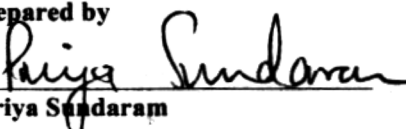


**STATE OF NEW JERSEY  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
DIVISION OF LAND USE REGULATION**

P.O. Box 439, Trenton, New Jersey 08625-0439  
Fax: (609) 777-3656 or (609) 292-8115  
www.state.nj.us/dep/landuse



# 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		<b>Approval Date: June 3, 2009</b>
		<b>Expiration Date: June 3, 2014</b>
<b>Permit Number(s)</b> 1400-08-0002.1FWW080001, FHA080001, FHA 080002	<b>Type of Approval(s)</b> Freshwater Wetlands Individual Permit; Flood Hazard Area Individual Permit; Flood Hazard Area Verification; WQC	<b>Enabling Statute(s)</b> NJSA 58:16A-50 (FHA) NJSA 13:9B (FWPA) NJSA 13:1D-1(FHACAR) NJSA 58:10A (WQCA)
<b>Applicant</b> New Jersey Department of Transportation 1035 Parkway Avenue Trenton, NJ 08625	<b>Site Location</b> Township of Parsippany-Troy Hills and Borough of Morris Plains, Morris County	
<b>Description of Authorized Activities and Limit of Disturbance</b>		
<p>Widen and improve the Route 10 and 53 interchange, in the Borough of Morris Plains and the Township of Parsippany Troy-Hills, Morris county. The authorized activities involve the widening of Route 53 by adding a lane in each direction between Tabor Road South and Route 10 and an auxiliary lane in the north bound direction at the Foxwood Drive/Route 53/Tabor Road South intersection and the new Tabor Road North extension/Route 53 intersection, the realignment of Foxwood Drive, the improvement and signalization of the Foxwood Drive/Route 53/Tabor Road South intersection and the New Tabor Road/Route 53 intersection, the widening of Route 10 in the west bound direction at Tabor Road North to accommodate an acceleration lane and in the east bound direction at Tabor Road South to accommodate an acceleration lane and a deceleration lane, the elimination of the east-bound and the west-bound Route 10/Route 53 exit and entrance ramps, the realignment and the utilization of Tabor Road South and Tabor Road North as the exit and entrance ramps to and from Route 10 and 53, the reconstruction of the Old Tabor Road Route 53 intersection at the northern limits of the project to accommodate the widened Route 53 and the construction of two stormwater management basins to improve drainage.</p> <p>The proposed roadway improvement project will permanently impact a total of 0.47 acres of freshwater wetlands, 2.022 acres of freshwater wetland transition areas and 0.22 acres of riparian zone. The project will also result in the temporary impacts to 0.19 acres of freshwater wetlands and 0.662 acres of wetland transition areas.</p>		
Prepared by  Priya Sundaram	<div style="border: 1px solid black; padding: 5px; width: fit-content;">                 Received or Recorded by County Clerk             </div>	
<p><b>THIS PERMIT IS NOT EFFECTIVE AND NO CONSTRUCTION APPROVED BY THIS PERMIT, OR OTHER REGULATED ACTIVITY, MAY BE UNDERTAKEN UNTIL THE APPLICANT HAS SATISFIED ALL PRE-CONSTRUCTION CONDITIONS AS SET FORTH IN THIS PERMIT.</b></p>		
<p><b>This permit is not valid unless authorizing signature appears on the last page.</b></p>		

**Plans approved under the Freshwater Wetlands Protection Act**

**“ENVIRONMENTAL SITE PLAN, PREFERRED ALTERNATE, ROUTE, 10 AND 53, SECTION 2L & 3J, CONTRACT NO. 011960201, BOROUGH OF MORRIS PLAINS, TOWNSHIP OF PARSIPPANY-TROY HILLS, MORRIS COUNTY”, DATED 6/26/08, revised through 6/3/09 and prepared by Edwards and Kelcey.**

**Plans approved under the Flood Hazard Area Act:**

**The drawings hereby approved are twenty-seven (22) sheets prepared by Edwards and Kelcey certified February 26, 2009, unrevised, unless noted otherwise, and entitled:**

**“NEW JERSEY DEPARTMENT OF TRANSPORTATION ROUTE 10 SECTION 2L & 3J CONTRACT NO. 011960201”**

- **FLOOD HAZARD AREA PERMIT PLANS, sheets 1 and 2 of 11,**
- **FLOOD HAZARD AREA PERMIT PLANS, sheet 3 of 11, certified May 20, 2009, last revised May 20, 2009,**
- **FLOOD HAZARD AREA PERMIT PLANS, sheets 4 – 11 of 11,**
- **CONSTRUCTION DETAILS, sheet CD-01,**
- **CONSTRUCTION DETAILS, sheet CD-03, certified February 2009,**
- **CONSTRUCTION DETAILS, sheets CD-04 and CD-06, certified May 20, 2009, last revised May 20, 2009,**
- **CONSTRUCTION DETAILS, sheet CD-07,**
- **TYPICAL SECTIONS, sheet TS-1 of TS-6, certified May 20, 2009, last revised May 20, 2009,**
- **TYPICAL SECTIONS, sheet TS-2 – TS-6 of TS-6.**

**STANDARD CONDITIONS:**

- 1. Extent of approval:** This document grants permission to perform certain activities that are regulated by the State of New Jersey. The approved work is described by the text of this permit and is further detailed by the approved drawings listed herein. All work must conform to the requirements, conditions and limitations of this permit and all approved drawings. If you alter the project without prior approval, or expand work beyond the description of this permit, you may be in violation of State law and may be subject to fines and penalties. Approved work may be altered only with the prior written approval of the Department. You must keep a copy of this permit and all approved drawings readily available for inspection at the work site.
- 2. Acceptance of permit:** If you begin any activity approved by this permit, you thereby accept this document in its entirety, and the responsibility to comply with the 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*.
- 3. 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
- 4. Notice of Construction:** You must notify the Department in writing at least 7 days before you begin any work approved by this permit by submitting the attached construction report. The Construction Reports are also available at [www.nj.gov/dep/landuse/](http://www.nj.gov/dep/landuse/).

5. **Expiration date:** All activities authorized by this permit must be completed by the expiration date shown on the first page unless otherwise extended by the Division. 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 permits may qualify for an extension of the expiration date. Please contact the Department for further information.)
6. **Rights of the State:** This permit is revocable and subject to modification by the State with due cause. Representatives from the State have the statutory authority to enter and inspect this site to confirm compliance with this permit and may suspend construction or initiate enforcement action if work does not comply with this permit. This permit does not grant property rights. The issuance of this permit shall not affect any action by the State on future applications, nor affect the title or ownership of property, nor make the State a party in any suit or question of ownership.
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 Individual 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:
- 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.

**PROJECT SPECIFIC CONDITIONS :**

18. Prior to construction, the permittee shall submit to the Division for review and approval revised plan sheets showing a 150 wetland transition area. The 150 wetland transition area shall apply only to the wetland areas depicted on the above referenced plans by wetland points 1238 - 1248, 1266 - 1285, 1167 - 1174, 1204 - 1208 and 1220 - 1230.
19. All temporary disturbances to wetland and wetland transition areas must be restored to their original elevation and planted with native species.
20. The permittee shall ensure the various regulated activities do not create pathways to drain the wetlands.
21. Any temporary disturbances to stream banks must be restored with native vegetation and stabilized with the use of bioengineering materials, such as biologs, fiber matting, etc., except where rip-rap is required.
22. Upon completion of the project, all temporarily disturbed areas within any riparian zones 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).
25. 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.
26. Prior to site preparation or construction activities, the permittee shall obtain all necessary easements or property from all property owners whose property will be acquired to enlarge the right-of-way.
27. Construction equipment shall not be stored, staged or driven within any channel, freshwater wetland or transition area, unless expressly approved by this permit and/or described on the approved plans. No storage of chemicals, oil, fuel or refueling of equipment shall occur within any channel 50 feet of a wetland.
28. The permittee shall immediately inform the Department of any unanticipated adverse effects on the environment not described in the application or in the conditions of this permit.
29. There shall be no tree clearing from April 1 to September 30 to protect Indiana Bat roosting.

**Flood Hazard and Stormwater Management Conditions**

30. All excavated material and dredged spoils shall be disposed of in a lawful manner outside of any flood hazard area riparian zone, open water, freshwater wetland and adjacent transition area, 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. This portion of the permit verifies the Flood Hazard Area Design Flood Elevation onsite ranging from 450-450.7 feet NGVD, as shown on the approved plans. The Department has also determined that there is no floodway on this site. A flood hazard area permit is required prior to undertaking any regulated activity within the verified flood hazard area onsite. Regulated activities are defined in the Flood Hazard Area Control Act rules at N.J.A.C. 7:13-2.4. Work outside the verified flood hazard area onsite does not require prior approval under N.J.A.C. 7:13.

#### **Freshwater Wetlands Mitigation Conditions:**

Failure to comply with the standards herein constitutes a violation of the Freshwater Wetlands Protection Act and subjects the permittee to appropriate enforcement action and/or suspension or revocation of the permit.

34. The mitigation project must be conducted prior to or concurrent with the construction of the approved project. Concurrent means that at any given time, the mitigation must track at the same or greater percentage of completion as the project as a whole. For example, when the project is 50 percent completed, the mitigation project cannot be less than 50 percent completed.
35. The mitigation proposal must be submitted to the Division for review and approval 90 days prior to the initiation of regulated activities authorized by this permit. Activities authorized by this permit shall not begin until the mitigation proposal is approved and the mitigation has begun.
36. Mitigate for the loss of 0.47 acres of freshwater wetlands and 1.44 acres of transition area through an on-site or off-site creation, restoration or enhancement project as detailed in condition numbers 4 through 19.
37. At least 90 days prior to the initiation of regulated activities authorized by this permit, for an on-site or off-site individual mitigation project, the permittee must submit a mitigation proposal to the Division of Land Use Regulation (Division) for review and approval. The mitigation proposal must include the creation, restoration and/or enhancement of an area of freshwater wetlands of equal ecological value to those that will be lost by the authorized activity. This proposal must include a proposed construction schedule for the mitigation project. Prior to commencement of regulated activities authorized by this permit, the Division must

approve of the proposed mitigation project in writing. Failure to comply with items a. and b. below will subject the permittee to appropriate enforcement action.

- a. The Department strongly recommends that the permittee obtain the Department's conceptual review of any land being considered as a potential mitigation area. Please see N.J.A.C. 7:7A-15.10.
  - b. At least 90 days prior to the initiation of regulated activity authorized by this permit the permittee must submit a final design of the mitigation project and include all the items listed on the checklist entitled Checklist for Completeness: Creation, Restoration or Enhancement for a Freshwater Wetland Mitigation Proposal located on the Internet at <http://www.nj.gov/dep/landuse/forms/index.html>.
38. 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 Division.
  39. In the event that there is a conflict between the permit conditions and the approved mitigation plans and proposal, the permit conditions take precedent.
  40. Within 30 days of final design plan approval pursuant to 3b. above and in accordance with N.J.A.C. 7:7A-15.13, obtain a secured bond, or other financial surety acceptable to the Division 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 of the mitigation through the completion of the monitoring period, must be posted in an amount equal to 115 percent of the estimated cost of monitoring and maintaining the site, including the cost to replant the area. The Division will review the financial surety annually and the permittee shall adjust the surety to reflect current economic factors. If a governmental body is performing the mitigation the need for financial assurance is waived.
  41. This permit is not effective until the permittee has completed, signed and filed with the County Clerk (the Registrar of Deeds and Mortgages in some counties) a conservation restriction that meets the requirements of N.J.A.C. 7:7A 15.14. The conservation restriction shall conform to the format and content of the Wetlands Mitigation Area model conservation restriction that is available at: <http://www.nj.gov/dep/landuse/forms/index.html>. 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 final wetland mitigation proposal. Within 10 days of filing the conservation restriction, the permittee must send a copy of the conservation restriction to the Division for verification.
  42. At least thirty (30) days in advance of the start of construction of the wetland mitigation project, the permittee shall notify the Division, in writing, for an on-site

pre-construction meeting between the permittee, the contractor, the consultant and the Division.

- 43 The mitigation designer must be present on-site 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 its predicted wetland hydrology is realized in the landscape.
- 44 Mitigation designs are not static documents and changes may be necessary to ensure success of the project. Should the mitigation designer determine that the mitigation plan as designed and approved by the Division will not achieve the proposed wetland condition due to the actual conditions encountered during construction, the mitigation designer must immediately notify the Division. The mitigation designer must propose an alternative plan to achieve the proposed wetland condition that must be approved by the Division in writing. If the Division provides the mitigation designer with comments on the alternative plan, the mitigation designer shall revise the plan to conform to the Division's comments. Solely the Division shall make the determination as to whether or not the alternative plan as submitted conforms to the Divisions comments. Any modifications to the plan that are approved by the Division must be shown on a signed and sealed revised plan. The As-Built plans required as a part of the Construction Completion Report may serve as the signed and sealed revised plans required to be submitted as part of the construction modification process described above if time constraints warrant such action and have been approved by the Division in writing.
- 45 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 re-grading and/or replanting the mitigation site. This responsibility is incumbent upon the permittee until such time that the Division makes the finding that the mitigation project is successful.
- 46 Within 5 days 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 Division this activity has occurred prior to planting of the site.
47. Following the final grading of the mitigation site and prior to planting, the permittee shall notify the Division for a post-grading construction meeting between the permittee, contractor, consultant and the Division. The permittee must give the Division at least thirty (30) days notice prior to the date of this meeting.
- 48 Within 30 days following the 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 mitigation plan that were made during construction. The Construction Completion Report shall contain, at a minimum, the following information:
- a. A completed Wetland Mitigation Project Completion of Construction Form. This form is located on the Internet at <http://www.nj.gov/dep/landuse/forms/index.html> and certifies that the mitigation project has been constructed as designed and that the proposed area of wetland creation, restoration or enhancement has been accomplished:



- b. As-Built plans which depict final grade elevations at one foot contours and include 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. Show on the as-built plans that the boundaries of the wetland mitigation area have been visibly marked with 3 inch white PVC pipe extending 4 feet above the ground surface. The stakes must remain on the site for the entire monitoring period;
  - d. Photos of the constructed wetland mitigation project with a photo location map as well as the GPS waypoints in NJ state plane coordinates NAD 1983;
  - e. To document that the required amount of soil has been placed/replaced over the entire area of the mitigation site, provide a minimum of 6 soil profile descriptions to a depth of 20 inches. The location of each soil profile description should be depicted on the as built plan as well as provide the GPS waypoints in NJ state plane coordinates NAD 1983;
  - f. Submit soil test results demonstrating 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;
  - g. The permittee shall post the mitigation area with permanent sign(s), which identify the site as a wetland mitigation project and that all-terrain vehicle use, motorbike use, mowing, dumping, draining, cutting and/or removal of plant materials of the property is prohibited and that violators shall be prosecuted and fined to the fullest extent under the law;
  - h. The signs must also state the name of the permittee, Department's permit number along with a contact name and phone number.
49. If the Division 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 Division until the permittee demonstrates that the mitigation project is constructed in conformance with the approved plan, all soil has been stabilized and there is no active erosion.
50. The permittee shall monitor the mitigation project for 5 full growing seasons if it is a proposed forested or scrub/shrub wetland and 3 full growing seasons for an emergent wetland or State open water beginning the year after the mitigation project has been completed. The permittee shall submit monitoring reports to the Division of Land Use Regulation no later than December 31<sup>st</sup> of each full monitoring year. All monitoring reports must include the standard items identified in the checklists entitled Wetland Mitigation Monitoring Project Checklist and Tidal Wetland Mitigation Monitoring Checklist and the information requested below. The Wetland Mitigation Monitoring Project Checklist and Tidal Wetland Mitigation Monitoring Checklist are located on the Internet at <http://www.nj.gov/dep/landuse/forms/index.html>.
51. All monitoring reports must include all of the following information

- a. All monitoring reports, except 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;
- b. All monitoring reports, except the final one must include field data to document that the site is progressing towards 85 percent survival and 85 percent area coverage of mitigation plantings or target hydrophytes (Target hydrophytes are non-invasive native species to the area and similar to ones identified on the mitigation planting plan). If the proposed plant community is a scrub/shrub or a forested wetland the permittee must also demonstrate each year with data that the woody species are thriving, increasing in stem density and height each year. If the field data shows that the mitigation project is failing to meet the vegetation survival, coverage and health goals, the monitoring report should contain a discussion of steps that will be taken to rectify the problem, including a schedule of implementation;
- c. All monitoring reports except the final one must include documentation of any invasive or noxious species (see below for list of species) colonizing the site and how they are being eliminated. The permittee is required to eliminate either through hand-pulling, application of a herbicide or other Department approved method any occurrence of an invasive/noxious species on the mitigation site during the monitoring period;
- d. All monitoring reports except the final one 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;
- e. 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);
- f. The final monitoring report must include documentation the site has an 85 percent survival and 85 percent area coverage of the mitigation plantings or target hydrophytes. The permittee must also document that all plant species are healthy and thriving and if the proposed plant community contains trees demonstrate that the trees are at least five feet in height;
- g. The final monitoring report must include documentation demonstrating the site is less than 10 percent occupied by invasive or noxious species such as but not limited to (Source: Snyder, David and Sylvan R. Kaufman. 2004. An overview of nonindigenous plant species in New Jersey. New Jersey Department of Environmental Protection, Division of Parks and Forestry, Office of Natural

Lands Management, Natural Heritage Program, Trenton, New Jersey. 107 pages.): *Acer platanoides* (Norway Maple), *Ailanthus altissima*, (Tree of Heaven), *Allaria petiole* (Garlic mustard), *Ampelopsis brevipedunculata* (Porecelain berry), *Artemisia biennis* (Biennial wormwood) *Artemisia vulgaris* (Mugwort or Common wormwood), *Berberis thunbergii* (Japanese barberry), *Berberis vulgaris* (Common barberry), *Carex kobomugi* (Japanese sedge), *Celastrus orbiculatus* (Asian Bittersweet), *Centaurea biebersteiniior maculosa* (Spotted knapweed), *Cirsium arvense* (Canadian thistle), *Dipsacus fillonum* (Wild teasel), *Dipsacus laciniatus* (Cut-leaf teasel), *Elaeagnus angustifolia* (Russian olive), *Elaeagnus umbellata* (Autumn olive), *Euonymus alata* (Winged spindle tree), *Lespedeza cuneata* (Chinese bush-clover), *Ligustrum obtusifolium* (Japanese privet), *Ligustrum vulgare* (Common privet), *Lonicera japonica* (Japanese honeysuckle), *Lonicera morrowii* (Morrow's bush honeysuckle), *Lonicera tartarica* (Tartarian honeysuckle), *Lythrum salicaria* (Purple loosestrife), *Melilotus officinalis* (Yellow sweetclover), *Microstegium vimineum* (Japanese stiltgrass), *Myriophyllum spicatum* (Eurasian water-milfoil), *Phalaris arundinacea* (Reed canary grass), *Phragmites australis* (Common reed grass), *Polygonum cuspidatum* (Japanese knotweed), *Polygonum perfoliatum* (Mile-a-minute), *Potamogeton crispus* (Curly leaf pondweed), *Pueraria montana* (Kudzu), *Ranunculus ficaria* (Lesser celandine), *Rhamnus cathartica* (Common buckthorn), *Robinia pseudoacacia* (Black locust), *Rosa multiflora* (Multiflora rose), *Rubus phoenicolasius* (Wineberry), *Typha latifolia* (Broad-leaved cattail), *Typha angustifolia* (Narrowed leaved cattail).

- h. 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; and
  - i. The final monitoring report must include documentation that the site contains hydric soils or there is evidence of reduction occurring in the soil throughout the delineated wetlands.
52. Once the required monitoring period has expired and the permittee has submitted the final monitoring report, the Division 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:
- a. That the goals of the wetland mitigation project including acreage and 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 the exact acreage of State open waters, emergent, scrub/shrub and/or forested wetlands in the mitigation area;
  - b. The site has an 85 percent survival and 85 percent area 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. All plant species in the mitigation area are healthy and thriving. All trees are at least five feet in height;

- c The final monitoring report must include documentation demonstrating the site is less than 10 percent occupied by invasive or noxious species such as but not limited to (Source: Snyder, David and Sylvan R. Kaufman. 2004. An overview of nonindigenous plant species in New Jersey. New Jersey Department of Environmental Protection, Division of Parks and Forestry, Office of Natural Lands Management, Natural Heritage Program, Trenton, New Jersey. 107 pages.): *Acer platanoides* (Norway Maple), *Ailanthus altissima*, (Tree of Heaven), *Allaria petiole* (Garlic mustard), *Ampelopsis brevipedunculata* (Porecelain berry), *Artemisia biennis* (Biennial wormwood) *Artemisia vulgaris* (Mugwort or Common wormwood), *Berberis thunbergii* (Japanese barberry), *Berberis vulgaris* (Common barberry), *Carex kobomugi* (Japanese sedge), *Celastrus orbiculatus* (Asian Bittersweet), *Centaurea biebersteiniior maculosa* (Spotted knapweed), *Cirsium arvense* (Canadian thistle), *Dipsacus fillonum* (Wild teasel), *Dipsacus laciniatus* (Cut-leaf teasel), *Elaeagnus angustifolia* (Russian olive), *Elaeagnus umbellata* (Autumn olive), *Euonymus alata* (Winged spindle tree), *Lespedeza cuneata* (Chinese bush-clover), *Ligustrum obtusifolium* (Japanese privet), *Ligustrum vulgare* (Common privet), *Lonicera japonica* (Japanese honeysuckle), *Lonicera morrowii* (Morrow's bush honeysuckle), *Lonicera tartarica* (Tartarian honeysuckle), *Lythrum salicaria* (Purple loosestrife), *Melilotus officinalis* (Yellow sweetclover), *Microstegium vimineum* (Japanese stiltgrass), *Myriophyllum spicatum* (Eurasian water-milfoil), *Phalaris arundinacea* (Reed canary grass), *Phragmites australis* (Common reed grass), *Polygonum cuspidatum* (Japanese knotweed), *Polygonum perfoliatum* (Mile-a-minute), *Potamogeton crispus* (Curly leaf pondweed), *Pueraria montana* (Kudzu), *Ranunculus ficaria* (Lesser celandine), *Rhamnus cathartica* (Common buckthorn), *Robinia pseudoacacia* (Black locust), *Rosa multiflora* (Multiflora rose), *Rubus phoenicolasius* (Wineberry), *Typha latifolia* (Broad-leaved cattail), *Typha angustifolia* (Narrowed leaved cattail).
- d The site contains hydric soils or there is evidence of reduction occurring in the soil; and,
- e. The proposed hydrologic regime as specified in the mitigation proposal has been satisfied. This criteria must be satisfied to prove the mitigation site is a wetland.

All remaining financial surety, if required, will be released concurrent with the Division notifying the permittee that the mitigation project is a success.

- 54 If the mitigation project is considered a failure, the permittee is required to submit a revised mitigation plan in order to meet the success criteria identified in Condition No. 18 above. The plan shall be submitted within 30 days of receipt of the letter from the Division indicating the wetland mitigation project was a failure. The financial surety, if required, will not be released by the Division until such time that the permittee satisfies the success criteria as stipulated in condition number 18.

If the permittee fails to perform mitigation within the applicable time period the acreage of mitigation required shall be increased by 20% each year after the date mitigation was to begin.

**Riparian Zone Mitigation Conditions:**

56. Mitigate for the permanent impact to 0.22 acres (9760 square feet) of forested riparian zones at a ratio of at least 2:1 through on off-site riparian zone mitigation project as shown on the plans entitled "NEW JERSEY DEPARTMENT OF TRANSPORTATION, RIPARIAN MITIGATION SITE PLAN, ROUTE 10 SECTION 2L & 3J", sheet 20 of 60, dated February 26, 2009 and prepared by Edwards and Kelcey.
57. *Cornus florida* and *Liriodendron tulipifera* must be removed from the mitigation proposal.
58. As per N.J.A.C. 7:13-10.2, all riparian zone mitigation must be deed restricted against future development that would remove the vegetation being planted. The conservation restriction shall conform to the format and content of the Riparian Zone Mitigation Area model conservation restriction. 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 Division for verification.
59. 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.
60. The mitigation design consultant must be present on-site during the commencement of construction of each of the riparian zone mitigation projects, including the temporary restoration areas. This is specifically to ensure that highly invasive plants that spread by rhizomes (root pieces), particularly Japanese knotweed (*Polygonum cuspidatum*) and Common Reed (*Phragmites australis*) are carefully managed through the construction process so that these plants are not spread into new areas. This is to ensure the success of the permittee's mitigation projects by preventing invasive plant colonization rather than trying to eradicate the invasive plants after the mitigation projects have been completed. To ensure that this is done successfully will require an extra level of construction oversight. **It is imperative that all equipment tracks and tires be thoroughly cleaned** each time equipment or vehicles move from an area containing invasive species to a clean area that does not contain invasive species. In addition, the vegetative waste material must be carefully disposed of off-site rather than mulched and reused or stockpiled elsewhere on the site.
61. In accordance 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.
62. Within 5 days following final grading of the riparian zone mitigation site, soil compaction must be eliminated should compaction occur during the construction process due to heavy equipment passing over the soil or similar activities. The mitigation design consultant must be present to oversee this phase of the project and confirm with the Division this activity has occurred prior to planting of the site.
63. As per N.J.A.C. 7:13-10.2, as part of the monitoring requirement for the sites, within 30 days following the 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

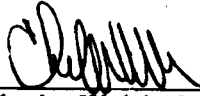
construction. The Construction Completion Report shall contain, at a minimum, the following information:

1. Certification that the riparian zone mitigation project has been constructed as designed and that the proposed area of compensation has been accomplished;
  2. Include a table of the species and quantities of vegetation that were planted including any grasses that may have been used for soil stabilization purposes;
  3. 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;
  4. 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;
  5. The signs must also state the name of the permittee, Department's permit number along with a contact name and phone number.
64. 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.
65. As per N.J.A.C. 7:13-10.2, the permittee shall monitor the mitigation 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 31<sup>st</sup> of each full monitoring year.

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.

66. 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.
  2. The site has an 85 percent survival and 85 percent area coverage of the mitigation plantings 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 five feet in height;
  - a. Documentation demonstrating the site is less than 10 percent occupied by invasive or noxious species.

67. If the riparian zone mitigation project is considered a failure, the permittee is required to submit a revised mitigation plan in order to meet the success criteria identified above. The plan shall be submitted within 30 days of receipt of the letter from the Division indicating the riparian zone mitigation project was a failure.



Charles Welch, Supervisor  
Division of Land Use Regulation

6/3/09

Date

**Cc:** Bureau of Coastal and Land Use Enforcement, Toms River  
Jill Aspinwall - DLUR  
Borough of Morris Plains Planning Board  
Township of Parsippany-Troy Hills Planning Board  
Morris County Planning Board