

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. 1904-03-0008.1 FWIP 030001	Application No.
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Issuance Date January 28, 2004	Effective Date Same as issuance date	Expiration Date January 28, 2009
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Name and Address of Applicant New Jersey Department of Transportation Attn: Mr. John Mole P.O. Box 800 Trenton, NJ 08625	Name and Address of Owner NJ Department of Transportation Attn: Mr. Steven Manera P.O. Box 800 Trenton, NJ 08625	Name and Address of Operator Owner
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Location of Activity/Facility (Street Address) Route US 208 Cat Swamp Mountain Township of Byram Sussex County	Issuing Division Land Use Regulation Program	Statute(s) NJSA 58:10A-1 NJSA 13:9B-1
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Type of Permits: Freshwater Wetland Individual Permit	Maximum Approved Capacity, if applicable
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This permit authorizes:

The proposed project which consists of operational and safety design changes that include widening of the roadway, extension of the northbound climbing lane, reconstruction of the horizontal curvature and removal of rock face to facilitate sight distance. The project will allow for construction of two 3.6 meter (12') lanes with a 3.0 meter (10') shoulder northbound in addition to one 3.6 meter (12') lane with a 3.0 meter (10') shoulder southbound with a 1.2 meter (4') wide painted median separating the northbound and southbound lanes. The design changes will increase tangent lengths within an existing "S" curve and facilitate increased sight distance to improve safety.

The 0.179 acres of freshwater wetlands to be temporarily impacted by the construction activities will be restored at a 1:1 ratio. Permanent impacts to 0.36 acres of freshwater wetlands and 0.021 acres of State open waters, that will have lost functional values, are to be replaced by means of a wetland mitigation plan to be approved by the LURP prior to construction. A Water Quality Certification is provided as part of this authorization.

This permit is authorized under and in compliance with the applicable Freshwater Wetlands Rules (N.J.A.C. 7:7A-1.1 et seq.), provided permit conditions contained herein are met.

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.

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The plans hereby approved shall consist of forty-two (42) plan sheets entitled, "State of New Jersey Department of Transportation Freshwater Wetlands Individual and Stream Encroachment Permit for Route U.S. 206, Cat Swamp Mountain," prepared by George Soule, dated 8/24/03, and further defined as:

- Plan sheet 1 entitled, "Key,"
- Plan sheet 2 entitled, "Legend and Notes,"
- Plan sheets 3-7 entitled, "Typical Sections and Details,"
- Plan sheets 8-15 entitled, "Construction Plans,"

Prepared by: \_\_\_\_\_  
William Mc Laughlin, Project Manager

Revised Date

Approved by the Department of Environmental Protection

Name (Print or Type) Robert N. Cumberley Title Environmental Scientist 2

Signature SEE FINAL PAGE Date \_\_\_\_\_

### Permit Authorization General Condition

1. This permit is revocable, or subject to modification or change at any time, pursuant to the applicable regulations, when in the judgment 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. A copy of this permit shall be kept at the work site, and shall be exhibited upon request of any person.
8. In cases of conflict, the conditions of this permit shall supersede the plans and/or engineering data.

### ADMINISTRATIVE CONDITIONS

Prior to initiation of site preparation for the following 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. The applicant shall coordinate with the NJDEP's Site Remediation Program to evaluate the results of any sampling program for contaminated soil, and to meet the requirements of applicable laws that correlate to the disposal and/or reuse of the excavated soils, sediments, and elutriate from dewatering operations in areas identified as a result of the sampling program.
3. 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 Land Use Regulation Program at P.O. Box 439, Trenton, NJ 08625.

4. This permit does not authorize the temporary use of any wetlands or transition areas beyond the limits of the proposed work other than specifically approved by this permit or as detailed by approved drawings. Such use of regulated areas applies to the storage or staging of construction materials (including debris/spoil piles), equipment, and workers' vehicles. The applicant shall direct the contractors to locate all staging and storage areas outside of wetlands and wetland buffers not approved for use by this permit.
5. The project must meet the NJ Soil Erosion and Sediment Control Standards. The applicant shall be responsible for daily inspections of the project area to determine if the erosion control measures are functioning as intended.
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 100 feet of the wetlands along the project route.

#### **PECIFIC CONDITIONS:**

##### **TURBIDITY AND SEDIMENTATION CONTROL**

1. Dewatering of areas for construction must adhere to the following conditions:
  - a) Turbidity barrier will be placed around all work areas, but the barrier will not restrict any stream channel by more than 50% of its cross-section.
  - b) Turbid water from cofferdam and/or trench construction area dewatering will be routed to temporary sediment basins.
  - c) The temporary dewatering basins will be sized appropriately to provide retention of water sufficient to ensure settling of suspended particulates prior to return discharge.
  - d) The return water from the dewatering basins will be discharged to an area that is encompassed by turbidity barrier or silt fence to prevent migration of turbidity or soil erosion.
  - e) The Permittee shall monitor for suspended sediments in nearby streams on a daily basis when any construction/demolition and dewatering is taking place. If a sediment plume is detected, then the project must cease until more appropriate preventative measures are put in place.

##### **PHYSICAL CONDITIONS**

2. All temporarily disturbed areas shall be planted to permanently stabilize the soil and enhance the environment. The LURP Mitigation Unit can provide information on the appropriate mixture based on the planting date and drainage.
3. In order to protect the trout maintenance fisheries of the streams at or downstream of the project area, any turbidity generating activities within regulated areas is prohibited from **March 15 thru June 15 of each year**. The Department reserves the right to suspend all regulated activities on site if it is determined that the applicant has not taken proper precautions to ensure continuous compliance with this condition.

4. **Prior to construction**, the project site must be surveyed in the vicinity of Sutton Lane for the presence of turtles and they must be removed from the construction site to nearby safe areas. Immediately following the survey, the construction site must be encompassed by heavy duty silt fence to prevent turtles from re-entering the construction area.
5. All excavated materials must be disposed of at an approved site. Under no circumstances is excess material to be disposed of in wetlands, transition areas to wetlands, stream corridors, or other environmentally sensitive areas. Any material considered by the Department to be a toxic or hazardous material must be disposed of at a NJDEP approved facility.
6. The Permittee shall maintain all soil erosion and turbidity controls for the life of the project. All controls must be in place prior to any construction activities. Heavy-duty silt fence with wire backing shall be placed at the limits of any land disturbances within 25 feet of the banks of the tributaries to Lubbers Run.
7. Raw uncured concrete is toxic to fish and other aquatic organisms, therefore raw uncured concrete, or concrete effluent, must not come in contact with the waters of the State open waters and wetlands.
8. Culvert pipe extensions and placement of scour prevention materials must be placed, shaped, and imbedded within the stream bank to provide for low flow passage through the entire culvert work areas.

#### **MITIGATION CONDITIONS:**

**Prior to the start of work within areas regulated under this permit**, the following special conditions must be met for the activity to be authorized under these permits:

1. Mitigate for the unavoidable losses of wetland resources either through the purchase of mitigation credits as detailed in condition number 2 below, or an on-site or off-site creation, restoration or enhancement project as detailed in condition number 3 below as follows:
  - a) Mitigate for the loss of 0.360 acres of exceptional resource value (bog and wood turtle and barred owl habitat) forested freshwater wetlands,
  - b) Mitigate for the loss of 0.021 acres of State open water (FW2-TM),
  - c) Mitigate for the temporary disturbance of 0.179 acres of forested freshwater wetlands through on-site restoration and enhancements.
2. Purchase credits from the Mitigation Bank as detailed below.
  - a) The permittee must submit proof of the purchase of appropriate mitigation credit to the Land Use Regulation Program, before the authorized construction may begin. Prior to the purchase of credits from the mitigation bank or to confirm appropriate mitigation, please contact the Mitigation Unit of the Land Use Regulation Program at (609) 777-0454.
3. For an on-site or off-site individual mitigation project the permittee must submit a mitigation proposal to the Land Use Regulation Program, 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. Included with this permit is a list of the necessary information that must be submitted for approval of any on-site or off-site mitigation proposal. 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 and the mitigation area must, in addition to this, include transition area. The slope of the created transition area 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 the 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 Program 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.
- c) The mitigation project must be conducted prior to or concurrent with the construction of the approved project.
- d) 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 30 percent of the estimated cost of construction. 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.
- e) The permittee shall complete and sign the 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.
- f) The permittee shall notify the Land Use Regulation Program, in writing, at least 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 Program.
- g) 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.
- h) 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.

- i) Immediately following the final grading of the mitigation site and prior to planting, the permittee shall notify the Program for a post-grading construction meeting between the permittee, contractor, consultant and the Program.
- j) Immediately following final grading and planting of the wetland mitigation project, the permittee shall notify the Land Use Regulation Program, in writing that the construction of the mitigation project has been completed in accordance with the approved plan. Any deviations from the approved plan must be identified and explained to the Program for our review and approval. In addition to the notice, the permittee shall submit as built plans of the site and photos with a photo location map of the completed project.
- k) 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. The sign must also state the name of the engineering/environmental firm that designed and constructed the mitigation site with a phone number. In addition, the permittee shall visibly mark/staked (oak stakes) the extent of the wetland mitigation area and ensure the stakes remain that way for the entire monitoring period with the location of those stakes shown on the as built plan.
- l) If the Program 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 and all soil has been stabilized and there is no active erosion.
- m) The permittee shall monitor the wetland mitigation project for 5 full growing seasons if it is a proposed forested wetland and for 3 full growing seasons for a scrub/shrub or emergent wetland after the mitigation project has been constructed. The permittee shall submit monitoring reports to the Land Use Regulation Program no later than November 15th of each monitoring year (All monitoring report must include the standard items identified in the attachment and the information requested below).
- n) Throughout the monitoring period, the permittee must 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.
- o) All monitoring report will include all the following information (see attached monitoring report checklist):
  - i. The monitoring reports submitted prior to 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. The final monitoring report must include documentation to demonstrate that the goals of the wetland mitigation project including the required transition area, 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);

ii. The monitoring reports submitted prior to the final one must include documentation that the site is progressing towards the 85 percent survival and percent areal coverage of mitigation plantings or target hydrophytes which are species native to the area and similar to ones identified on the mitigation planting plan. If the permittee is finding problems with the mitigation project and does not anticipate the site will or has achieved the 85 percent survival and 85 percent areal coverage criteria then recommendations on how to rectify the problems must be included in the report with a time frame in which they will be completed. The final monitoring report must include documentation the site has an 85 percent survival and 85 percent areal 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;

iii. Documentation to demonstrate 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). If the site is more than 10 percent occupied by invasive or noxious species then the monitoring report must include a proposed remediation plan and a time frame in which it will be completed.

iv. Demonstrate through soil borings and a soil test that a minimum six inch layer of top-soil or A-Horizon was used/retained on the mitigation site and if the natural top-soil was used at least 8% organic carbon content (by weight) was incorporated into the A-horizon for sandy soil and for all other soil types 12% organic content or if manmade top soil was used it consisted of equal volumes of organic and mineral materials. If the site fails to meet this standard the monitoring report must include a proposed remediation plan and a time frame in which it will be completed. The final monitoring report must include documentation that the site contains hydric soils or there is evidence of reduction occurring in the soil; and

v. The monitoring reports submitted prior to the final report 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. 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, stream gauge data, photographs and field observation notes collected throughout the monitoring period.

p) 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:

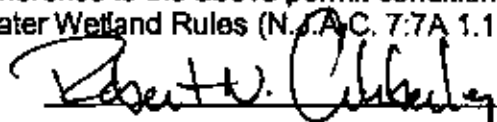
i. That the goals of the wetland mitigation project including the required transition area, as stated in the approved wetland mitigation proposal and the permit, has been satisfied. The permittee must submit a field wetland delineation of the wetland mitigation project based on the Federal Manual for Identifying and Delineating Jurisdictional Wetlands (1989) which

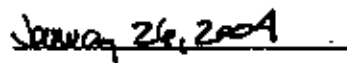


shows acres of emergent/scrub shrub/forested wetlands have been created/restored/enhanced;

- ii. The site has an 85 percent survival and 85 percent areal 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;
  - iii. 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 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);
  - iv. The site contains hydric soils or there is evidence of reduction occurring in the soil; and,
  - v. 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, stream gauge data, photographs and field observation notes collected throughout the monitoring period.
- q) All remaining financial surety, if required, will be released concurrent with the Program notifying the permittee that the mitigation project is a success.
  - r) 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 item (p).
  - s) 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.

With adherence to the above permit conditions, this project is considered to be consistent with the Freshwater Wetland Rules (N.J.A.C. 7:7A 1.1 et seq.)

  
Robert N. Cubberley, Environmental Scientist 2  
Land Use Regulation Program

  
Date

WMcL

C: w/plans Bureau of Enforcement  
Township of Byram Municipal Clerk  
Darren Harris, F&WS

C: w/o plans Township of Byram Planning Board  
Sussex County Planning Board