

Getting Millburn's Flood Projects Through State and Federal Approval

How the New Jersey and federal pipelines work, where Millburn's projects stall, and a 12-month plan to move them

Planning document for the Millburn Township Flood Mitigation Advisory Committee (FMAC) and Township Committee

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Status of this document: a working plan built from public sources (township updates and minutes, NJDEP, FEMA, USACE, GAO, CRS and press reports, listed in Section 8). Claims marked **[unverified]** could not be confirmed against a primary source and should be checked before they are relied on in correspondence with any agency. Nothing here is legal advice.

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1 Summary

Millburn has done most of what a municipality can do on its own. Since the FMAC was formed in January 2022 the Township has completed more than seven projects worth about \$5 million: neighborhood drainage on the East Branch, pump station upgrades, the Fandango dam repair and river cleanouts^[1,2]. What remains is the work that needs someone else's signature: State approval of the Orange Reservoir bypass, a State permit for the next Fandango cleanout, detention on Van Winkle Brook that may need parkland, wetland and stream-bed approvals, FEMA-funded home elevations, and a federal role on the Rahway that the Army Corps has so far declined to take.

The bottlenecks are less about any one agency being slow than about how the work is structured:

1. **No clock on State decisions.** The Orange Reservoir bypass was scheduled for State approval in 2025 and bidding in 2026^[1]. There is no public record of what application is pending with which NJDEP program, when it was deemed complete, or when a decision is due.
2. **Assets with many owners and no lead.** The reservoir belongs to the City of Orange, the reservation is Essex County parkland, the Fandango dam is privately owned, and the main detention site straddles Springfield. Each project needs a lead applicant with legal authority, and agencies will not act faster than the slowest owner.
3. **The federal channels are unstable.** FEMA tried to end BRIC in April 2025, made no new awards for 11 months, and restarted only under court order in March 2026^[8,9]. Even in normal times FEMA's second-stage review took a median 10 to 13 months for projects^[8]. The Army Corps closed its Rahway fluvial study with a Report of Findings in September 2025 rather than a recommended plan^[5].
4. **The rules moved under the designs.** The 2023 Inland Flood Protection Rule raised design flood elevations by two to three feet and required 2100 rainfall in designs^[12]. The NJ PACT REAL rules were adopted in January 2026, then their legacy period was extended to July 20, 2027 while NJDEP drafts amendments^[13,14].
5. **Projects are not grant-ready.** Most roadmap items have no cost estimate, benefit-cost analysis or environmental documentation^[1]. The two detention estimates for Van Winkle Brook (2.5 and 4.5 million cubic feet) have not been reconciled^[1]. FEMA and the Corps both screen on these documents before they look at merit.

The ten actions with the most leverage, detailed in Sections 5 and 6:

- A1. Keep a single approvals register (project, agency, permit type, filed, complete, decision due, contact, next step) and publish it with the flood dashboard.
- A2. Ask NJDEP in writing for a named project manager and a decision schedule for the Orange Reservoir bypass, and request a pre-application meeting for every new filing.
- A3. Sign a shared-services agreement with the City of Orange and Essex County that settles who applies for, owns, operates and insures the bypass.
- A4. Write the bypass operating protocol (forecast trigger, release rule, notification, failure modes) before the State asks for it, since forecast-based operation is what the Corps rejected^[6].
- A5. Confirm whether the next Fandango cleanout fits an existing NJDEP general permit or permit-by-rule before applying for an individual permit.
- A6. Request the Corps' Rahway hydraulic models, structure inventory and benefit-cost work, which roughly \$7 million of public money paid for^[3].

- A7.** Work with the NJ delegation on the Rahway re-evaluation provision in WRDA 2026^[7], and ask the Corps whether a Millburn-scale project fits its Continuing Authorities Program (Section 205).
- A8.** Put every candidate project into the Essex County Hazard Mitigation Plan annex now, so it is eligible for HMGP money the next time a disaster is declared.
- A9.** Build grant-ready packages (cost estimate, FEMA benefit-cost analysis, environmental screening) for the three largest projects, starting with the bypass.
- A10.** Calibrate this repository’s flood model against USGS gauge records so its outputs can support benefit-cost and permit submissions.

2 Where Millburn’s projects stand

Table 1 lists each open project with the outside approval or money it is waiting on. It is built from the Township’s December 8, 2025 flood mitigation update^[1], the August 2024 FMAC release^[2], and Township Committee minutes from December 2025 and June 2026^[15,16]. Several items have moved since; the register proposed in A1 would keep this table current.

Table 1: Open projects and their outside dependencies.

Project	Owner / partners	Outside gate	Status and risk
Orange Reservoir bypass (West Branch, SMR detention)	City of Orange (reservoir owner), Essex County, Millburn	State of NJ approval, which the Township lists as the last item before design completion and bidding. The program (Dam Safety, Land Use, Green Acres or several) is not stated publicly.	Planned: approval 2025, bid and build 2026 ^[1] . Estimated to cut downtown’s annual flood chance from about 20% to 10–15% ^[1] . The Corps rejected a similar forecast-dependent option in 2018 and again by HQ guidance in August 2021 ^[1,6] .
Gilbert Place pump expansion	Millburn	DCA grant (about \$500,000 applied for, December 2025) ^[15] ; earlier \$1 million federal request through the NJ-11 office ^[2]	Funded by the State per the 2025 update; 2026 construction ^[1] . Low approval risk.
Ridgewood Rd home elevations (3 homes)	Homeowners, Millburn	FEMA/NJOEM grant approved ^[1,2]	Design late 2025, build 2026. Risk: FEMA closeout paperwork and cost growth.
Fandango downstream cleanout, phase II	Lakeside Village (private), Millburn oversight	“Special permit” from the State ^[1] ; likely NJDEP Flood Hazard Area and possibly Freshwater Wetlands	No date. Risk: applying for an individual permit when a general permit may suffice.
Fandango dam upstream work, flood gate, levee repair	Lakeside Village	Possibly NJDEP Dam Safety (N.J.A.C. 7:20) ^[unverified]	Remaining work not yet validated by a professional ^[1] .

Project	Owner / partners	Outside gate	Status and risk
Van Winkle Brook detention (Chatham Rd / Arboretum)	Millburn, Arboretum	NJDEP Flood Hazard Area, Freshwater Wetlands; Green Acres if encumbered parkland ^[unverified]	2027 on the roadmap. Needs about 2.5 million ft ³ and lowering the bed more than 10 ft, which “may not be permitted” ^[1] .
Alternative: Millburn Ave conveyance plus detention near Millburn HS / Washington School	Millburn, Springfield, Board of Education	Same NJDEP permits; Springfield consent	About 4.5 million ft ³ ; Short Hills Ave bridge may constrain flow ^[1] . Joint fields project under DEP review in June 2026 ^[16] .
Downtown redevelopment (Futter buildings, riverwalk)	Millburn	NJDEP Flood Hazard Area; REAL rule design flood elevation	Discussed June 2026 as a flood mitigation opportunity ^[16] .
Rahway basin federal project	USACE, NJDEP (sponsor), Mayors Council	Congressional authority (WRDA) and appropriations	Fluvial study closed with a Report of Findings, September 2025 ^[5,6] . WRDA 2026 carries a re-evaluation provision ^[7] .

3 How the State and federal pipelines work

A Millburn flood project typically passes through three kinds of gate: State regulatory approval, a funding decision, and for basin-scale work, a federal planning decision. They run on separate clocks and none of them waits for the others.

3.1 NJDEP regulatory approvals

Flood Hazard Area (N.J.A.C. 7:13). Any work in a regulated water or its flood hazard area or riparian zone needs a permit-by-rule, a general permit or an individual permit^[17]. The Inland Flood Protection Rule, adopted July 17, 2023, raised fluvial design flood elevations by two feet over State or FEMA mapping (three feet above the FEMA 1% elevation under the FEMA fluvial method), requires 2100 precipitation in the calculations, and set flows at 125% of FEMA’s 1% peak under the FEMA hydraulic method^[12]. For Millburn this matters twice: a detention basin or bypass must be designed to the higher storm, and the Township’s own estimates of benefit will look larger against the State’s design storm than against FEMA’s.

NJ PACT REAL rules. NJDEP adopted the Resilient Environments and Landscapes rules in January 2026, on the last day of the Murphy administration^[13]. Governor Sherrill’s Executive Order No. 7 then paused new regulations for review, and on May 29, 2026 NJDEP announced it would extend the legacy period: projects with complete permit applications filed before July 20, 2027 can proceed under the earlier rules, while amendments are proposed with a 60-day comment period^[13,14]. Millburn’s June 2026 zoning ordinance already ties building height to the design flood elevation under the REAL rules^[16]. **Practical consequence:** any Township project that can file a technically complete application before July 20, 2027 should decide deliberately which rule set it wants to be judged under.

Freshwater Wetlands (N.J.A.C. 7:7A). Detention on Van Winkle Brook near the Arboretum, and any channel lowering, will likely need a wetlands letter of interpretation and permit^[unverified]. A letter of inter-

pretation does not preserve the older stormwater rules^[12], so it should be sequenced with, not instead of, the main application.

Dam Safety (N.J.A.C. 7:20). The Orange Reservoir dam is a registered dam (National Dam Safety ID NJ00361)^[18]. Adding bypass pipes or changing operations would normally need a Dam Safety permit, and the owner, not Millburn, holds that obligation^[unverified]. This is the most likely reason the bypass approval sits with “the State” rather than a single permit office.

Green Acres. South Mountain Reservation is Essex County parkland. Using encumbered parkland for non-park purposes requires a Green Acres diversion, and a major diversion goes to the State House Commission^[19]. A Rutgers water-policy expert described this as a “heavy lift” when the Corps’ 2014 plan proposed a dam in the reservation^[4]. Work that keeps the reservoir’s park use and only changes outlet works may avoid a diversion; that should be confirmed with Green Acres early^[unverified].

3.2 Funding channels

FEMA Hazard Mitigation Assistance. Three programs matter, all passed through the State. The State Hazard Mitigation Officer sits in the NJ Office of Emergency Management (NJ State Police)^[unverified]; residential elevations and buyouts after Ida are run by the Department of Community Affairs’ Division of Disaster Recovery and Mitigation, which applied for Ida HMGP money and as of its program page was awaiting FEMA’s decision^[20].

- **BRIC** (pre-disaster, competitive). FEMA announced its end on April 4, 2025. Twenty states including New Jersey sued; the District of Massachusetts found the termination unlawful on December 11, 2025 and on March 6, 2026 ordered FEMA to issue a new funding notice^[9]. FEMA issued a combined FY2024/2025 notice with \$1 billion available, which closed July 23, 2026^[9]. GAO found that from 2020 to 2023 the median second-stage review was 10 to 13 months for projects, about 50 applications had waited more than two years, and environmental and historic preservation review was the main cause^[8].
- **Flood Mitigation Assistance** (NFIP-insured structures, especially repetitive loss). FEMA’s FY2026 “Swift Current” round offers \$600 million, but only to states with a flood disaster declared between June 1, 2025 and May 31, 2027, and project scoping is no longer eligible^[10].
- **HMGP** (post-disaster). Funded as a share of each major disaster declaration. Projects must be in a FEMA-approved hazard mitigation plan, which for Millburn is the Township annex of the Essex County plan^[21]. The FEMA Review Council’s May 2026 report recommends faster mitigation funding and more State control, and discussed raising the per-capita damage threshold for declarations, which would make HMGP rarer for counties like Essex^[11].

State money. The State has funded Millburn’s Gilbert Place pump, and the Township applied to DCA for about \$500,000 more in December 2025^[1,15]. Other State channels worth using are legislative budget appropriations, Blue Acres for voluntary buyouts (funded mainly by FEMA, HUD and NRCS money)^[22], and the NJ Infrastructure Bank, which has financed municipal flood mitigation facilities^[23]. The 2019 Clean Stormwater and Flood Reduction Act lets municipalities form stormwater utilities with a dedicated fee^[unverified]; that would give the Township a local match that does not compete with the general budget.

3.3 The Army Corps

The Rahway fluvial study was authorized by House resolution in 1998 and reactivated by WRDA 2020. NJDEP signed the cost-sharing agreement on February 28, 2023 with \$1.54 million of 2022 disaster supplemental money^[6]. HQUSACE guidance in August 2021 ruled out forecast-based operation of the Orange Reservoir dam as a federal alternative^[6]. The team developed five alternatives (channel work, levees, floodwalls, dry detention, nonstructural) and closed the study with a Report of Findings in September 2025^[5,6]. The Mayors Council’s coordinator says about \$7 million has been spent across studies without a plan, and that the Corps’ authority to continue ends at the end of 2026^[3]^[unverified]. The Senate committee version of WRDA 2026 includes a provision to re-evaluate the Rahway basin study^[7].

For a project Millburn can carry without a basin plan, the Corps’ Continuing Authorities Program is the usual route. Section 205 covers small flood risk projects without specific Congressional authorization, with a per-project federal limit^[unverified]. It still needs a non-federal sponsor, a positive benefit-cost ratio and a 35% local share, so it does not avoid the grant-readiness work in Section 5^[unverified].

4 Why projects stall

4.1 Approvals have no visible clock

The Township’s public materials describe State approvals as “pending” or “progressing”^[1,2] without the application number, the NJDEP program, the date the file was deemed complete, or the decision due date. NJDEP’s rules set review periods for individual permits once an application is complete^[unverified], but that clock does not start until completeness, and requests for more information can restart it. Without a register, a slipped year looks the same as a file awaiting the Township’s own response.

4.2 No single applicant for shared assets

The bypass needs the City of Orange as dam owner, Essex County as parkland owner, and Millburn as the main beneficiary. The Fandango work is on private land. The best Van Winkle Brook detention site is partly in Springfield^[1]. Agencies generally deal with the owner or a sponsor with legal authority over the asset, and the 2019 stall of the Corps’ study was attributed in part to a lack of local buy-in among the watershed towns^[4]. Professor Van Abs’s 2021 call for a regional flood control authority^[4] reflects the same gap.

4.3 Federal programs are unreliable on a capital-plan timescale

Between April 2025 and March 2026 BRIC made no awards, phased projects could not start their second phase, and some subrecipients withdrew^[8]. FMA’s 2026 round is limited to recently declared disasters^[10]. HMGP depends on a declaration that Essex County did not immediately receive even after Ida^[4]. A Township plan that waits for one federal program will be idle for years at a time.

4.4 Design standards are moving

The 2023 inland rule, the January 2026 REAL adoption, the May 2026 extension and the pending amendments mean a design started in 2024 may be checked against three rule sets. The higher design flood also raises the size, and so the cost, of detention needed to meet a given target.

4.5 Projects are not packaged for review

Federal and State programs screen on documents before merit: a cost estimate, a FEMA-compliant benefit-cost analysis, hydrology and hydraulics, an environmental and historic preservation screen, and evidence

of site control. The December 2025 update gives no cost for most items and leaves two detention volumes unreconciled^[1]. The flood model in this repository is uncalibrated and its peak flows are likely several times higher than USGS observations (see the repository README), so it cannot yet support a benefit-cost submission.

5 Recommendations

5.1 Run approvals as a tracked process

- A1. Approvals register.** One row per approval: project, agency and program, permit type, application ID, filed date, completeness date, statutory or promised decision date, agency contact, Township owner, next action and who holds the ball. Review it at every FMAC meeting and publish a summary on the flood dashboard. This is the cheapest change in this plan and makes every other one measurable.
- A2. Named NJDEP contact and decision schedule.** Ask NJDEP in a letter from the Mayor, copied to the district's State legislators, to name one project manager for the bypass across Dam Safety, Land Use and Green Acres, and to agree a decision schedule. Request a pre-application meeting before every new filing; NJDEP offers these for complex projects^[unverified].

5.2 Fix ownership and authority

- A3. Bypass shared-services agreement.** An interlocal agreement among Millburn, the City of Orange and Essex County under the Uniform Shared Services and Consolidation Act^[unverified] should settle who applies, who pays design and construction, who owns and maintains the pipes, who decides to draw down the reservoir, and who carries liability if a drawdown is wrong. Agencies will ask these questions; answering them first removes the most likely cause of delay.
- A4. Bypass operating protocol.** The Corps' objection was dependence on forecasts^[1,6]. Write the protocol the State will need: forecast product and trigger (for example a NWS QPF or flood watch threshold), drawdown rate, minimum pool, downstream notification, refill, and what happens if the forecast is wrong in either direction. This repository's model can test release rules against Ida, Irene, Floyd and design storms.
- A5. Fandango permit route.** Before applying for a "special permit", confirm with NJDEP whether debris and sediment removal fits a Flood Hazard Area permit-by-rule or general permit, and whether Lake-side Village or the Township should be the applicant^[unverified]. A general permit can take a fraction of an individual permit's time.

5.3 Re-engage the federal channels on Millburn's terms

- A6. Get the Corps' work products.** Ask the New York District and NJDEP (the study sponsor) for the Rahway fluvial hydraulic models, structure inventory and benefit-cost analysis. They are the most expensive analysis ever done for this basin and would anchor Millburn's own benefit-cost work.
- A7. WRDA 2026 and CAP.** Coordinate with the Mayors Council on the WRDA 2026 re-evaluation provision^[7] so that Millburn-specific measures, including the bypass with a State-approved operating protocol, are in scope. In parallel, ask the Corps whether a Millburn-only project qualifies under Section 205.
- A8. Hazard mitigation plan annex.** Check that every project in Table 1 is listed in Millburn's annex of the Essex County Hazard Mitigation Plan^[21] with a cost range and benefit narrative, and confirm

when the County's next five-year update is due^[unverified]. HMGP money after a declaration goes first to projects already in the plan.

5.4 Make projects grant-ready

- A9. Grant-ready packages** for the bypass, Van Winkle Brook detention and Gilbert Place, each with: a Class 4 or better cost estimate, a FEMA BCA Toolkit run, hydrology and hydraulics, an environmental and historic preservation screen, site control or owner consent, and a local match source. Reconcile the 2.5 and 4.5 million ft³ detention figures as part of this. With these in hand the Township can file within weeks when BRIC, FMA, HMGP or a State program opens, instead of starting from scratch inside a 60- to 90-day window.
- A10. Calibrate the flood model.** Use `python -m millburn_flood validate` against USGS gauge 01394500 and adjust losses, roughness and channel conveyance until Ida, Irene and Floyd peaks match within an agreed tolerance. Document the calibration so it can be cited in permit and grant submissions, and use it to estimate damages avoided by each project.

5.5 Diversify money

Keep at least one State and one local source in every project's funding plan so a federal pause does not stop it: DCA grants, a legislative appropriation request each budget cycle, NJ Infrastructure Bank financing^[23], Blue Acres for willing sellers in the worst-hit blocks^[22], and a study of a Township stormwater utility as a dedicated match.

6 Twelve-month plan

Owners are suggestions for the Township to confirm. "FMAC" means the Flood Mitigation Advisory Committee; "Engineer" means the Township Engineer or its consultant.

When	Action	Owner	Ref.
Nov 2026	Build the approvals register from current files; add it to the dashboard	FMAC, Administrator	A1
Nov 2026	Letter to NJDEP requesting a named project manager and decision schedule for the bypass	Mayor	A2
Nov 2026	Request Corps Rahway models, inventory and BCA via NJDEP	Engineer	A6
Dec 2026	Confirm permit route for Fandango phase II; pre-application meeting	Engineer	A5
Dec 2026	Meet Mayors Council and NJ delegation offices on WRDA 2026 text; ask Corps about Section 205	Mayor, FMAC	A7
Jan 2027	Draft shared-services agreement with Orange and Essex County	Township Attorney	A3
Feb 2027	Draft bypass operating protocol; test release rules with the model	Engineer, FMAC	A4, A10
Mar 2027	Calibrate the flood model against USGS 01394500 and publish the calibration note	FMAC volunteers	A10
Mar 2027	Confirm projects in the Essex County HMP annex; submit updates	Engineer, OEM coordinator	A8

When	Action	Owner	Ref.
Apr 2027	File any application that should be judged under pre-REAL rules (deadline July 20, 2027)	Engineer	§3
Jun 2027	Grant-ready package for the bypass complete	Engineer	A9
Sep 2027	Grant-ready packages for Van Winkle Brook and Gilbert Place complete	Engineer	A9
Ongoing	State budget appropriation request each cycle; monitor BRIC, FMA and HMGP notices	Administrator	

7 Open questions to verify

These affect the plan and could not be confirmed from public sources:

1. Which NJDEP programs the Orange Reservoir bypass is pending with, the application numbers, and whether the files are deemed complete.
2. Whether the bypass requires a Green Acres diversion or only Dam Safety and Land Use approvals.
3. Whether the Corps' authority on the Rahway fluvial study ends at the end of 2026, as the Mayors Council reports^[3], and the final WRDA 2026 text.
4. The current Section 205 per-project federal limit and cost share.
5. Whether the Ida HMGP application by DCA has been decided, and whether any Millburn properties are in it.
6. The date of the next Essex County Hazard Mitigation Plan update.
7. Whether Millburn applied in the FY2024/2025 BRIC round that closed July 23, 2026.
8. Whether the Fandango cleanout fits an NJDEP permit-by-rule or general permit.

8 Sources

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