960352-DEP3

State of New Jersey

James E. McGreevey
Governor

Department of Environmental Protection

Bradley M. Campbell
Commissioner

Land Use Regulation Program
P. O. Box 439, Trenton, NJ 08625-0439
Fax # (609) 777-3656
www.state.nj.us/dep/landuse

Nick Caiazza
NJ Department of Transportation
1035 Parkway Avenue
P.O. Box 600
Trenton, NJ 08625-0600

APR 1 0 2003

RE: Authorization for **Freshwater Wetlands Statewide General Permit No. 18, & Water Quality Certificate**
LURP File No.: **# 0805-03-0001.1 FWGP 020001**
Applicant: NJ Department of Transportation
1035 Parkway Avenue
P.O. Box 600
Trenton, NJ 08625-0600
Project: Malalga Lake Dam Replacement at
Malaga Lake and Scotland Run
Franklin Township, Gloucester County

Dear Mr. Caiazza:

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 No. 18, which authorizes activities in freshwater wetlands, transition areas, and/or State open waters for the repair, rehabilitation, replacement, maintenance, reconstruction, or removal of a dam, as defined in the Department's dam safety rules at N.J.A.C. 7:20-1.2.

Limit of Authorized Disturbance

General Permit 18 authorizes certain activities in freshwater wetlands, transition areas, and/or State open waters. Such activities include the repair, rehabilitation, replacement, maintenance, reconstruction, or removal of a dam. Based on the plan sheets 1, 11-14, & 41-63 of 63, entitled, "Plan of US Route 40, Malaga Lake Dam, Final Design, Contract No. 264960352", prepared by McCormick Taylor & Associates, Inc., dated March 6, 2003, unrevised. The authorized activity involves the **permanent disturbance of 0.104 acres of wetlands and State open waters and the temporary disturbance of 0.037 acres of wetlands and State open waters**. The stated impacts are the minimum necessary to provide for the safe replacement of the structures in association with the replacement of the dam spillway. This permit also authorizes the installation of steel bulkheading along the entire upstream embankment. 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.).

Special Conditions

1) The total amount of disturbance to wetlands and State open waters associated with this authorization shall not exceed 0.141 acres.

2) From **April 1 thru June 30** of each year, no in-stream or near stream sediment generating activities shall be conducted that would adversely affect anadromous fish during their spawning migration as well as any warmwater fish spawning in Malaga Lake and Scotland Run.

3) The cartway, shoulder, walkway, and side slopes of the roadway shall be the minimum necessary for meeting safety standards.

4) Turbidity barriers will be installed in the State open water areas to fully encompass all work areas including the installation of sheet pile and rip-rap both temporary and permanent.

5) Any dewatering operation which requires the discharge of return water to wetlands or State open waters will require an appropriately sized temporary sediment basin to settle out suspended sediments from the water prior to discharge. The return water will be discharged to an area of the stream/impoundment that is encompassed by turbidity barrier.

6) The temporary dewatering basin is not to be located in wetlands or State open waters.

7) The discharge of dredged or fill material shall consist of clean, suitable material free from toxic pollutants in toxic amounts, and shall comply with applicable Department rules and specifications regarding use of dredged or fill material. Excess materials will not be stockpiled or disposed of in wetlands, State open waters, or other environmentally sensitive areas.

8) During construction activities, all excavation work will be monitored for the presence of acid-producing deposits. If any acid-producing deposits are found within the project limits, the permittee will implement the mitigation and disposal standards prescribed in the Flood Hazard Control Act Rules (N.J.A.C. 7:13 1.1 et seq.). Areas of disturbed acid-producing deposits will require an annual post-planting monitoring program to ensure the re-establishment of vegetation for temporarily disturbed areas. The standards applied to restoration require 85% plant survival and coverage rate after two complete growing seasons. Failure to meet the standards for restoration of disturbed areas of acid-producing deposits will require additional mitigation.

9) The water levels of Malalga Lake shall be maintained at the current levels during construction.

10) The project must be in compliance with Dam Safety Permit No. 1126, dated April 2, 2003.

11) NJDOT will be responsible for the installation of a fish ladder at the site at the time the downstream blockages are removed.

12) Precautions must be taken to prevent raw concrete from coming in contact with the waters of Malalga Lake or Scotland Run. Raw concrete is toxic to aquatic biota.

In addition to the above conditions and the conditions noted at N.J.A.C. 7:7A-4 and -13, the following general conditions must be met for the activity authorized under this Statewide General Permit:

General conditions:

1) 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.

2) This permit is revocable in accordance with DEP regulations and State law.

3) The issuance of this permit shall not be deemed to affect in any way other actions by the Department on any future application.

4) The activities shown on the approved plans shall be constructed and/or executed in conformity with any notes and details on said plans and any conditions stipulated herein.

5) No change in plans or specifications shall be made except with the prior written permission of the Department.

6) The granting of this authorization shall not be construed to in any way affect the title or ownership of the property, and shall not make the Department or the State a party in any suit or question of ownership of the property.

7) This permit is not valid and no work shall be undertaken pursuant to this authorization until all other required federal, state, and local approvals, licenses and permits necessary for commencement of work onsite have been obtained. This includes approval by the NJDEP Dam Safety Unit.

8) A complete, legible copy of this permit shall be kept at the work site and shall be exhibited upon request of any person.

9) The permittee shall allow the Program the right to inspect the construction site and also shall provide the Bureau of Coastal and Land Use Enforcement, NJDEP with written notification 7 days prior to the start of the authorized work.

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.

Water Quality Certificate

This letter of authorization to conduct a regulated activity in a wetland or open water includes the Program's approval of a Water Quality Certificate for these activities.

Transition Area

The wetland affected by this permit authorization is of intermediate resource value and the standard transition area or buffer required adjacent to it is 50 feet. This General Permit includes a transition area waiver that allows encroachment only in that portion of the transition area that has been determined by the Department to be necessary to accomplish the regulated activities. Any additional regulated activities conducted within standard transition areas shall require a separate transition area waiver from the Program. Regulated activities within a transition area are defined at N.J.A.C. 7:7A-2.6.

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 Charles Welch of our staff at (609) 984-0194, at the address listed above, or by email charlie.welch@dep.state.nj.us. Please reference the above file number in all correspondence.

Sincerely,

Robert N. Cubberley
Environmental Scientist 2
Land Use Regulation Program

c. Bureau of Enforcement
Franklin Township Municipal Clerk
Franklin Township Planning Board
Gloucester Township Engineering Dept.