of dredged or fill material in navigable waters of the United States. The USACE's regulatory program is governed by regulations published in 33 CFR 320 – 330.

**TABLE 7.1-1  
FEDERAL PERMITS**

Federal Permits	Agency
Section 9 Bridge Permit	USCG
Section 404 Dredge and Fill Permit	USACE
Section 10 Rivers and Harbors Act Permit	USACE

In addition to the above Federal permits, consultation with Federal agencies has been initiated during the EIS preparation. Key Federal consultations required for the Proposed Project are presented in Table 7.1-2 below:

**TABLE 7.1-2  
FEDERAL CONSULTATIONS**

Federal Consultations	Agency
Section 106 Consultation (National Historic Preservation Act of 1966)	U.S. Advisory Council on Historic Preservation via the State Historic Preservation Offices (SHPOs) of NJ and NY
Section 7 Consultation (Endangered Species Act of 1973)	U.S. Fish & Wildlife Service / National Marine Fisheries Service
Essential Fish Habitat Consultation (Magnuson-Steven Fishery Conservation and Management Act)	National Marine Fisheries Service

Following the public release of the DEIS in May 2009 and consideration of the comments received during the DEIS Public Comment Period (which closed in July 2009), the New Alignment South has been identified as the Preferred Alternative (see Section 3.5 for more details). This alternative has been accepted by the USCG as its Preferred Alternative for purposes of this FEIS, and it is this alternative that is the basis for all permit applications and other approvals.

Given the dual role of the USCG for the Proposed Project (i.e., the lead Federal agency for the NEPA process as well as the Federal regulatory agency to issue a Bridge Permit), the USCG has requested that the Port Authority officially submit its Bridge Permit Application in advance of the release and distribution of the GBR FEIS in order to ensure that the Public Notice and its 30-day comment period required for the Bridge Permit would officially conclude no later than the end of the FEIS announcement period (i.e., 30 days after publication of its Notice of Availability in the *Federal Register*). Such submittal also included the Essential Fish Habitat (EFH) Assessment, which was then transmitted to the National Marine Fisheries Service (NMFS) by the USCG pursuant to Section 305(b)(4)(A) of the Magnuson-Stevens Fishery Conservation and Management Act.

Completion of the Federal consultations is anticipated to occur subsequent to the release and distribution of this FEIS. In addition, permit application to the U.S. Army Corps of Engineers is anticipated to occur subsequent to the release of this FEIS.

## **7.2 New York State Permits and Approvals**

The majority of the regulatory permits required in New York State are provided by the New York State Department of Environmental Conservation (NYSDEC), most of which are requested as part of the Section 404/10 Joint Application to the USACE. Such permits include those related to waters and wetlands, including the Section 401 Water Quality Certification required by the Clean Water Act of 1977, as amended. In addition, the New York State Department of State (NYS DOS) Division of Coastal Resources administers the federally-approved coastal zone management program that contains legislatively enacted coastal area policies with which activities that would occur in the coastal zone must conform. The New York State permits and/or approvals required for the Proposed Project are presented in Table 7.2-1 below:

**TABLE 7.2-1  
NEW YORK STATE PERMITS**

<b>New York State Permits/Approvals</b>	<b>Agency</b>
New York State Coastal Zone Policy Consistency	NYSDOS
Section 401 Water Quality Certification	NYSDEC
Protection of Waters Permit	NYSDEC
Tidal Wetlands Permit	NYSDEC
State Pollutant Discharge Elimination System Permit (SPDES)	NYSDEC
Non Hazardous Solid Waste Management Facility Permit	NYSDEC
Hazardous Waste Storage Facility/Hazardous Waste Transport Licenses	NYSDEC

### 7.3 New Jersey Permits and Approvals

The Land Use Regulation Program (LURP) within New Jersey Department of Environmental Protection (NJDEP) has the responsibility for reviewing and approving the major regulatory permits that would be submitted for the Proposed Project, including both the Federally approved coastal zone management program for the state and the Federally-mandated Section 401 Water Quality Certification. Typically, the applications for many of the New Jersey permits and/or approvals as presented in Table 7.3-1 below are packaged together, with the exception of contamination-related approvals.

**TABLE 7.3-1  
NEW JERSEY STATE PERMITS**

<b>New Jersey State Permits/Approvals</b>	<b>Agency</b>
Waterfront Development Permit/New Jersey State Coastal Zone Policy Consistency	NJDEP
Section 401 Water Quality Certification	NJDEP
Freshwater Wetlands Permit	NJDEP
NJ Pollutant Discharge Elimination System Permit (NJPDDES)	NJDEP
Soil Reuse Plan Approval	NJDEP
UST Closure Plan Approval	NJDEP
Industrial Site Recovery Act Compliance	NJDEP
Hazardous Waste Storage Facility Permit	NJDEP
Hazardous Waste Transport Permit	NJDEP

### 7.4 New York City Actions

New York City actions involving changes to the City Map, disposition of City real property, etc. are generally subject to the Uniform Land Use Review Procedure (ULURP). The de-mapping of City streets and the disposition of City property required to implement this Proposed Project will trigger the ULURP process and coordination with the City of New York Department of City

Planning (NYCDCP) and other City of New York agencies, including the Mayor’s Office of Environmental Coordination. Also, the City of New York is required to comply with the requirements of the New York State Environmental Quality Review Act (SEQRA)/City Environmental Quality Review (CEQR) before it may undertake or approve certain actions. Table 7.4-1 below indicates some of processes associated with City of New York actions required in connection with the Proposed Project.

**TABLE 7.4-1  
NEW YORK CITY ACTIONS**

<b>New York City Actions</b>	<b>Agency</b>
Uniform Land Use Review Procedure (ULURP)	NYCDCP
NYC Local Waterfront Revitalization Plan Concurrence	NYCDCP
City Environmental Quality Review (CEQR)	NYCDCP

Given that the USCG and Port Authority have conducted close coordination with the New York Mayor’s Office of Environmental Coordination, NYC Department of City Planning and other City agencies to ensure the preparation and use of a joint environmental document to satisfy both NEPA and CEQR requirements, it is anticipated that this NEPA document will satisfy the CEQR’s environmental documentation requirements as well.

## **7.5 State Lands/Tidelands/Lands Under Water**

Tidelands, also known as riparian lands, are all those lands now or formerly flowed by the mean high tide of a natural waterway. The people of the State of New Jersey own these lands, subject to certain federal navigation rights. As a result, one must get permission from the State to use these lands. Title to the bed of numerous bodies of water is held in trust for the People of the State of New York under the jurisdiction of the New York State Executive Department, Office of General Services (OGS). Concerning the Proposed Project, the States of New York and New Jersey have consented through the enactment of concurrent legislation to the use and occupation of the real property of the State, including lands of the State lying under water, necessary for the construction, operation and maintenance of bridges and tunnels constructed or operated pursuant to the provisions of bi-state legislation. N.J.S.A. 32:1-133; 65 McKinneys Unconsol., Laws of NY 6517. Port Authority staff will coordinate use of tidelands/lands underwater with the NJDEP Bureau of Tidelands Management and the New York State OGS Bureau of Land Management. These underwater land conveyances for both states are presented in Table 7.5-1 below.

**TABLE 7.5-1  
UNDERWATER LAND CONVEYANCES**

<b>Lands Under Water in the Arthur Kill</b>	<b>Agency</b>
NJ Tidelands	NJDEP Bureau of Tidelands Management
NYS Underwater Lands	NYS OGS Bureau of Land Management