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. 1102-00-0002.1-2.2	Application No. Same as Permit No.

Issuance Date April 6, 2001	Effective Date April 6, 2001	Expiration Date April 6, 2006

Name and Address of Applicant NJ Dept. of Transportation 1035 Parkway Avenue P.O. Box 600 Trenton, N.J. 08625	Name and Address of Owner Same as applicant	Name and Address of Operator N/A
Location of Activity/Facility *(Street Address)* Route 1-95-Scotch Road Hopewell and Ewing Twp. Mercer County Lot _____ Block _____	Issuing Division Land Use Regulation Program	Statute(s) NJSA 13-9B-1 et seq.

Type of Permit Freshwater Wetlands IP – TAW-WQC	Maximum Approved Capacity, if applicable N/A

This permit grants permission to:
Permanently fill 1.089 acres of freshwater wetlands, .299 acres of State open waters and .335 acres of transition areas. In addition, the applicant will temporarily disturb .379 acres of freshwater wetlands and .042 acres of State open waters in order to reconstruct the interchange of Scotch Road and I-95.

The proposed project is shown on a site plans entitled **"WETLAND DELINEATION INDIVIDUAL PERMIT SPECIAL ACTIVITES TRANSTION AREA WAIVER PLAN INTERSTATE 95 AND SCOTCH ROAD INTERCHANGE," sheets 2, 4, 5-7, 9-14, 22, 24, 27, 32, 37- 40, dated January 8, 2001, and prepared by SHREE P. SHAHA, "LANDSCAPE PLANS INTERSTATE 95 AND SCOTCH ROAD INTERCHANGE CONTRACT NO. 002960525" sheets L-3 and L-4 of 38, dated January 2001, last revised February 14, 2001, and prepared by Robert J. Ferrante.**

This permit is authorized under and in compliance with the Freshwater Wetlands Protection Act Rules (N.J.A.C.7: 7A-1.1 et seq.). Specifically, the project complies with the Standards for Granting Freshwater Wetlands Permits and Transition Area Waivers at 7:7A-3.3, 3.5 and 7:7A-7.4.

Prepared by: John F Kale
John F. Kale

Revised Date	Approved by the Department of Environmental Protection Name (Print or Type) _____ Title _____ Signature _____ Date _____

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

(General Conditions are on the Reverse Side)

This permit is subject to the following general 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 this 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.

This permit to conduct regulated activities in a wetland or open water includes a Water Quality Certificate for these activities. 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 ten (10) days after receipt of the permit by the applicant and verified notice shall be forwarded to the Program immediately thereafter.

This permit is not valid until the permit acceptance form has been signed by the applicant and returned to the Program at P.O. Box 401, Trenton, N.J. 08625

This permit is issued subject to, and provided that, the following conditions can be met to the satisfaction of the Land Use Regulation Program. All conditions must be met prior to construction unless otherwise specified. Compliance with conditions shall be determined once copies of all specified permits, certifications, plans, agreements, etc. have been received, not less than 30 days prior to construction, and approved to on site compliance inspection by the Bureau of Coastal and Land Use Enforcement. The permittee shall allow an authorized Department representative the right to inspect the project pursuant to N.J.A.C. 7:7-1.5(b) 1.

PERMIT CONDITIONS:

The following special conditions must be met for the activity to be authorized under these permits:

Mitigation Conditions:

The following special conditions must be met for the activity to be authorized under these permits:

1. Mitigate for the loss of .299 acres of State open waters, .333 acres of emergent, .216 acres of scrub/shrub, .467 acres of forested wetlands through either an on-site or off-site creation, restoration or enhancement project as detailed in condition number 3 below or through the purchase of mitigation credits as detailed in condition 2 below.

2. Purchase credits from the Mitigation Bank as detailed below.

a) The permittee must submit proof of the purchase of mitigation credit to Virginia Kop'Kash, from the Land Use Regulation Program, before the authorized construction may begin. If the permittee waits more than sixty days to make that purchase she/he must first contact Virginia Kop'Kash, from the Land Use Regulation Program at (609) 777-0454 to determine if the mitigation credits are still available for sale.

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. Attached to this permit is a list of the necessary information that must be included in that 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 a 50 foot 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 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 off-site.

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-14.1, 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 (copy attached). 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 14 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.

h) Immediately following final grading of the site, a disc must be run over the site to eliminate compaction. 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. 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), *Phragmities australis* (Common reed grass), *Pueraria lobata* (Kudzu), *Typha latifloia* (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 angustifloia* (Russian olive), *Elaeagnus umbellata* (Autumn olive), *Ligustrum obtusifolium* (Japanese privet), *Ligustrum vulgare* (Common privet) and *Rosa multiforia* (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), *Phragmities australis* (Common reed

grass), *Pueraria montana* (Kudzu), *Typha latifloia* (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 angustifloia* (Russian olive), *Elaeagnus umbellata* (Autumn olive), *Ligustrum obtusifolium* (Japanese privet), *Ligustrum vulgare* (Common privet) and *Rosa multiforia* (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).

General Conditions:

1. Any discharge of dredged or fill material shall consist of suitable material free from toxic pollutants and shall be maintained in accordance with the Soil Erosion and Sediment Control Standards

2. In order to protect nesting birds and wildlife the initial clearing of forested vegetation in the floodplain, wetlands and wetlands transition area shall not be done between the April 1 and July 15 of any year.

3. 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" (obtainable from local Soil Conservation District Offices), or equal engineering specifications, to prevent eroded soil from entering adjacent waterways or wetlands at any time during and subsequent to construction.

4. This permit is revocable, or subject to modification or change at any time, when in the judgement of the Department of Environmental Protection of the State of New Jersey, such revocation, modification or change shall be necessary.

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

6. The 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.

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

8. 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.

9. This authorization is not valid and no work shall be undertaken until such time as all other required approvals and permits have been obtained.

10. A copy of this authorization shall be kept at the work site and shall be exhibited upon request of any person.

Special Conditions:

11. The soil and groundwater has been found to be contaminated in the project area; therefore, this permit is conditioned upon the applicant receiving any and all necessary approvals from the Bureau of Case Management, NJDEP.

12. In order to protect the warmwater fisheries within Ewing Creek, any proposed grading or construction activities within the banks of this or any other stream onsite are prohibited between May 1 and June 30 of each year. In addition, any activity within the 100-year flood plain or flood hazard area of this watercourse that could introduce sediment into said stream 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. Any construction activities proposed on public space must obtain prior approval from the NJDEP Green Acres Program.

14. The permittee shall allow an authorized Program representative the right to inspect construction, and shall notify the Bureau of Inland Regulation 7 days prior to the start of construction.

15. The applicant shall be responsible for preserving and minimizing vegetation disturbances within wetlands, transition areas and along Ewing Creek. All temporary disturbances shall be replanted with native herbaceous and woody vegetation, specifically between Ramp SEF and Ewing Creek and between the water quality swale and Ewing Creek at sta. 91+600.

Date: 4/6/01

Richard H. Kropp
Land Use Regulation Program