

STATE OF NEW JERSEY
 DEPARTMENT OF ENVIRONMENTAL PROTECTION
 DIVISION OF LAND USE REGULATION
 501 East State Street, Station Plaza 5, 2nd Floor
 P.O. Box 439, Trenton, New Jersey 08625-0439
 Fax: (609) 777-3656 or (609) 292-8115
 www.state.nj.us/dep/landuse

mailed 10/21/09

PERMIT

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 limitations, terms and conditions listed below and on the attached pages. For the purpose of this document, "permit" means "approval, certification, registration, authorization, waiver, etc."		Approval Date JUN 09 2009
		Expiration Date JUN 09 2014
Permit Number/s 1904-09-0001.1 FHA090001 (IP)	Type of Approval/s Flood Hazard Area	Enabling Statute/s NJSA 13:1D-1 NJSA 58:10A-1 NJSA 58:16A-50, et. seq.
Applicant NJ Department of Transportation POC David Ahdout 1035 Parkway Avenue P.O. Box 600 Trenton, NJ 08625		Owner (if different from applicant)
Description of Authorized Activities and Limit of Disturbance <p>This permit grants permission to construct safety, geometric, and drainage improvements along Route 206, in the floodplains and riparian zones of Lubber's Run and 3 unnamed tributaries, within the Township of Byram, Sussex County, New Jersey.</p>		
Project Location US Route 206 Township of Byram Sussex County		Received by County Clerk
Project Manager's Signature Gabriel Mahon Telephone: (609) 292-0060 Email: gabriel.mahon@dep.state.nj.us		
<p>This permit is not valid unless authorizing signature appears on the last page.</p>		

STANDARD CONDITIONS:

1. **Acceptance of permit:** If you begin any activity approved by this permit, you thereby accept this document in its entirety and agree to adhere to all terms and conditions. If you do not accept or agree with this document in its entirety, **do not** begin construction. You are entitled to request an appeal within a limited time as detailed on the attached *Administrative Hearing Request Checklist and Tracking Form*. You may also contact the project manager shown on the first page if you have any questions or concerns about this document.
2. **Recording with County Clerk:** You must record this permit in the Office of the County Clerk for each county involved in this project. You must also mail or fax a copy of the front page of this permit to the Department showing the received stamp from each County Clerk within 30 days of the issuance date (or 90 days if multiple counties are involved). The Department's address and fax number are shown on the first page of this permit.
3. **Notice of Construction:** You must notify the Department in writing at least 7 days before you begin any work approved by this permit. The Department's address and fax number are shown on the first page of this permit. Please direct your letter to the project manager shown on the first page.
4. **Expiration date:** All activities authorized by this permit must be completed by the expiration date shown on the first page. At that time, this permit will automatically become invalid and none of the approved work may begin or continue until a replacement permit is granted. (Some coastal permits may qualify for an extension of the expiration date. Please contact the Department for further information.)
5. **Duty to comply:** The permittee, its contractors and subcontractors shall comply with all conditions of the permit, supporting documents and approved drawings. Any noncompliance with a permit constitutes a violation of this chapter, and is grounds for enforcement action pursuant to N.J.A.C. 7:13-19, as well as suspension and/or termination of the permit
6. **Duty to reapply:** 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 new permit.
7. **Duty to halt or reduce activity:** It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of the permit.
8. **Duty to minimize environmental impacts:** 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.
9. **Proper operation and maintenance:** The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used to achieve compliance with the permit. Proper operation and maintenance includes effective performance, adequate funding, adequate operator staffing and training, and adequate laboratory and process controls, including appropriate quality assurance procedures. The operation of back-up or auxiliary facilities or similar systems is only required when necessary to achieve compliance with the permit. The permittee must also properly execute any approved mitigation compensation and/or restoration proposal designed to mitigate losses caused by the permitted activity. The permittee shall maintain the authorized work areas in good condition and in accordance with the permit.

10. **Proper oversight:** The permittee shall ensure that all approved activities are undertaken using the best management practices available under the supervision and direction of an engineer at all points necessary to ensure compliance with all permit conditions.
11. **Proper site maintenance:** While the regulated activities are being undertaken, neither the permittee nor its agents shall cause or permit 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. Upon completion or abandonment of the work, the permittee and/or its agents shall remove and dispose of in a lawful manner all excess materials, debris, equipment, silt fences and other temporary soil erosion and sediment control devices from all regulated areas.
12. **Permit actions:** A permit can be revised, suspended or terminated for cause. The filing of a request by the permittee for a revision, or a notification of planned changes or anticipated noncompliance does not stay any condition of a permit.
13. **Property rights:** A permit does not convey any property rights of any sort, or any exclusive privilege.
14. **Duty to provide information:** A copy of the general permit and other authorizing documents including all approved plans and drawings shall be maintained at the authorized site at all times and made available to Department representatives or their designated agents immediately upon request. The permittee shall also furnish to the Department within a reasonable time any information that the Department requests to determine compliance with a permit or to determine whether cause exists for suspension or termination of a permit. The permittee shall also furnish to the Department, upon request, copies of records required to be kept by the permit.
15. **Inspection and entry:** The permittee shall allow an authorized representative of the Department, at reasonable times and upon the presentation of credentials, to:
 - i. Enter upon the permittee's premises where a regulated activity is located or conducted, or where records must be kept under the conditions of the permit;
 - ii. Have access to and copy any records that must be kept under the conditions of the permit; and
 - iii. Inspect any facilities, equipment, practices or operations regulated or required under the permit. Failure to allow reasonable access under this section shall be considered a violation of this chapter and subject the permittee to enforcement action pursuant to N.J.A.C. 7:13-19.
16. **Reporting requirements:** The permittee shall provide reports to the Department as follows:
 - i. Planned changes: The permittee shall give notice to the Department prior to any planned physical alterations or additions to the permitted project or activity;
 - ii. Transfers: The permit is not transferable to any person unless the transfer is approved by the Department, pursuant to N.J.A.C. 7:13-14.1;
 - iii. Noncompliance: The permittee shall immediately report to the Department by telephone at (877) 927-6337 any noncompliance that may endanger health or the environment. The permittee shall report all other noncompliance to the Division of Land Use Regulation by telephone at (609) 292-0060 within two business days of the

time the permittee becomes aware of the noncompliance, and in writing within five business days of the time the permittee becomes aware of the noncompliance. The written notice shall include: a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and, if the noncompliance has not been corrected, the anticipated length of time it is expected to continue; and steps taken or planned to reduce, eliminate and prevent recurrence 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; and

iv. Other information: 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.

17. **Other responsibilities:** You must obtain all necessary local, Federal and other State approvals before you begin work. All work must be stabilized in accordance with the *Standards for Soil Erosion and Sediment Control in New Jersey*, and all fill material must be free of toxic pollutants in toxic amounts as defined in section 307 of the Federal Act.

SPECIAL CONDITIONS IN ADDITION TO THE STANDARD CONDITIONS:

18. The permittee must mitigate for the permanent loss of 0.355 acres (15,455 square feet) of forested riparian zones at a ratio of at least 2:1 and 0.78 acres (33,453 square feet) of grassed riparian zones at a ratio of at least 1:1. Within 90 days of the date of issuance of this permit, the permittee must submit a plan to mitigate for all riparian zone impacts.
19. The permittee must also mitigate for the temporary impact to 0.2 acres (9,002 square feet) of grassed riparian zones at a ratio of at least 1:1, by seeding the area immediately upon completion of regulated activities.
20. All replanting of vegetation shall be accomplished in accordance with the Flood Hazard Area Control Act Rules (N.J.A.C. 7:13).
21. If riparian zone mitigation is performed through preservation, it must be done within the same Watershed Management Area. Preserved lands are considered to be valuable for the protection of a riparian ecosystem. Factors the Department shall consider in evaluating an area for preservation include, but are not limited to:
- a. The size and configuration of the property in relation to the State open waters and riparian zones, and the effect the preservation of the property would have on State open waters and the riparian zone;
 - b. If the site is adjacent to public lands containing State open waters, riparian zones and wetland preserves, such as Federal wildlife refuges, State wildlife management areas, State parks or forests, State, County, or local wetland preservation areas or preservation areas held by non-profit conservation organizations;
 - c. The diversity of the ecological communities on the entire site;
 - d. If the land is adjacent to land that contains freshwater wetlands;
 - e. If the land contains critical habitat for flora and fauna;
 - f. If the land contains wetlands or State open waters that drain to trout maintenance or trout production waters, or into public drinking water sources;
 - g. Unique aspects or characteristics that contribute to ecological value, such as an unusual or regionally rare type of wetland.

22. As per N.J.A.C. 7:13-10.2, all riparian zone mitigation must be deed restricted against future development that would remove or degrade the vegetation being planted. The conservation restriction shall conform to the format and content of the Riparian Zone Mitigation Area model conservation restriction attached to this permit. 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 completion of construction of the mitigation project. Within 10 days of filing the conservation restriction, the permittee must send a copy of the conservation restriction to the Department for verification.
23. In the event that there is a conflict between the permit conditions and the approved riparian zone mitigation plans and proposal, the permit conditions take precedent.
24. In accordance with N.J.A.C. 7:13-10.2, the permittee shall assume all liability for accomplishing corrective work should the Division determine that the compensatory mitigation has not been 100% successful. Remedial work may include but is not limited to re-grading and/or replanting the riparian zone mitigation site. This responsibility is incumbent upon the permittee until such time that the Division makes the finding that the riparian zone mitigation project is successful.
25. No soil compaction may occur in the riparian zone mitigation site or the temporary restoration area. Should soil compaction inadvertently occur due to heavy equipment passing or a similar activity, it must be mitigated within 5 days following the final grading of the area. The mitigation design consultant must be present to oversee this phase of the project and confirm with the Division that this activity has occurred prior to planting of the site.
26. As per N.J.A.C. 7:13-10.2, as part of the monitoring requirement for the sites, within 30 days following final planting of the mitigation project, the permittee shall submit a Construction Completion report to the Division detailing as-built conditions (see below) and any changes to the approved riparian zone mitigation plan that were made during construction. The Construction Completion Report shall contain, at a minimum, the following information:
 - a. Certification that the riparian zone mitigation project has been constructed as designed and that the proposed area of compensation has been accomplished;
 - b. 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. Photos of the constructed riparian zone mitigation project with a photo location map as well as the GPS waypoints in NJ state plane coordinates NAD 1983;
 - d. The permittee shall post the riparian zone mitigation area with permanent sign(s), which identify the site as a riparian zone mitigation project and that all-terrain vehicle use, motorbike use, mowing, dumping, draining, cutting and/or removal of plant materials on the property is prohibited and that violators shall be prosecuted and fined to the fullest extent under the law;
 - e. The signs must also state the name of the permittee, the Department's permit number along with a contact name and phone number.
27. 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 and will have 60 days to submit a proposal to indicate how the project will be corrected.
28. As per N.J.A.C. 7:13-10.2, the permittee shall monitor the riparian project for at least three (3) years beginning the year after the riparian zone mitigation project has been completed. The permittee shall submit monitoring reports to the Division of Land Use Regulation no later than December 31st of each full monitoring year.

- a. All monitoring reports except the final one must include documentation that it is anticipated, based on field data, that the goals of the riparian zone mitigation project, as stated in the approved riparian zone 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.
29. Once the required monitoring period has expired and the permittee has submitted the final monitoring report, the Division will make the finding that the riparian zone mitigation project is either a success or a failure. The final monitoring report must document the following:
 - a. That the goals of the riparian zone mitigation project including acreage as stated in the approved riparian zone mitigation proposal and the permit have been satisfied.
 - b. The site has an 85 percent survival and 85 percent area coverage of the mitigation planting 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 5 feet in height;
 - c. Documentation demonstrating the site is less than 10 percent occupied by invasive or noxious species.
 30. 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.
 31. The applicant shall make specific arrangements to ensure the continuous maintenance and efficient operation of all proposed stormwater management measures onsite. This includes the inspection (and cleaning where necessary) of any and all constructed swales, basins, inlets, and mechanical treatment devices at least four times per year and after every major storm totaling 1 inch of rainfall or more, the use of appropriate soil conservation practices onsite, and any other reasonable effort required to maintain the stormwater management system in good working order.
 32. The Department has determined that this project meets the requirements of the Stormwater Management rules at N.J.A.C. 7:8. Any future expansion or alteration of the approved stormwater management system, which would affect water quality, increase the rate or volume of stormwater leaving the site, affect the infiltration capacity on the site, or alter the approved low impact site design, shall be reviewed and approved by the Department prior to construction. This includes any proposed changes to the discharge characteristics of any basin, the construction of new inlets or pipes that tie into the storm sewer network and/or the replacement of existing inlets or pipes with structures of different capacity.
 33. The hydraulic analysis of the Lubber's Run culvert replacement shows an approximately 0.2 meter rise in water surface elevation just downstream of the culvert. No construction may begin until the applicant has either obtained permission for this rise in water surface elevation from the owner of the downstream properties or adjusted the culvert to eliminate this rise in water surface elevation.

34. All fill and other earth work on the lands encompassed within this permit authorization shall be stabilized in accordance with "Standards for Soil Erosion and Sediment Control in New Jersey" to prevent eroded soil from entering adjacent waterways or wetlands at any time during and subsequent to construction.
35. All sediment barriers and other soil erosion control measures shall be installed prior to commencing any clearing, grading or construction onsite, and shall be maintained in proper working condition throughout the entire duration of the project.
36. In order to protect wood turtle habitat within and adjacent to Lubbers Run, the following timing restrictions shall apply:
 - a. In-stream work (including stream bank excavation): In order to prevent adverse impacts to hibernating turtles, 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 the calendar year. If a coffer dam 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, a Department approved herpetologist must thoroughly inspect the enclosed area for wood turtles. Any wood turtles found must be reported to the NJDEP, Division of Fish and Wildlife, Endangered and Nongame Species Program (contact Brian Zarate at (908) 638-4127), and relocated outside of the proposed work area. Once this inspection is complete, authorized activities may commence within the coffer dammed work area.
 - b. Wetlands/Transition Area/Riparian Zone work: In order to prevent adverse impacts to wood turtles or their resting, breeding or foraging habitats within the regulated areas (Freshwater Wetlands/Transition Areas/Riparian Zone) 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. 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. Immediately thereafter, a Department approved herpetologist must thoroughly inspect the fenced-in work area for wood turtles. Any wood turtles found must be reported to the NJDEP, Division of Fish and Wildlife, Endangered and Nongame Species Program (contact Brian Zarate at (908) 638-4127), and relocated outside of the proposed work area. Once this inspection is complete, authorized activities may commence within the fenced work area. The fence must be monitored weekly and maintained until project completion. 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.
37. In order to protect the trout stocked Lubber's Run, no construction, excavation, filling or grading, is permitted within the channel between **March 15 through June 15** of each year.

Furthermore, no construction, excavation, filling or grading is permitted in the riparian zone unless the applicant demonstrates that appropriate soil erosion control measures are in place that prevent sediment from reaching the channel. All proposed measures shall meet the Standards for Soil Erosion and Sediment Control in New Jersey at N.J.A.C. 2:90. The Department reserves the right to suspend all regulated activities onsite should it be determined that the applicant has not taken proper precautions to ensure continuous compliance with this condition. If a cofferdam is installed prior to the timing restriction, construction, excavation, filling or grading within the channel of Lubbers Run is permitted within confines of the cofferdam during this restricted period.

38. If a cofferdam is installed prior to the timing restrictions noted above, construction, excavation, filling or grading within the channel of Lubbers Run is permitted within confines of the cofferdam during this restricted period.
39. Dewatering of cofferdams must include properly sized temporary sediment basins or other filtering methods to adequately reduce turbidity. The stream area to receive return water discharged from dewatering activities 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. In order to avoid obstruction of stream flows or fish passage, turbidity barriers must not be placed across the stream channel.
40. In order to protect potential summer habitat for the federally listed Indiana bat (*Myotis sodalists*), no tree clearing is permitted from **April 1 to September 30**. In addition, reforestation plans for the site should include planting of suitable roost tree species for the Indiana bat.
41. Unset or raw cement shall not come into contact with water in the channel during construction.
42. Vegetation within 150 feet of the top of the bank shall only be disturbed in the areas specifically shown on the approved plans. No other vegetation within 150 feet of the top of any stream bank onsite shall be disturbed for any reason. This condition applies to all channels onsite regardless of the contributory drainage area.
43. Upon completion of the project, all temporarily disturbed areas within 150 feet of the top of any stream bank onsite shall be restored to original topography and replanted with indigenous, non-invasive vegetation in accordance with N.J.A.C. 7:13-10.2(u).
44. Prior to construction, the permittee must obtain a Freshwater Wetlands Individual Permit for the disturbances to wetlands, transition areas, and state open waters on-site. The Department has approved this Flood Hazard Area Permit because the project satisfies the requirements of the Flood Hazard Area Control Act Rules. The issuance of this permit does not in any way indicate that any other permits shall also be approved.
45. The Acorn Ramp Basin, Wet Pond B2, and the recharge area associated with Wet Pond B2 are all located below the seasonal high water table according to the provided soil borings.

Therefore, the recharge area must be eliminated and lined with an impermeable material, and both basins must be lined with an impermeable material.

46. The drawings hereby approved are twenty four (24) sheets prepared by The RBA Group, undated, unrevised, entitled:

“NEW JERSEY DEPARTMENT OF TRANSPORTATION ROUTE U.S. 206 CONTRACT NO. 098970231”

“FLOOD HAZARD AREA PERMIT PLANS”, sheet nos. 5 through 19 of 54,

“RIPARIAN ZONE IMPACT PLANS (RP-1)”, sheet no. 24 of 54,

“RIPARIAN ZONE IMPACT PLANS (RP-2)”, sheet no. 25 of 54,

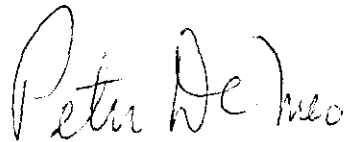
“RIPARIAN ZONE IMPACT PLANS (RP-3)”, sheet no. 26 of 54,

“RIPARIAN ZONE IMPACT PLANS (RP-4)”, sheet no. 27 of 54,

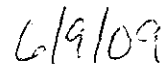
“RIPARIAN ZONE IMPACT PLANS (RP-5)”, sheet no. 28 of 54,

“CONSTRUCTION DETAILS”, sheet nos. 29, 30, and 31 of 54, and

“SANITARY PROFILES”, sheet no. 31A.



Peter DeMeo, PE
Supervising Environmental Engineer
Bureau of Urban Growth and Redevelopment



Date