

STATE OF NEW JERSEY
DEPARTMENT OF ENVIRONMENTAL PROTECTION

(See Issuing Division below)

PERMIT*



The New Jersey Department of Environmental Protection grants this permit in accordance with your application, attachments accompanying same application, and applicable laws and regulations. This permit is also subject to the further conditions and stipulations enumerated in the supporting documents which are agreed to by the permittee upon acceptance of the permit.		
Permit No. 1900-05-0001.1 FHA 060001; FWIPW 060001		Application No. 1900-05-0001.1 FHA 060001; FWIPW 060001
Issuance Date: May 24, 2006	Effective Date: May 24, 2006	Expiration Date: May 24, 2011
Name and Address of Applicant Robert Signora New Jersey Department of Transportation Division of Project Management 1035 Parkway Avenue/PQ Box 600 Trenton, New Jersey 08625-0600	Name and Address of Owner Applicant	Name and Address of Operator Applicant
Location of Activity/Facility (Street Address) County Route 605 Waterway: Lubbers Run	Issuing Division Division of Land Use Regulation	Statute(s) NJSA 58:10-1 NJSA 7:13-1.1 NJAC 7:7A
Type of Permit: Stream Encroachment, Individual Freshwater Wetlands Permit & Water Quality Certificate		Maximum Approved Capacity, if applicable
<p>This permit(s) grants permission to: conduct activities associated with the abandonment of the existing one-lane Sussex County Bridge (K-07) over the Lackawanna Cut-Off railroad and the construction of a new two-lane bridge on a new alignment.</p> <p>The proposed project will result in the disturbance of a maximum of 1.92-acres of jurisdictional area, which include 0.66-acre (28,476 square feet) of freshwater wetlands and 1.33-acres (57,935 square feet) of freshwater wetlands transition area. The project area is located along the Old Stanhope Road (CR 605) within the floodplain of Lubbers Run.</p> <p>The authorized work is shown on the following sheets signed by Bernard P McNeilly, and undated: Two (2) plan sheets entitled "WETLAND PLAN ROUTE 605 SUSSEX COUNTY BRIDGE K-07" Two (2) plan sheets ((C-2, C-3) entitled "CONSTRUCTION PLAN SUSSEX COUNTY BRIDGE K-07 REPLACEMENT" Two (2) plan sheets ((EP-3, EP-4) entitled "ENVIRONMENTAL PLAN SUSSEX COUNTY BRIDGE K-07 REPLACEMENT" Two (2) plan sheets (CD-1, CD-2) entitled "CONSTRUCTION DETAILS SUSSEX COUNTY BRIDGE K-07 REPLACEMENT"</p> <p>The authorized work is shown on the following sheets signed by Julius Hass, and undated: Two (2) plan sheets (B3, B4) entitled "GENERAL PLAN AND ELEVATION SHEET-1, -2" One (1) plan sheet (B18) "GENERAL PLAN & ELEVATION RETAINING WALL NO. 1" One (1) plan sheet (B19) "GENERAL PLAN & ELEVATION RETAINING WALL NO. 2" One (1) plan sheet (B20) "RETAINING WALLS NO. 1 & 2 TYPICAL SECTIONS" One (1) plan sheet (B22) "EXISTING BRIDGE REHABILITATION GENERAL PLAN AND ELEVATION"</p> <p>The permittee shall allow an authorized representative of the Department of Environmental Protection the right to inspect construction pursuant to N.J.A.C. 7:7-1.5(b)4.</p>		
Prepared by: <u>Judith V. Burton</u> Judith V. Burton, Project Manager		
Revised Date	Approved by the Department of Environmental Protection	
	Name (Print or Type) _____	Title _____
	Signature _____	Date _____
	SEE FINAL PAGE	

*The word permit means "approval, certification, registration, etc."

(General Conditions are on Page Two)

CONDITIONS OF THE INDIVIDUAL FRESHWATER WETLANDS PERMIT

This permit authorizes disturbance to 0.66-acre of palustrine forested/emergent wetlands and 1.33-acres of freshwater wetland transition areas for activities associated with the construction of a new bridge on a new alignment across the Lackawanna Cutoff Railroad.

STANDARD CONDITIONS

1. This permit is revocable, or subject to modification or change at any time, pursuant to the applicable regulations, when in the judgement of the Department of Environmental Protection of the State of New Jersey such revocation, modification or change shall be necessary.
2. The issuance of the permit shall not be deemed to affect in any way action by the Department of Environmental Protection of the State of New Jersey on any future application.
3. The works, facilities, and/or activities shown by plans and/or other engineering data, which are this day approved, subject to the conditions herewith established, shall be constructed and/or executed in conformity with such plans and/or engineering data and the said conditions.
4. No change in plans or specifications shall be made except with the prior written permission of the Department of Environmental Protection of the State of New Jersey.
5. The granting of this permit shall not be construed to in any way affect the title or ownership of property, and shall not make the Department of Environmental Protection or the State a party in any suit or question of ownership.
6. This permit does not waive the obtaining of Federal or other State or local government consent when necessary. This permit is not valid and no work shall be undertaken until such time as all other required approvals and permits have been obtained.
7. The permittee shall allow the Program the right to inspect the construction site and also shall provide written notification 7 days prior to the start of the authorized work to the:

Bureau of Coastal and Land Use Enforcement, NJDEP 401 East State Street, 4th Floor, PO Box 422,
Trenton, NJ 08625-0422.
8. A copy of this permit shall be kept at the work site, and shall be exhibited upon request of any person.
9. In cases of conflict, the conditions of this permit shall supersede the plans and/or engineering data.
10. This authorization is valid for five years from the date of this letter unless more stringent standards are adopted by rule prior to this date.

ADMINISTRATIVE CONDITIONS

1. This permit shall be RECORDED in the office of the County Clerk (the REGISTRAR OF DEEDS AND MORTGAGES in the applicable counties) in the county wherein the lands included in the permit are located within (10) days after receipt of the permit by the applicant and verified notice shall be forwarded to the Land use Regulation program immediately thereafter.
2. This permit is NOT VALID until the permit acceptance form has been signed by the applicant, accepting and agreeing to adhere to all permit conditions, and returned to the Division of Land Use Regulation at P.O. Box 439, Trenton, NJ 08625.

3. Prior to any construction activities, the permittee must receive authorization from the Union County Soil Conservation District.
4. This authorization is valid for five years from the date of this letter unless more stringent standards are adopted by rule prior to this date.

SPECIAL CONDITIONS

1. The NJDOT shall provide the Historic Preservation Office (HPO) with an opportunity to review a complete set of project plans and specifications for conformity with the *Secretary of the Interior's Standards for the Treatment of Historic Properties* prior to the conclusion of design and the initiation of the construction bidding process and before the project may proceed to construction.
2. Prior to the start of any construction on the project site, the applicant/owner shall sign a Department approved conservation restriction. The restriction must contain language to guarantee the continued maintenance of the proposed BMPs and protect them from degradation or removal. These BMP's include the surface infiltration swales, mechanical devices, and areas of flow over vegetated areas. Said restriction shall run with the land and be binding upon all successive owners. All future surveys of the property shall show the preserved areas. Any regulated activities undertaken on the site before a copy of this recorded restriction is submitted to the Department will be considered in violation of the Stormwater Management Rules. Please submit a copy of the draft restriction to this office for review, as well as the final restriction once filed. **Absolutely no construction shall be undertaken until the permittee has submitted adequate proof that these restrictions have been recorded as required above.**
3. The applicant must make specific arrangements to ensure the continuous maintenance and efficient operation of all proposed water quality measures on this site in accordance with the Department's Best Management Practices Manual. This includes, but is not limited to the cleaning and inspection of all water quality inlets, stormwater management basins, trenches, devices and conveyance swales at least 4 times a year and after every storm exceeding 1 inch of rainfall, and the continuous implementation of appropriate soil conservation practices within any basins, grassedswales, stormwater outfall structures and other similar appurtenances throughout the site in order to limit soil erosion and sediment discharge into adjacent waterways.
4. All excavated material must be disposed of in a lawful manner outside of any regulated flood plain, open water, freshwater wetlands or adjacent transition areas, and in such a way as to not interfere with the positive drainage of the receiving area
5. Soil and erosion controls shall be installed in accordance with the approved plans prior to any earth moving activity and maintained for the duration of the disturbance until the soils are stabilized. The permittee shall monitor all erosion and sediment controls daily and repair as needed to maintain compliance with the approved plans and conditions contained in this permit.
6. Construction vehicle traffic shall be minimized in wetlands and wetlands transition areas to be temporarily disturbed. No storage of chemicals, oil, fuel or refueling of equipment shall occur within 50 feet of the wetlands along the project route.
7. Materials excavated from within the project limits shall only be temporarily stockpiled within an approved area.
8. All seeded areas shall achieve 85% aerial coverage by the end of the first growing season following the end of construction activities. Planted trees and shrubs shall achieve 85% survival by the end of the second growing season.
9. The amount of rip-rap placed shall be limited to that shown on the approved plans unless a larger amount is required in order to comply with the Standards for Soil Erosion and Sediment Control in New Jersey at N.J.A.C. 2:90.

10. All dredged/excavated material temporarily stockpiled shall be analyzed for determination of waste classification and disposal option in accordance with applicable rules and regulations. Manifest of materials showing both characterization and disposition shall be submitted to the NJDEP.
11. Any discharge of dredged or fill material shall consist of clean, suitable material free from toxic pollutants (see 40 CFR 401) in toxic amounts, and shall comply with all applicable Department rules and specifications regarding use of dredged or fill materials.
12. In order to protect trout-maintenance resource within Lubbers Run, a timing restriction of **March 15 1 thru June 15** of each year is imposed and sediments resulting from grading or construction activities must be contained on-site. In addition, any activity within the 100-year floodplain or flood hazard area draining to this watercourse which could introduce sediment into said stream(s) or which could cause an increase in the natural level of turbidity is also prohibited during this period. The Department reserves the right to suspend all regulated activities on site should it be determined that the applicant has not taken proper precautions to ensure continuous compliance with this condition.
13. Areas of temporary excavation must be restored with native, indigenous species. The stream bank must be restored with native vegetation and stabilized with the use of bioengineering materials, such as biologs, fiber matting, etc., except where rip-rap is required.
14. The uppermost 18 inches of any excavation shall be backfilled with the original topsoil material.
15. The permittee shall ensure the various regulated activities do not create pathways to drain the wetlands.
16. Any intake structure shall have an intake velocity no greater than 0.5 feet of water per second.

MITIGATION OF IMPACTS TO REGULATED AREAS:

1. **The mitigation project must be conducted prior to or concurrent with the construction of the approved project.**
2. Mitigate for the loss of the following regulated areas through either the purchase of mitigation credits as detailed in condition 3 below or an on-site or off-site creation, restoration or enhancement project as detailed in condition number 4 below.
 - 2a. Mitigate for the loss of 0.36 acres of palustrine forested wetlands;
 - 2b. Mitigate for the temporary disturbances of freshwater wetlands through on-site restoration and enhancement of the temporarily disturbed palustrine forested and emergent wetland and wetland transition areas.
3. Purchase credits (prior approval from NJDEP required) from an approved Mitigation Bank as detailed below.
 - a. The permittee must submit proof of the purchase of mitigation credit to Virginia Kop'Kash, from of the Division of Land Use Regulation, before the authorized construction may begin. If the permittee waits more than sixty days from the NJDEP prior approval to make the purchase she/he must first contact Virginia Kop'Kash, from the Division of Land Use Regulation at (609) 777-0454 to determine if the mitigation credits are still available for sale. For more information about the approved wetland mitigation banks in the State go to the following web page:
<http://www.state.nj.us/dep/landuse/fw/mitigate/mcouncil.html#banks>.
4. For an on-site or off-site individual mitigation project the permittee must submit a mitigation proposal to the Division of Land Use Regulation, to create, enhance or restore an area of freshwater wetlands of equal ecological value to

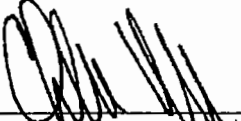
those, which will be lost by the authorized activity for review and approval. Attached to this permit is a list of the necessary information that must be included in that on-site or off-site mitigation proposal or go to the following web page for the latest version of this checklist <http://www.state.nj.us/dep/landuse/forms/chkmitig.doc>. If the permittee is proposing to construct a wetland creation or restoration project, two acres of creation or restoration must be performed for each acre disturbed. The mitigation area must include a wetland buffer. The slope of the created wetland buffer must be fairly flat and therefore have a slope no greater than 10:1. If the permittee is proposing to construct a wetland enhancement project, the ratio of wetlands enhanced to wetlands disturbed shall be sufficient to replace loss of ecological value from the permitted project and shall be approved by the Program. The following conditions and information must be adhered to when performing mitigation.

- a. Submit for review and approval a conceptual plan showing the location and proposed hydrology of the mitigation site.
 - b. Once the Division has approved the conceptual plan of the mitigation project the permittee must submit a final design of the mitigation project and include all the items listed on the attached on-site/off-site mitigation proposal checklist.
5. In accordance N.J.A.C. 7:7A-15.13, obtain a secured bond, or other financial surety acceptable to the Department including an irrevocable letter of credit or money in escrow, that shall be sufficient to hire an independent contractor to complete and maintain the proposed mitigation should the permittee default. The financial surety for the construction of the mitigation project shall be posted in an amount equal to 115 percent of the estimated cost of the construction. In addition, financial surety to assure the success and maintenance of the mitigation project shall be posted in an amount equal to 115 percent of the estimated cost to maintaining and monitoring the project. The Department will review the financial surety annually and the permittee shall adjust the surety to reflect current economic factors. Please be advised if a governmental body is performing the mitigation the need for financial assurance is waived.
 6. The permittee shall complete and sign a Department approved conservation restriction for the mitigation site. 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, within 10 days of approval of the wetland mitigation proposal.
 7. The permittee shall notify the Division of Land Use Regulation, in writing, at least thirty (30) days in advance of the start of construction of the wetland mitigation project for an on-site pre-construction meeting between the permittee, the contractor, the consultant and the Division.
 8. The mitigation designer must be present during critical stages of construction of the mitigation project this includes but is not limited to herbicide applications, sub-grade inspection, final grade inspection, and planting inspection to ensure the intent of the mitigation design and their predicted wetland hydrology is realized in the landscape. Mitigation designs are not static documents and changes may be necessary to ensure success of the project. It shall be the prerogative of the mitigation consultant to make changes to the design should field conditions warrant such action.
 9. Immediately following final grading of the site, a disc must be run over the site to eliminate compaction. The mitigation designer must be present to oversee this phase of the project and confirm with the Department this activity has occurred prior to planting of the site.
 10. Immediately following the final grading of the mitigation site and prior to planting, the permittee shall notify the Division for a post-grading construction meeting between the permittee, contractor, consultant and the Division. The permittee must give the Division at least thirty (30) days notice prior to the date of this meeting.

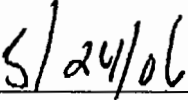
11. Within 30 days following the final grading and planting of the mitigation project, the permittee shall submit a final report to the Division of Land Use Regulation. The final report shall contain, at a minimum, the following information:
 - a. A completed WETLAND MITIGATION PROJECT COMPLETION OF CONSTRUCTION FORM (attached) which certifies that the mitigation project has been constructed as designed and that the proposed area of wetland creation, restoration or enhancement has been accomplished;
 - b. As built plans which depict final grade elevations at one foot contours and include a table of the species and quantities of vegetation that were planted including any grasses that may have been used for soil stabilization purposes;
 - c. Show on the as-built plans that the boundaries of the wetland mitigation area has been visibly marked with 3 inch white PVC pipe extending 4 feet above the ground surface. The stakes must remain on the site for the entire monitoring period;
 - d. Photos of the constructed wetland mitigation project with a photo location map as well as the GPS waypoints in NJ state plane coordinates NAD 1983;
 - e. To document that the required amount of soil has been placed/replaced over the entire area of the mitigation site, provide a minimum of 6 soil profile descriptions to a depth of 20 inches. The location of each soil profile description should be depicted on the as built plan as well as provide the GPS waypoints in NJ state plane coordinates NAD 1983;
 - f. The permittee shall post the mitigation area with several permanent signs, which identify the site as a wetland mitigation project and that mowing, cutting, dumping and draining of the property is prohibited; and
 - g. The sign must also state the name of the permittee, LURP permit number along with a contact name and phone number.
12. If the Division determines that the mitigation project is not constructed in conformance with the approved plan, the permittee will be notified in writing and will have 60 days to submit a proposal to indicate how the project will be corrected. No financial surety will be released by the Program until the permittee demonstrates that the mitigation project is constructed in conformance with the approved plan, all soil has been stabilized and there is no active erosion.
13. The permittee shall monitor the mitigation project for 5 full growing seasons if it is a proposed forested or scrub/shrub wetland and 3 full growing seasons for an emergent wetland or State open water after the mitigation project has been constructed. The permittee shall submit monitoring reports to the Land Use Regulation Program no later than December 31st of each monitoring year (All monitoring report must include the standard items identified in the attachment and the information requested below).
14. All monitoring report will include all the following information (see attached monitoring report checklist):
 - a. All monitoring reports except the final one must include documentation that it is anticipated, based on field data, that the goals of the wetland mitigation project including the transition area, as stated in the approved wetland mitigation proposal and the permit will be satisfied. If the permittee is finding problems with the mitigation project and does not anticipate the site will be a full success then recommendations on how to rectify the problems must be included in the report with a time frame in which they will be completed;
 - b. All monitoring reports except the final one must include field data to document that the site is progressing towards 85 percent survival and 85 percent area coverage of mitigation plantings or target hydrophytes (Target hydrophytes are non-invasive native species to the area and similar to ones identified on the mitigation planting

- plan). If the proposed plant community is a scrub/shrub or forested wetland or wetland buffer the permittee must also demonstrate each year with data that the woody species are thriving, increasing in stem density and height each year. If the field data shows that the mitigation project is failing to meet the vegetation survival, coverage and health goals, the monitoring report should contain a discussion of steps that will be taken to rectify the problem, including a schedule of implementation;
- c. All monitoring reports except the final one must include documentation of any invasive or noxious species (see below for list of species) colonizing the site and how they are being eliminated. The permittee is required to eliminate either through hand-pulling, application of a pesticide or other Department approved method any occurrence of an invasive/noxious species on the mitigation site during the monitoring period;
 - d. All monitoring reports except the final one must include documentation that demonstrates the proposed hydrologic regime as specified in the mitigation proposal appears to be met. If the permittee is finding problems with the mitigation project and does not anticipate the proposed hydrologic regime will be or has not been met then recommendations on how to rectify the problem must be included in the report along with a time frame within which it will be completed;
 - e. The final monitoring report must include documentation to demonstrate that the goals of the wetland mitigation project including the required wetland buffer, as stated in the approved wetland mitigation proposal and the permit, has been satisfied. Documentation for this report will also include a field wetland delineation of the wetland mitigation project based on techniques as specified in the Federal Manual for Identifying and Delineating Jurisdictional Wetlands (1989);
 - f. The final monitoring report must include documentation the site has an 85 percent survival and 85 percent area coverage of the mitigation plantings or target hydrophytes. The permittee must also document that all plant species are healthy and thriving and if the proposed plant community contains trees demonstrate that the trees are at least five feet in height;
 - g. The final monitoring report must include documentation demonstrating the site is less than 10 percent occupied by invasive or noxious species such as but not limited to *Phalaris arundinacea* (Reed canary grass), *Phragmites australis* (Common reed grass), *Pueraria lobata* (Kudzu), *Typha latifolia* (Broad-leaved cattail), *Typha angustifolia* (Narrowed leaved cattail), *Lythrum salicaria* (Purple loosestrife), *Ailanthus altissima* (Tree-of-heaven), *Berberis thunbergii* (Japanese barberry), *Berberis vulgaris* (Common barberry), *Elaeagnus angustifolia* (Russian olive), *Elaeagnus umbellata* (Autumn olive), *Ligustrum obtusifolium* (Japanese privet), *Ligustrum vulgare* (Common privet) and *Rosa multiflora* (Multiflora rose);
 - h. The final monitoring report must include documentation that demonstrates that the proposed hydrologic regime as specified in the mitigation proposal, which proves the mitigation site is a wetland has been satisfied. The documentation shall include when appropriate monitoring well data, tide gauge data, photographs and field observation notes collected throughout the monitoring period; and
 - i. The final monitoring report must include documentation that the site contains hydric soils or there is evidence of reduction occurring in the soil throughout the delineated wetlands.
15. Once the required monitoring period has expired and the permittee has submitted the final monitoring report, the Program will make the finding that the mitigation project is either a success or a failure. This mitigation project will be considered successful if the permittee demonstrates all of the following:
- a. That the goals of the wetland mitigation project including acreage and the required wetland buffer, as stated in the approved wetland mitigation proposal and the permit, has been satisfied. The permittee must submit a field wetland delineation of the wetland mitigation project based on the Federal Manual for Identifying and Delineating Jurisdictional Wetlands (1989) which shows the exact acreage of wetlands in the mitigation area;

- b. The site has an 85 percent survival and 85 percent area coverage of the mitigation plantings or target hydrophytes which are species native to the area and similar to ones identified on the mitigation planting plan. All plant species in the mitigation area are healthy and thriving. All trees are at least five feet in height;
- c. The site is less than 10 percent occupied by invasive or noxious species such as but not limited to *Phalaris arundinacea* (Reed canary grass), *Phragmites australis* (Common reed grass), *Pueraria montana* (Kudzu), *Typha latifolia* (Broad-leaved cattail), *Typha angustifolia* (Narrowed leaved cattail), *Lythrum salicaria* (Purple loosestrife), *Ailanthus altissima* (Tree-of-heaven), *Berberis thunbergi* (Japanese barberry), *Berberis vulgaris* (Common barberry), *Elaeagnus angustifolia* (Russian olive), *Elaeagnus umbellata* (Autumn olive), *Ligustrum obtusifolium* (Japanese privet), *Ligustrum vulgare* (Common privet) and *Rosa multiflora* (Multiflora rose); and,
- d. The proposed hydrologic regime as specified in the mitigation proposal, which proves the mitigation site is a wetland has been satisfied.
16. All remaining financial surety, if required, will be released concurrent with the Program notifying the permittee that the mitigation project is a success.
17. If the mitigation project is considered a failure, the permittee is required to submit a revised mitigation plan to rectify the wetland mitigation site. The plan shall be submitted within 60 days of receipt of the letter from the Program indicating the wetland mitigation project was a failure. The financial surety, if required, will not be released by the Program until such time that the permittee satisfies the success criteria as stipulated in condition number 15.
18. The permittee shall assume all liability for accomplishing corrective work should the Program determine that the compensatory mitigation has not been 100% satisfactory. Remedial work may include re-grading and/or replanting the mitigation site. This responsibility is incumbent upon the permittee until such time that the Department makes the finding that the mitigation project is successful.



 Charles Welch, Supervisor
 Roadways and Infrastructure Unit
 Division of Land Use Regulation



 Date

JB

C: Bureau of Enforcement
 Township of Byram, Boroughs of Hopatcong and Stanhope Municipal Clerk
 Township of Byram, Boroughs of Hopatcong and Stanhope Construction Official