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State of New Jersey

Department of Environmental Protection

Land Use Regulation Program
P.O. Box 439, Trenton, NJ 08625-0439
Fax # (609) 292-8115
www.state.nj.us/dep/landuse

Bradley M. Campbell
Commissioner

FEB 15 2005

Richard J. Codey
Acting Governor

NJ Department of Transportation
1035 Parkway Avenue
Trenton, NJ 08625

Attr: Dave Zmoda

RE: Authorization for Freshwater Wetlands Statewide General Permit (FWGP) Nos. 7, 11 and Freshwater Wetlands Transition Area Waiver for Stormwater Management Facilities (FWTW4S)

LURP File No.: 1900-03-0005.2 – FWGP7 040001, FWGP11 040002, FWTW4S 040003

Applicant: NJ Department of Transportation
1035 Parkway Avenue
Trenton, NJ 08625

Project: Route 94 Drainage Improvements (MP 36.48 to 37.24)
Hardyston Township, Sussex County
Black Brook

Dear Mr. Zmoda:

The Land Use Regulation Program has reviewed the referenced application for a Statewide General Permit authorization pursuant to the requirements of the Freshwater Wetlands Protection Act Rules at N.J.A.C. 7:7A. The proposed activity is authorized by **Statewide General Permit Nos. 7, 11, and a Freshwater Wetlands Transition Area Waiver** for stormwater facilities, which authorize activities in freshwater wetlands, transition areas, and/or State open waters for the construction or expansion of stormwater outfall structures and stormwater management facilities. **This authorization includes a Water Quality Certification.**

Limit of Authorized Disturbance

The authorized activities are the minimum necessary disturbances to wetlands, State open waters, and transition areas for minor road improvements, including the installation of a longitudinal drainage system along the southbound side of Route 94, a swale, outfall structure, and two detention basins. In addition, the existing 6-foot shoulders will be widened to provide 8-foot paved shoulder, and 4-foot wide grass berm area. Guide rail will be included in required areas for safety according to documents received October 22, 2004. This permit authorization is based on the following plans:

Seven (7) plan sheets entitled, "Environmental Plans Route 94 Contract No. 036982990," signed by Frederick F. Scherrer, and undated.

Any additional disturbance of wetlands, transition areas and/or State open waters shall be considered a violation of the Freshwater Wetlands Protection Act unless the activity is exempt or a permit is obtained prior to the start of the disturbance from the Land Use Regulation Program.

Permit Conditions

The activities allowed by this authorization shall comply with the following conditions. 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.*).

Freshwater Wetlands General Permit No. 7

- 1) This Freshwater Wetlands General Permit No. 7 authorizes the disturbance of approximately 0.139 acres of a freshwater wetlands ditch located adjacent to proposed drainage improvements designed to prevent ponding and icing on the road surface. The authorization of activities under this Freshwater Wetlands Statewide General Permit includes a wetland transition area waiver for disturbance which has been determined by the Department to be necessary to accomplish the authorized activities. Any additional disturbance of wetlands, transition areas and/or State open waters shall be considered a violation of the Freshwater Wetlands Protection Act unless the activity is exempt or a permit is obtained prior to the start of the disturbance from the Land Use Regulation Program.

Freshwater Wetlands General Permit No. 11

- 2) This Freshwater Wetlands General Permit No. 11 authorizes the disturbance of 0.002 acres of freshwater wetlands for the installation of an outfall structure to discharge treated stormwater from a proposed stormwater management basin to an existing wetland. The authorization of activities under this Freshwater Wetlands Statewide General Permit includes a wetland transition area waiver for disturbance which has been determined by the Department to be necessary to accomplish the authorized activities. Any additional disturbance of wetlands, transition areas and/or State open waters shall be considered a violation of the Freshwater Wetlands Protection Act unless the activity is exempt or a permit is obtained prior to the start of the disturbance from the Land Use Regulation Program. In addition, this permit to conduct a regulated activity in a wetland or open water includes the Department's approval of a Water Quality Certificate for these activities.
- 3) Dewatering of cofferdams or other construction areas must include properly sized temporary sediment basins or other filtering methods to reduce turbidity.
- 4) The upper-most 18-inches of any temporary trench excavation is backfilled with the original soil material if feasible, and otherwise with 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 material. Excavations must be backfilled to the preexisting elevation, where feasible.
 - a) The area above the excavation must be replanted with native, indigenous species.
 - b) The activity is designed so as not to interfere with the natural hydraulic characteristics of the wetland and watershed.
 - c) All stormwater conveyance structures within wetlands and transition areas are to be properly sealed to prevent a discharged loss of water that would adversely affect these areas.

- 5) The temporary storage of equipment, materials, and refueling activities shall not be located in regulated areas of open water, wetlands, or transition areas.
- 6) Prior to grading or land disturbances in the vicinity of the Simpson Mine prehistoric site (28-SX-412) and/or the Campbell prehistoric site, approval of the grading plans is required from the NJ State Historic Preservation Office.

Freshwater Wetlands Transition Area Waiver for Stormwater Management Facilities

- 7) This Freshwater Wetlands Transition Area Waiver for Stormwater Management Facilities authorizes the disturbance of 0.523 acres of freshwater wetlands transition area for the installation of stormwater management basin to treat stormwater prior to discharge to an existing wetland. The Department finds that the impacts are associated with a previously disturbed transition area and that the basin makes use of the existing stormwater collection system to the extent practicable. Impacts have been minimized while providing the necessary stormwater treatment prior to discharge. Any additional disturbance of wetlands, transition areas and/or State open waters shall be considered a violation of the Freshwater Wetlands Protection Act unless the activity is exempt or a permit is obtained prior to the start of the disturbance from the Land Use Regulation Program.

Appeal of Decision

In accordance with N.J.A.C. 7:7A-1.7, any person who is aggrieved by this decision may request a hearing within 30 days of the decision date by writing to: New Jersey Department of Environmental Protection, Office of Legal Affairs, Attention: Adjudicatory Hearing Requests, CN 402, Trenton, NJ 08625-0402. This request must include a completed copy of the Administrative Hearing Request Checklist.

If you have any questions regarding this authorization, please contact William McLaughlin of our staff at (609) 984-0194, at the address listed above, or by email William.McLaughlin@dep.state.nj.us. Please reference the above file number in all correspondence.

Sincerely,


Robert N. Cumberley
Environmental Scientist 1
Bureau of Inland Regulation

WMcL

c. Bureau of Enforcement
Township of Hardyston Clerk