



**STATE OF NEW JERSEY
DEPARTMENT OF ENVIRONMENTAL PROTECTION
WATERSHED & LAND MANAGEMENT**
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 terms, conditions, and limitations 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>		Approval Date 03/06/2023
		Expiration Date 03/05/2028
<p>Permit Numbers: 1913-22-0004.1 LUP220001 1913-22-0004.1 LUP220002</p>	<p>Type of Approvals: Flood Hazard Area Individual Permit Freshwater Wetlands General Permit 10B Water Quality Certificate</p>	<p>Governing Rules: N.J.A.C. 7:13-1.1(b) N.J.A.C. 7:7A-1.1(a)</p>
<p>Permittee: New Jersey Department of Transportation (NJDOT) Attn.: Sandra Blick 1035 Parkway Avenue Trenton, NJ 08625</p>	<p>Site Location: Block(s) & Lot(s): [N/A, N/A] Route 15 Right-of-Way Municipality: Lafayette Township County: Sussex</p>	
<p>Description of Authorized Activities:</p> <p>This document authorizes the reconstruction of the existing culvert (Structure No. 1922-150), which carries State Route 15 over the Paulinskill River, on the parcel(s) referenced above.</p> <p>This authorization to conduct activities in wetlands and/or waters includes the issuance of a Water Quality Certificate.</p> <p>The Department has determined that the herein approved activities meet the requirements of the FHACA rules. This approval does not obviate the local Floodplain Administrator's responsibility to ensure all development occurring within their community's Special Flood Hazard Area is compliant with the local Flood Damage Prevention Ordinance, and minimum NFIP standards, regardless of any state-issued permits. FEMA requires communities to review and permit all proposed construction or other development within their SFHA in order to participate in the NFIP.</p>		
<p>Prepared by: Audra Didzbalis</p>	<p>Received and/or Recorded by County Clerk:</p>	
<p>If the permittee undertakes any regulated activity, project, or development authorized under this 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 requirements of the permit and all conditions therein.</p>		
<p>This permit is not valid unless authorizing signature appears on the last page.</p>		

STATEMENT OF AUTHORIZED IMPACTS:

The authorized activities allow for the permittee to undertake impacts to regulated areas as described below. Additional impacts to regulated areas without prior Department approval shall constitute a violation of the rules under which this document is issued and may subject the permittee and/or property owner to enforcement action, pursuant to N.J.A.C. 7:13-2.18 and N.J.A.C. 7:7A-22.

FWW GP10B Minor Road Crossings	Permanent Disturbance (Acres)	Temporary Disturbance (Acres)
Freshwater wetlands	0 (16 SF)	0
Transition areas	0.117 (5,101 SF)	0.175 (7,618 SF)
State open waters	0	0.031 (1,370 SF)

Riparian Zone Vegetation	Area of riparian zone (Acres)
Permanent Disturbed	0.099 (4,303 SF)

PRE-CONSTRUCTION CONDITIONS:

1. Prior to the commencement of site clearing, grading, or construction onsite, the permittee shall install a sediment barrier at the limits of disturbance authorized herein, which is sufficient to prevent the sedimentation of the remaining freshwater wetlands and transition areas and shall serve as a physical barrier protecting these areas from encroachment by construction vehicles or other soil-disturbing activities. All sediment barriers and soil erosion control measures shall be kept in place and maintained throughout the duration of construction, until such time that the site is stabilized.

SPECIAL CONDITIONS:

1. 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.
2. Construction equipment cannot be stored, staged, or driven within any channel, freshwater wetland, or transition area, unless expressly approved by this permit and/or described on the approved plans.
3. For the purposes of this permit, the Department has determined that this project is not a Major Development as defined in the Stormwater Management rules at N.J.A.C. 7:8-1.2. Therefore, the Department did not review the proposed project for compliance with these rules.
4. After all in-channel activities are completed, native stream bed material must be replaced within the channel. This material must be contoured to mimic the original physical characteristics of the channel (such as its shape, width, slope, thalweg, meander, and ratio of shallow areas to deep areas,) to provide low-flow aquatic passage throughout the entire disturbed area.
5. De-watering of cofferdams must include properly sized temporary sediment basins or other filtering methods to reduce turbidity. The stream area to receive return water discharged from cofferdams

- must be encompassed by a turbidity barrier. The turbidity barrier must be located parallel to the stream banks and anchored to the shoreline to maintain free flow of the stream center. To avoid obstruction of stream flows or fish passage, turbidity barriers must not be placed across the entire stream channel.
6. Construction may only occur while the stream area is dry or in a de-watered condition. No work may be performed where the stream channel is wet.
 7. The culvert approved under this permit does not have the hydraulic capacity to pass the flood hazard area design flood. Therefore, the proposed roadway may be overtopped by floodwaters and become inaccessible to emergency vehicles or other vehicular traffic during a flood.
 8. All excavated and dredged material must be disposed of in a lawful manner outside of any flood hazard area, riparian zone, open water, freshwater wetland, and adjacent transition area, and in such a way as to not interfere with the positive drainage of the receiving area.
 9. The Division has determined that the riparian zone required adjacent to this portion of the Paulins Kill has a 300-foot riparian zone. Please note that any unapproved clearing of trees or other vegetation in the riparian zone is prohibited.
 10. The authorized activities shall comply with the applicable conditions set forth under N.J.A.C. 7:7-5.7, 7.10B, and 20.2. Failure to comply with these conditions shall constitute a violation of the Freshwater Wetlands Protection Act (N.J.S.A. 13:9B-1 et. seq.). Any additional un-permitted disturbance of freshwater wetlands, State open waters, or transition areas besides that shown on the approved plans shall be considered a violation of the Freshwater Wetlands Protection Act Rules unless the activity is exempt or a permit is obtained from the Department prior to the start of the disturbance.
 11. The Department has determined that the freshwater wetlands affected by this permit authorization are of exceptional resource value and the standard transition area or buffer required adjacent to these wetlands is 150 feet. This general 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 onsite 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.
 12. In order to protect the trout maintenance & general game fisheries resource within the Paulins Kill any proposed grading or construction activities within the banks of this watercourse are prohibited from March 15 through July 31 of each year. In addition, any activity which would introduce sediment into said watercourse 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.
 13. The permittee must possess a completed ESA Section 7 consultation with the U.S. Fish and Wildlife Service for this project prior to initiating any authorized activities under this permit. Authorized

activities must adhere to conservation measures as outlined in the ESA Section 7 consultation to avoid and minimize adverse effects to Federally listed species.

14. Material Disposal: All excavated material and dredge material shall be disposed of in a lawful manner. The material shall be placed outside of any flood hazard area, riparian zone, regulated water, freshwater/coastal wetlands and adjacent transition area, and in such a way as to not interfere with the positive drainage of the receiving area.
15. Any and all precautions must be taken to prevent raw concrete [e.g. abutments/footings] from coming in contact with the waters of the tributary; raw concrete is toxic to aquatic biota.
16. All temporary disturbances within freshwater wetlands, wetlands transition areas and riparian zone, shall be replanted with native, non-invasive herbaceous and/or woody vegetation appropriate for the hydrologic conditions of the area.
17. This authorization for a General Permit is valid for a term not to exceed five years from the date of this permit. If the permittee wishes to continue an activity covered by the permit after the expiration date of the permit, the permittee must apply for and obtain a permit extension or a new permit, prior to the permit's expiration. If the term of the authorization exceeds the expiration date of the general permit issued by rule, and the permit upon which the authorization is based is modified by rule to include more stringent standards or conditions, or is not reissued, the applicant must comply with the requirements of the new regulations by applying for a new GP authorization or an Individual permit.

HISTORIC PRESERVATION OFFICE CONDITIONS:

1. Prior to project implementation, the permittee shall ensure that effects to historic and archaeological resources shall be resolved through consultation between the New Jersey Historic Preservation Office, the Federal Highway Administration as the lead Federal agency, any consulting parties, and the permittee, pursuant to Section 106 of the National Historic Preservation Act and its implementing regulations at 36 CFR §800. Upon completion of Section 106 Consultation, the permittee shall provide the Division of Land Resource Protection a copy of Section 106 comments together with a statement of how the comments have been incorporated into the project, pursuant to N.J.A.C. 7:7A-19.5(l).
2. If project circumstances change so that consultation under Section 106 of the National Historic Preservation Act is no longer necessary, the permittee shall consult with the Division of Land Resource Protection and the New Jersey Historic Preservation Office to ensure the provisions of N.J.A.C. 7:7A-5.7(b)(5) are met, prior to project implementation.
3. Prior to project implementation, the permittee shall ensure that effects to historic and archaeological resources shall be resolved pursuant to New Jersey Register of Historic Places Act of 1970 (N.J.S.A. 13:1B-15.128 et seq.).
4. The permittee shall ensure that an Application for Project Authorization pursuant to the New Jersey Register of Historic Places Act that is technically and professionally complete and sufficient pursuant to N.J.A.C. 7:4-7.1(d) is submitted to the HPO for review and comment prior to project implementation.
5. The permittee shall comply with N.J.A.C. 7:4, Subchapter 7 of the New Jersey Register of Historic Places Act Rules.

6. Upon completion of the New Jersey Register of Historic Places Act review, the permittee shall provide the Division of Land Use Regulation a copy of New Jersey Register of Historic Places Act resolution and/or HPO encroachment review finding together with a statement of how the comments and findings have been incorporated into the project, pursuant to N.J.A.C. 7:7A-4.3(b)(5).

THREATENED & ENDANGERED SPECIES CONDITIONS:

1. To protect habitat for Wood Turtles (State-listed, threatened) within and adjacent to the Paulins Kill, the permittee shall adhere to the following:
 - i. To prevent adverse impacts to hibernating turtles (i.e. in-stream work including stream bank excavation):
 - a. No site preparation, disturbance, grading, clearing or construction activity is permitted within the banks of the referenced watercourse between November 1 and April 1 of each calendar year.
 - b. If a coffer dam or similar structure is proposed to *completely* enclose the work area, work may occur during this restricted period provided the coffer dam installation is *completed* prior to November 1 and thereafter completely precludes turtles from accessing the work area to rest or hibernate. This must include appropriate bank-side fencing to preclude terrestrial access to the coffer dam work area. Immediately after installation of the work area enclosure, a qualified herpetologist must thoroughly inspect the enclosed area for wood turtles. Please note the qualified herpetologist is required to obtain a scientific collecting permit from NJDEP, Division of Fish and Wildlife, Endangered and Nongame Species Program (ENSP) (http://www.state.nj.us/dep/fgw/exotic_apps.htm). Any wood turtles found must be reported to the NJDEP, Division of Fish and Wildlife, Endangered and Nongame Species Program (<http://www.state.nj.us/dep/fgw/ensp/rprtform.htm>), and carefully relocated outside of the proposed work area. Once this inspection is complete, authorized activities may commence within the coffer dammed work area.]
 - ii. To prevent adverse impacts to resting, breeding or foraging habitats for wood turtles within the regulated areas associated with the referenced watercourses no authorized activities may commence from April 1 through May 30 and September 1 through November 15 of the calendar year *unless* the following measures have been taken:
 - a. Prior to the commencement of site preparation, disturbance, grading, clearing or construction activity the permittee shall erect a silt/debris fence around the footprint of *all* proposed activities (temporary and permanent) sufficient to exclude small wildlife species, and specifically wood turtle, from entering the proposed construction area.
 - b. Immediately thereafter, a qualified herpetologist must thoroughly inspect the fenced-in work area for wood turtles. Please note the qualified herpetologist is required to obtain a scientific collecting permit from NJDEP, Division of Fish and Wildlife, Endangered and Nongame Species Program (ENSP) (http://www.state.nj.us/dep/fgw/exotic_apps.htm). Any wood turtles found must be reported to the NJDEP, Division of Fish and Wildlife, Endangered and Nongame Species Program (<http://www.state.nj.us/dep/fgw/ensp/rprtform.htm>), and relocated outside of the proposed

work area. Once this inspection is complete, authorized activities may commence within the fenced work area.

- c. The fence must be monitored weekly and maintained until project completion.
 - iii. The Department reserves the right to suspend all regulated activities onsite should it be determined that the permittee has not taken proper precautions to ensure continuous compliance with this condition.
2. The permittee must develop and submit for review and approval a proposed “Threatened and Endangered Species Survey Protocol” (“protocol”) designed to investigate the occurrence of triangle floater (*Alasmidonta undulata*) and other State and Federally-listed mussels the immediate vicinity of the proposed project. Details regarding the contents and objectives of the “protocol” should be coordinated with the Division of Fish and Wildlife, Endangered and Nongame Species Program (ENSP) (contact: Robert Somes, Robert.Somes@dep.nj.gov) *prior* to its being submitted to the Division of Watershed Protection and Restoration (DWPR) for review and written approval.

The protocol should propose both visual survey and random excavation survey techniques and must comprehensively cover the project area footprint of proposed activities, including areas of direct and indirect impacts (i.e. where habitat will be altered due to sedimentation or changes in hydraulics/geomorphology.) The survey area must contain the upper impoundment and downstream to where no indirect impacts are projected to assess the potential to impact mussels in the vicinity of the proposed activities. The protocol must identify the contractor(s) who would perform the survey, and identify their experience performing aquatic surveys, in particular surveys for freshwater mussels.

The survey must be designed to be conducted between May 1 and September 15 of the calendar year, noting that further refinement within that window must be exercised to ensure that the actual conditions in the subject watercourse are appropriate for the collection of accurate and representative data for the species in question. The protocol must propose to submit all survey results to the DWPR, Attn: Endangered and Threatened Species Unit Staff, who will then coordinate the review of survey results with the ENSP.

No component of the required survey (nor any site preparation, clearing, grading or disturbance associated with the authorized project) may occur until the required Threatened and Endangered Species Protocol has been approved in writing by the DWPR indicating that the permittee is authorized to commence with the freshwater mussel survey

3. If the Department approves of a proposed freshwater mussel survey protocol pursuant to the condition above, it will review the survey summary and results and make one of the following findings:
 - i. If, upon review of the survey summary and results, the Department finds that inadequate survey timing, procedures, effort or techniques render the results unsatisfactory, the Department will require appropriate corrective actions be taken.
 - ii. If, upon review of the survey summary and results, the Department finds that the survey results are acceptable and indicate that no mussels are found in the survey area, the project may commence upon written confirmation by the Department of the satisfaction of this condition. A timing restriction for mussels may still be imposed to protect nearby populations.

- iii. If, upon review of the survey summary and results, the Department finds that the approved survey indicates that State or Federally listed mussel species occur anywhere in the required survey area, the permittee must propose an “Impact Avoidance Plan” designed to protect the identified mussel species which occur both in the project areas as well as in available habitat downstream of the project site. *Please note: the occurrence of the Federally-listed Dwarf Wedgemussel will require coordination with USFWS*

The Impact Avoidance Plan must identify all possible areas of project redesign or minimization to eliminate potential adverse impact to State or Federally listed mussels, as well as all best management plans (BMP’s) such as use of appropriate timing restrictions, coffer dams, sediment barriers or silt curtains, and controls over alterations to water pH within the project area which will be employed prior to, during, and following implementation of the activities authorized by this permit. Note that project redesign, as might be required by the Department to eliminate adverse impacts to mussels, might require permit modifications by the permittee.

If impact avoidance is not feasible and all feasible project minimizations, redesign or avoidance alternatives have been exhausted, the impact avoidance plan may consider mussel relocation.

No site preparation, clearing, grading or disturbance associated with the authorized activities may occur until an “Impact Avoidance Plan”, if required, has been approved in writing by the Department. In addition, no relocation of freshwater mussels should occur without written permission from the ENSP.

4. If the Department finds that the results of the required freshwater mussel survey indicate that a timing restriction should be imposed to protect local freshwater mussel populations, the following condition shall apply “In order to *protect triangle floater (Alasmidonta undulata)* and their habitat within and immediately downstream of the project site, no site preparation, clearing, grading or disturbance associated with the authorized activities may occur between the dates of April 1 and September 30 of the calendar year, unless otherwise approved by the Division of Watershed Protection and Restoration in consultation with the ENSP.”
5. Please note that if Dwarf Wedgemussel, a Federally listed species, is found during any survey, additional coordination with the USFWS will be required.
6. To prevent adverse impacts to the State-listed freshwater mussel species, including triangle floater, the following measures must be incorporated into the mussel impact avoidance plan/relocation plan. No relocation of freshwater mussels may occur without written permission from the ENSP.
 - i. Salvage and relocation of mussels shall take place only from May 1 through September 30 of the calendar year.
 - ii. The permittee shall install a silt curtain prior to the commencement of the regulated activity, and, only after the approved salvage and relocation activity has been completed. The silt curtain must be monitored weekly, maintained, and kept in place until project completion to ensure no release of suspended sediment beyond the project footprint.
 - iii. Prior to conducting the Department-approved freshwater mussel salvage and relocation efforts, the permittee shall coordinate all freshwater mussel relocation sites with the ENSP, providing

pictures, a description of the habitat and identification of other species present at each proposed relocation site. Selection of relocation areas shall be based on the following criteria:

- a. Presence of freshwater mussels and a lack of invasive species (e.g., *Corbicula fluminea*);
- b. Suitable substrate, consisting predominantly of sand and gravel;
- c. Water depth in the range of 12 to 24 inches during low tide; and,
- d. An absence of middens within the sightline of a candidate relocation site.

The permittee shall submit the initial survey report within 90 days of survey/salvage and relocation to the Department: Division of Fish & Wildlife (“DFW”) Wildlife Permits Unit, DFW Endangered & Nongame Species Program (attn.: Robert Somes), and, Division of Watershed Protection and Restoration’s Endangered & Threatened Species Unit. The report shall detail all threatened/endangered freshwater mussel species observed: their numbers; forms (e.g., dead shell, live individual); measurements; location(s) within the impact and survey areas prior to relocation; their relocation site(s); and PIT tag information.

A monitoring schedule for all relocated mussels must be approved by the Endangered and Nongame Species Program. The schedule for monitoring shall include post-relocation monitoring for tagged mussels, conducted within 2 weeks of the initial salvage. An associated report shall be submitted to the offices (listed above) within one year of the initial salvage and relocation effort. Monitoring shall be repeated for 2 consecutive years thereafter.

In addition, the permittee must conduct pre and post removal habitat assessments in all impacted areas. Post-removal assessments will run concurrently with tagged mussel monitoring and will be coordinated with the Endangered & Nongame Species Program. Assessments may include visual observations, photographic analysis, mussel surveys and other metrics to determine habitat changes and whether recruitment is occurring in formerly occupied site. These assessments shall be conducted for 5 consecutive years thereafter.

- iv. Due to the possibility of recolonization of suitable habitat within areas at the footprint of disturbance, the permitted in-water work must commence within one year from the completion of freshwater mussel salvage and relocation. If the permittee is unable to comply with this provision, the permittee shall coordinate with the ENSP and the DWPR. Please note that the permittee may be subject to additional freshwater mussel survey requirements and/or habitat impact avoidance provisions.
- v. This permit does NOT authorize the relocation of Dwarf Wedgemussels. If Dwarf Wedgemussels are found during the survey or relocation, the applicant must coordinate with the USFWS.
- vi. If the permittee opts to retain a contractor other than that which has been approved by the Department to conduct the subject freshwater mussel habitat impact avoidance activities, the permittee is required to coordinate with the ENSP (Contact: Robert Somes). For review and approval, the permittee shall identify the contractor(s) who will perform the work (i.e. submit a copy of their curriculum vitae, a resume which identifies their experience with freshwater mussels, and, a copy of the contractor’s valid Scientific Collecting Permit obtained from the NJ Division of Fish and Wildlife).

The Department reserves the right to suspend all regulated activities onsite should it be determined that the permittee has not taken proper precautions to ensure continuous compliance with the conditions, above.

7. Per N.J.A.C. 7:13-12.7(e)3, the applicant must incorporate terrestrial species crossings for **Bobcat and Wood Turtle**. Plans for the proposed FHA IP incorporate two **4-foot-wide** dry crossings along both sides of the culvert. These crossings will be tied into the existing natural banks. Based on these specifications, the FHA IP adequately meets the requirement for terrestrial species crossings and no adverse impacts area anticipated with the proposed plans.

The permittee shall maintain each of the permitted wildlife passage structures, fencing, and any conditions necessary for the successful passage of terrestrial wildlife species along the Paulins Kill under Route 15 in perpetuity.

The permittee shall notify the Division of Watershed Protection and Restoration, Threatened and Endangered Species Unit, attention Christina Albizati (ChristinaAlbizati@dep.nj.gov) at least 7 working days prior to the commencement of regulated activities.

RIPARIAN ZONE MITIGATION CONDITIONS:

1. At least 90 days prior to commencing regulated activities authorized by this permit, the permittee shall submit a proposal to mitigate for the permanent loss of 0.025 acres of forested and 0.074 acres of herbaceous riparian zone vegetation. The proposal shall be designed in accordance with the standards at N.J.A.C. 7:13-13. Activities authorized by this permit shall not begin until the permittee has obtained written approval of a mitigation plan from the Department (N.J.A.C. 7:13-13.2(b)).
2. All mitigation shall be conducted prior to or concurrent with the regulated activity that causes the disturbance. (N.J.A.C. 7:13-13.3(a)1). Concurrent means that at any given time, the mitigation must track at the same or greater percentage of completion as the project as a whole.
3. If the permittee is purchasing credits from a mitigation bank to satisfy a mitigation requirement, prior to the initiation of regulated activities authorized by this permit, the permittee shall submit proof of purchase for 0.099 mitigation credits from an approved riparian mitigation bank to the attention of the Mitigation Unit Supervisor, NJDEP, Division of Watershed Protection and Restoration at Mail Code 501-02A, P.O. Box 420, Trenton, NJ 08625-0420.

At this time, the following bank(s) are approved to serve the project area; additional banks may be approved at any time, so please contact the Mitigation unit for the most up to date service area information if you would like additional options.

Oxford Mitigation Bank – Chet Romano, Ecologic Resources Group, LLC, 1049 Broadway Suite 1, West Long Branch, NJ 07764 and he can be reached at (732) 571-1777 or via email at chetromano@gmail.com

4. If the permittee is considering conducting a creation, restoration or enhancement project, the following conditions shall apply:

Prior to the initiation of regulated activities authorized by this permit, the permittee shall sign a Department approved conservation restriction to protect the mitigation area from future development

that would remove the vegetation planted. (N.J.A.C. 7:13-13.2(g)). The conservation restriction shall conform to the format and content of the rules at N.J.A.C. 7:13-14 and the Riparian Zone Mitigation Area model located at <http://www.nj.gov/dep/landuse/forms/index.html>. The restriction shall be included on the deed and recorded in the office of the County Clerk (the Registrar of Deeds and Mortgages in some counties) in the county wherein the lands of the mitigation project are located. A metes and bounds description shown on a map must be included within the recorded conservation restriction. Within 10 days of filing the conservation restriction, the permittee must send a copy of the conservation restriction to the attention of the Mitigation Unit Supervisor, NJDEP, Division of Watershed Protection and Restoration at Mail Code 501-02A, P.O. Box 420, Trenton, NJ 08625-0420.

5. For creation and restoration projects, the permittee shall obtain a secured bond or other financial surety acceptable to the Division from a firm licensed to provide such services in New Jersey. (N.J.A.C. 7:13-13.15)
6. The permittee shall monitor the riparian project for at least 5 years beginning the year after the riparian zone mitigation project has been completed (N.J.A.C. 7:13-13.12(c)). The permittee shall submit monitoring reports to the Division of Watershed Protection and Restoration, no later than December 31st of each full monitoring year.
 - i. All monitoring reports except the final one should include the requirements and goals of the mitigation proposal and a detailed explanation of the ways in which the mitigation has or has not achieved progress toward those goals. If mitigation has not achieved progress, the report shall also include a list of corrective actions to be implemented and a timeline for completion.
 - ii. The final monitoring report must include documentation and data demonstrating that:
 - a. The goals of the riparian zone mitigation as stated in the approved riparian zone mitigation proposal and the permit conditions have been satisfied.
 - b. At least 85 percent of the mitigation plantings have survived and that at least 85 percent of the mitigation area is established with native species similar to ones identified on the mitigation planting plan. All plant species in the mitigation area must be healthy and thriving. All trees must be at least 5 feet in height; and
 - c. The site is less than 10 percent occupied by invasive or noxious species; and
 - d. The conservation restriction for the mitigation site has been executed and recorded.
7. If the riparian mitigation project does not meet the success criteria established above the project shall be considered a failure and the permittee shall submit a revised riparian mitigation plan. The revised plan shall be submitted within 60 days of receipt of notification from the Division indicating the riparian mitigation project was a failure.
8. If the Division determines that the riparian zone mitigation project is not constructed in conformance with the approved plan, the permittee will be notified in writing by the Department and will have 60 days to submit a proposal to indicate how the project will be corrected.

9. For preservation projects, the application shall provide documentation showing that the proposed preservation area will fully compensate in accordance with N.J.A.C. 7:13-13.13 for the loss of functions and values caused by the disturbance.

STANDARD CONDITIONS:

1. 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.
2. The issuance of a permit does not convey any property rights or any exclusive privilege.
3. The permittee shall obtain all applicable Federal, State, and local approvals prior to commencement of regulated activities authorized under a permit.
4. 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 or designee having jurisdiction over the site.
5. 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.
6. The permittee shall immediately inform the Department of any unanticipated adverse effects on the environment not described in the application or in the conditions of the permit. The Department may, upon discovery of such unanticipated adverse effects, and upon the failure of the permittee to submit a report thereon, notify the permittee of its intent to suspend 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 public health, safety, and welfare, or the environment. The permittee shall inform the Watershed & Land Management 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:
 - i. A description of the noncompliance and its cause;
 - ii. The period of noncompliance, including exact dates and times;
 - iii. If the noncompliance has not been corrected, the anticipated length of time it is expected to continue; and
 - iv. The steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance.
8. Any noncompliance with a permit constitutes a violation of this chapter and is grounds for enforcement action, as well as, in the appropriate case, suspension and/or termination of the permit.

9. 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.
10. 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.
11. 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.
12. The issuance of a permit does not relinquish public rights to access and use tidal waterways and their shores.
13. The permittee shall allow an authorized representative of the Department, upon the presentation of credentials, to:
 - i. Enter upon the permittee's premises where a regulated activity, project, or development is located or conducted, or where records must be kept under the conditions of the permit;
 - ii. Have access to and copy, at reasonable times, any records that must be kept under the conditions of the permit;
 - iii. 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; and
 - iv. Sample or monitor at reasonable times, for the purposes of assuring compliance or as otherwise authorized by the Federal Act, by the Freshwater Wetlands Protection Act, or by any rule or order issued pursuant thereto, any substances or parameters at any location.
14. 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, project, or development is being undertaken. Upon completion of the regulated activity, project, or development, 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.
15. The permittee and its contractors and subcontractors shall comply with all conditions, site plans, and supporting documents approved by the permit.
16. All conditions, site plans, and supporting documents approved by a permit shall remain in full force and effect, so long as the regulated activity, project, or development, or any portion thereof, is in existence, unless the permit is modified pursuant to the rules governing the herein approved permits.
17. The permittee shall perform any mitigation required under the permit in accordance with the rules governing the herein approved permits.
18. 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.

19. Any permit condition that does not establish a specific timeframe within which the condition must be satisfied (for example, prior to commencement of construction) shall be satisfied within six months of the effective date of the permit.
20. 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.
21. The permittee shall provide monitoring results to the Department at the intervals specified in the permit.
22. A permit shall be transferred to another person only in accordance with the rules governing the herein approved permits.
23. A permit can be modified, suspended, or terminated by the Department for cause.
24. 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.
25. 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.
26. The permittee shall submit email notification to the Bureau of Coastal & Land Use Compliance & Enforcement at CLU_tomsriver@dep.nj.gov at least 3 days prior to commencement of site preparation and/or regulated activities, whichever comes first. The notification shall include proof of completion of all pre-construction conditions, including proof of recording of permits, approved plans and/or conservation easements, if required. The permittee shall allow an authorized Bureau representative on the site to inspect to ensure compliance with this permit.
27. 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 Watershed & Land Management at the address listed on page one of this permit.

APPROVED PLANS:

The drawings hereby approved consist of three (3) sheets prepared by Bryan VanderGheynst, P.E. of NV5, Inc., dated November 2021, unrevised, entitled:

“NEW JERSEY DEPARTMENT OF TRANSPORTATION ROUTE 15 OVER PAULINS KILL CONTRACT NO. 017093190”:

“WETLAND PERMIT PLAN,” Sheet EP-2 of EP-4;

“FLOOD HAZARD AREA PERMIT PLAN,” Sheet EP-3 of EP-4; and

“BRIDGE GP&E AND DEMOLITION PLAN”, Sheet EP-4 of EP-4.

APPEAL OF DECISION:

Any person who is aggrieved by this decision may submit an adjudicatory hearing request within 30 calendar days after public notice of the decision is published in the DEP Bulletin (available at www.nj.gov/dep/bulletin). If a person submits the hearing request after this time, the Department shall deny the request. The hearing request must include a completed copy of the Administrative Hearing Request Checklist (available at www.nj.gov/dep/landuse/forms.html). A person requesting an adjudicatory hearing shall submit the original hearing request to: NJDEP 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. Additionally, a copy of the hearing request shall be submitted to the Director of Watershed & Land Management at the address listed on page one of this permit. 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 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 Watershed & Land Management's Technical Support Call Center at (609) 777-0454.

Approved By:

Dennis Contois, Supervising Engineer
Watershed & Land Management

c: Municipal Clerk, Lafayette Twp
Municipal Construction Official, Lafayette Twp