



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

Mail Code 501-02A, P.O. Box 420, Trenton, New Jersey 08625-0420  
Telephone: (609) 777-0454 or Fax: (609) 777-3656  
www.state.nj.us/dep/landuse



**PERMIT**

<p>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." Violation of any term, condition or limitation of this permit is a violation of the implementing rules and may subject the permittee to enforcement action.</p>		Approval Date <b>DEC 04 2012</b>
		Expiration Date <b>DEC 04 2017</b>
Permit Number(s)  2113-12-0004.1 FHA120001	Type of Approval(s)  Individual Permit	Enabling Statute(s)  NJSA 58:16A NJSA 58:10A-1 NJSA 40:55D-93-99
<p><b>Permittee:</b></p> <p>NJDOT, Attn: Zack Asadpour 1035 Parkway Ave, P.O. Box 600 Trenton, NJ 08625</p>	<p><b>Site Location:</b></p> <p>Block(s) &amp; Lot(s): [N/A, N/A] Municipality: Knowlton Twp County: Warren</p>	
<p><b>Description of Authorized Activities</b></p> <p>This permit grants permission to construct a fence along Route 46 from M.P. 1.4 to M.P. 2.4 in order to protect the roadway against falling rock. The site is located in the floodplain of the Delaware River within Knowlton Township, Warren County, New Jersey.</p>		
<p>Prepared by:</p> <p><i>Gabriel Mahon</i></p> <p>Gabriel Mahon</p>	<p>Received and/or Recorded by County Clerk</p>	
<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 HEREIN.</b></p>		
<p><b>This permit is not valid unless authorizing signature appears on the last page.</b></p>		

CONDITIONS APPLICABLE TO ALL LAND USE PERMITS

1. In accordance with the applicable regulations, any person who is aggrieved by this decision or any of the conditions of this approval may request a hearing within 30 days after notice of the decision is published in the DEP Bulletin. This request must include a completed copy of the Administrative Hearing Request Checklist. The DEP Bulletin is available through the Department's website at <http://www.nj.gov/dep/bulletin> and the Checklist is available through the Division's website at <http://www.nj.gov/dep/landuse/forms/lurpaahr.pdf>. In addition to your hearing request, you may file a request with the Office of Dispute Resolution to engage in alternative dispute resolution. Please see the website [www.nj.gov/dep/odr](http://www.nj.gov/dep/odr) for more information about this process;
2. The permittee, its contractors and subcontractors shall comply with all conditions of this permit, supporting documents and approved drawings; and
  - i. Plans and specification in the application and conditions imposed by this permit shall remain in full force and effect so long as the proposed development or any portion thereof is in existence, unless modified by the Department in writing;
  - ii. If this permit contains a condition that must be satisfied prior to the commencement of construction, the permittee must comply with such condition(s) within the time required by the permit or, if no time specific requirement is imposed, then within six months of the effective date of the permit, or provide evidence satisfactory to the Department that such condition(s) cannot be satisfied; and
  - iii. Any noncompliance with this permit constitutes a violation, and is grounds for enforcement action, as well as suspension and/or termination of the permit; This approval does not in any way affect the right of the State to seek and collect monetary penalties or to take other enforcement action, should it be determined that a violation has occurred onsite;
3. It shall not be a defense for this 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;
4. 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;
5. The issuance of this permit shall in no way expose the State of New Jersey or the Department to liability for the sufficiency or correctness of the design of any construction, structure or structures. Neither the State nor the Department shall, in any way, be liable for the loss of life or property which may occur by virtue of the activity of development resulting from any permit;
6. 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. The Department may, upon discovery of such unanticipated adverse effects, and upon the failure

of the permittee to submit a report thereon, notify the permittee of its intent to suspend the permit;

7. This permit can be modified, suspended or terminated for cause. The filing of a request to modify an issued permit by the permittee, or a notification of planned changes or anticipated noncompliance does not stay any condition of this permit;

8. This permit does not convey any property rights of any sort, or any exclusive privilege;

9. A copy of the 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.

- i. The permittee shall also furnish to the Department within a reasonable time any information that the Department requests to determine compliance with this permit or to determine whether cause exists for suspension or termination of this permit; and
- ii. The permittee shall also furnish to the Department, upon request, copies of records required to be kept by the permit;

10. The permittee shall allow an authorized representative of the Department, upon notification under current rule 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 this permit;
- ii. Have access to and copy, at reasonable times, any records that must be kept under the conditions of the permit;
- iii. Inspect at reasonable times 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; and
- iv. Sample or monitor at reasonable times for the purposes of assuring compliance with applicable rules;

11. No change in plans or specifications upon which this permit is issued shall be made except with the prior written permission of the Department;

12. The permittee shall provide reports to the Department as follows:

- i. Monitoring results shall be reported at the intervals specified elsewhere in this permit;
- ii. The permittee shall immediately report to the Department by telephone at (877) 927-6337 any noncompliance that may endanger health or the environment. In addition, the permittee shall report all noncompliance to Bureau of Coastal and Land Use Compliance and Enforcement, 401 E. State Street, 4th Floor, P.O. Box 422, Mail Code: 401-04C, Trenton, NJ 08625, 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
- iii. 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;
13. Development which requires soil disturbance, the creation of drainage structures, or changes in natural contours shall conduct operations in accordance with the latest revised version of "Standards for Soil Erosion Sediment Control in New Jersey," promulgated by the New Jersey State Soil Conservation Committee, pursuant to the Soil Erosion and Sediment Control Act of 1975, N.J.S.A. 4:24-42 et seq. and N.J.A.C. 2:90-1.3 through 1.14. and must obtain any required approvals from the local Soil Conservation District;
14. If any condition of this permit is determined to be legally unenforceable, modifications and additional conditions may be imposed by the Department as necessary to protect the public interest;
15. This permit is not transferable to any person unless the transfer is approved by the Department;
16. The permittee must obtain any and all other Federal, State and/or Local approvals. Authorization to undertake a regulated activity under these rules does not indicate that the activity also meets the requirements of any other rule, plan or ordinance. It is the applicant's responsibility to obtain all necessary approvals for a proposed project;
17. 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 feature by placing or dumping any materials, equipment, debris or structures within or adjacent to the regulated area. 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. Only clean non-toxic fill shall be used where necessary;
18. All excavated material and dredge material shall be disposed of in a lawful manner. (For example, it should be placed outside of any flood hazard area, riparian zone, regulated water, freshwater/coastal wetlands and adjacent transition area, and in such a way as to not interfere with the positive drainage of the receiving area);
19. If this document includes a Coastal Permit or a Flood Hazard Verification then, this document shall be recorded in its entirety in the office of the County Clerk or the Registrar of Deeds and Mortgages for each county where this project is located. Verified notice of this action shall be forwarded to the Department immediately thereafter.

### SPECIAL CONDITIONS

20. In order to protect the *general game fisheries* of the Delaware River, no grading, construction or clearing is permitted within any watercourse on-site between **May 1** and **July 31** of each year. Furthermore, any activity outside a watercourse, which would likely introduce sediment into the watercourse and/or increase its turbidity, is also prohibited during this period. 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.

21. Vegetation within **50 feet** of the top of bank of the Delaware River shall only be disturbed in the areas specifically shown on the approved drawings. No other riparian zone vegetation on-site shall be disturbed for any reason. This condition applies to all channels onsite regardless of the contributory drainage area.

22. Upon completion of the project, all temporarily disturbed areas within **50 feet** of the top of bank shall be restored to original topography and replanted with indigenous, non-invasive vegetation in accordance with N.J.A.C. 10.2(u).

23. The Department has determined that this project meets the requirements of the Stormwater Management rules at N.J.A.C. 7:8 without the use of any BMPs. Any future expansion or alteration of the project, 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.

### RIPARIAN ZONE COMPENSATION CONDITIONS

24. **Within 60 days of the issuance of this permit**, the permittee shall submit a proposal to provide 2:1 compensation for the temporary disturbance of **0.41 acres** of herbaceous riparian zone vegetation and for the loss of **0.15 acres** of herbaceous riparian zone vegetation. The proposal shall be designed in accordance with the standards at N.J.A.C. 7:13-10.2(t) and (u).

25. **The compensation project must be conducted prior to or concurrent with the construction of the approved project.** Concurrent means that at any given time, the compensation must track at the same or greater percentage of completion as the project as a whole.

26. **Prior to the initiation of regulated activities authorized by this permit**, the permittee shall sign a Department approved conservation restriction to protect the compensation area from future development that would remove the vegetation planted. (N.J.A.C. 7:13-10.2(t)3) The

conservation restriction shall conform to the format and content of the Riparian Zone Compensation Area model located 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 compensation project are located. A metes and bounds description shown on a map must be included within the recorded conservation restriction. Within 10 days of filing the conservation restriction, the permittee must send a copy of the conservation restriction to the attention of the Mitigation Unit Supervisor, NJDEP, Division of Land Use Regulation at Mail Code 501-02A, P.O. Box 420, Trenton, NJ 08625-0420.

27. The permittee shall monitor the riparian project for at least 3 years beginning the year after the riparian zone compensation project has been completed (N.J.A.C. 7:13-10.2(u)5). **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.**

- a. All monitoring reports except the final one must include documentation and field data demonstrating that the goals of the riparian zone compensation project will be achieved as stated in the approved riparian zone compensation proposal and the permit requirements will be satisfied. If the permittee is finding problems with the compensation project and does not anticipate the site will be a full success, recommendations on how to rectify the problems shall be included in the report with a time frame in which they will be completed.
- b. The final monitoring report must include documentation and data demonstrating the following:
  - i. That the goals of the riparian zone compensation project as stated in the approved riparian zone compensation proposal and the permit conditions have been satisfied.
  - ii. That at least 85 percent of the compensation plantings have survived and that at least 85 percent of the compensation area is established with native species similar to ones identified on the compensation planting plan. All plant species in the compensation area must be healthy and thriving. All trees must be at least 5 feet in height; and
  - iii. That the site is less than 10 percent occupied by invasive or noxious species.

28. If the riparian compensation project does not meet the success criteria established above the project shall be considered a failure and the permittee shall submit a revised riparian compensation plan. The revised plan shall be submitted within 60 days of receipt of notification from the Division indicating the riparian compensation project was a failure.

29. If the Division determines that the riparian zone compensation project is not constructed in conformance with the approved plan, the permittee will be notified in writing by the

Department and will have 60 days to submit a proposal to indicate how the project will be corrected.

30. The drawings hereby approved are seven (7) sheets prepared by Dewberry Engineers, Inc., undated, last revised November 27, 2012, unless otherwise noted, entitled:

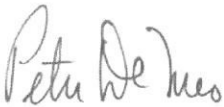
“NEW JERSEY DEPARTMENT OF TRANSPORTATION, ROUTE 46 WESTBOUND ROCKFALL MITIGATION M.P. 1.4 TO M.P. 2.4, CONTRACT NO. 014096880”

“TYPICAL SECTIONS”, sheet no. 2 of 31, unrevised.

“NEW JERSEY DEPARTMENT OF TRANSPORTATION, ROUTE 46 ROCKFALL MITIGATION – MILEPOST 1.4 – 2.4, CONTRACT NO. 014096880”

“FLOOD HAZARD AREA IMPACT PLAN”, sheet nos. 9, 10, 11, and 12 of 31, and  
“ENVIRONMENTAL RESTORATION PLAN”, sheet nos. 13 and 14 of 31.

If you need clarification on any section of this permit or conditions, please contact our Technical Support Call Center at (609) 777-0454.



Peter DeMeo  
Supervising Environmental Engineer  
Division of Land Use Regulation

12/5/12  
Date

C: Municipal Construction Official  
Municipal Clerk

ADJUDICATORY HEARING REQUEST CHECKLIST  
AND TRACKING FORM

Permit Decision or Other Department Decision Being Appealed

Issuance Date of Decision Document	Document Number of Decision
I	
Name of Person Requesting Hearing	Name of Attorney (if applicable)
Address	
Address	
Telephone No.	Telephone No.

III If you are the applicant or permittee, please include the following information with your hearing request:

- A. The date you received the permit decision or other decision which you are appealing.
- B. A copy of the decision document.
- C. The findings of fact and conclusions of law you are appealing.
- D. A statement as to whether or not you raised each legal and factual issue during the permit application process.
- E. Suggested revised or alternative permit conditions.
- F. An estimate of the time required for the hearing.
- G. A request, if necessary, for a barrier-free hearing location for physically disabled persons.
- H. A clear indication of any willingness to negotiate a settlement with the Department prior to the Department's processing of your hearing request to the Office of Administrative Law, and
- I. This form, completed, signed and dated, with all of the information listed above, including attachment to:

1. New Jersey Department of Environmental Protection  
Office of Legal Affairs  
Attention: Adjudicatory Hearing Requests  
401 E. State Street  
P.O. Box 402  
Trenton, NJ 08625-0402

with a copy to:

2. New Jersey Department of Environmental Protection  
Land Use Regulation Program  
Attention: Director  
601 E. State Street  
P.O. Box 439  
Trenton, NJ 08625-0439

Signature \_\_\_\_\_ Date \_\_\_\_\_



1. If you are a person other than the applicant or permittee, please include the following information with your hearing request:

- A. The date you or your agent received notice of the permit decision, and a copy of the permit decision.
- B. Evidence that a copy of your hearing request has been delivered to the applicant for the permit decision which is the subject of your hearing request (e.g., certified mail return receipt).
- C. A detailed statement of which findings of fact and/or conclusions of law you are challenging.
- D. A description of your participation in any public hearings held in connection with the permit application and copies of any written comments you submitted.
- E. Whether you claim a statutory or constitutional right to a hearing, and if you claim such a right, a reference to the applicable statute or law and an explanation of how your interests are affected by the permit decision.
- F. Suggested revised or alternative permit conditions.
- G. An estimate of the time required for the hearing.
- H. A request, if necessary, for a barrier-free hearing location for physically disabled persons.
- I. A clear indication of any willingness to negotiate a settlement with the Department prior to the Department's processing of the hearing request to the Office of Administrative Law, and
- J. This form completed, signed and dated, with all the information listed above, including attachments to:

1. New Jersey Department of Environmental Protection  
Office of Legal Affairs  
Attention: Adjudicatory Hearing Requests  
401 East State Street  
P.O. Box 402  
Trenton, NJ 08625-0402

with a copy to:

2. New Jersey Department of Environmental Protection  
Land Use Regulation Program  
Attention: Director  
501 E. State Street  
P.O. Box 439  
Trenton, NJ 08625-0439

V. Signature \_\_\_\_\_ Date \_\_\_\_\_