



**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>	<p>Approval Date</p> <hr/> <p>Expiration Date</p>
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<p>Permit Number(s):</p> <p>2100-15-0003.1 FHA 150001 2100-15-0003.1 FWW150001 2100-15-0003.1 FWW150002</p>	<p>Type of Approval(s):</p> <p>Flood Hazard Area Individual Permit Freshwater Wetlands General Permit 10A Freshwater Wetlands General Permit 20</p>	<p>Enabling Statute(s):</p> <p>N.J.S.A. 58:10A-1 N.J.S.A. 58:16A N.J.S.A. 13:1D-1 N.J.S.A. 13:9B</p>
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<p>Permittee:</p> <p>New Jersey Department of Transportation c/o Zakrollah Asadpour 1035 Parkway Avenue Trenton, NJ 08625</p>	<p>Site Location:</p> <p>Route 46 from Route 163 to Water Street (CR 620) Municipalities: Knowlton & White County: Warren</p>
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Description of Authorized Activities:

This permit authorizes slope stabilization including 105 feet of shotcrete bank stabilization and the construction of 75 feet of secant wall, the replacement and installation of new guard rail, and the resurfacing of Route 46 between Milepost 2.4 and Milepost 7.05, from its intersection with Route 163 to its intersection with Water Street (CR 620), in the flood hazard area of the Delaware River and an unnamed tributary thereto, in the Townships of Knowlton and White, Warren County, New Jersey. This permit also authorizes the disturbance of 0.031 acres of freshwater wetlands and transition areas under Freshwater Wetlands Statewide General Permits 10A and 20 for the activities authorized under this permit.

<p>Prepared by:</p> <p><i>Becky Mazzei</i> _____ Becky Mazzei</p>	<p>Received and/or Recorded by County Clerk:</p>
<p>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.</p>	

This permit is not valid unless authorizing signature appears on the last page.

PRE-CONSTRUCTION CONDITIONS:

1. **Timing:** 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 Division that such condition(s) cannot be satisfied.
2. *Prior to any construction*, the permittee shall satisfy the following conditions pursuant to the State Historic Preservation Office (HPO) requirements:
 - a. Prior to project implementation, the permittee shall ensure that effects to historic and archaeological resources shall be resolved through consultation between the New Jersey Historic Preservation Office; the Federal Highway Administration as the lead Federal agency; any consulting parties, and the permittee pursuant to Section 106 of the National Historic Preservation Act and its implementing regulations at 36 CFR §800. Upon completion of Section 106 Consultation, the permittee shall provide the Division of Land Use Regulation a copy of Section 106 comments together with a statement of how the comments have been incorporated into the project, pursuant to N.J.A.C. 7:7A-12.2(n).
 - b. If project circumstances change so that consultation under Section 106 of the National Historic Preservation Act is no longer necessary, the permittee shall consult with the Division of Land Use Regulation and the New Jersey Historic Preservation Office to ensure the provisions of N.J.A.C. 7:7A-7.2(b)9 are met, prior to project implementation.
 - c. Prior to project implementation, the permittee shall ensure that effects to historic and archaeological resources shall be resolved pursuant to New Jersey Register of Historic Places Act of 1970 (N.J.S.A. 13:1B-15.128 et seq.).
 - d. The permittee shall ensure that an Application for Project Authorization pursuant to the New Jersey Register of Historic Places Act that is technically and professionally complete and sufficient pursuant to N.J.A.C. 7:4-7.1(d) is submitted to the HPO for review and comment prior to project implementation.
 - e. The permittee shall comply with N.J.A.C. 7:4, Subchapter 7 of the New Jersey Register of Historic Places Act Rules.
 - f. Upon completion of the New Jersey Register of Historic Places Act review, the permittee shall provide the Division of Land Use Regulation a copy of New Jersey Register of Historic Places Act resolution and/or HPO encroachment review finding together with a statement of how the comments and findings have been incorporated into the project, pursuant to N.J.A.C. 7:7A-4.3(b)(5).
 - g. For any historic and archaeological resources identified within the project site that are not subject to review pursuant to the New Jersey Register of Historic Places Act, the permittee shall consult with the Division of Land Use Regulation and the New Jersey Historic Preservation Office to ensure that the provisions of N.J.A.C. 7:7A-4.3(b)(5) are met, prior to project implementation.
 - h. The permittee shall ensure that all phases of archaeological survey and reporting shall meet with the *Secretary of the Interior's Standards and Guidelines for Archaeology and Historic Preservation*, 1983 and the archaeological survey and reporting rules at N.J.A.C. 7:4-8.4

through 8.5. Evaluations to determine the National Register eligibility of archaeological sites must be in keeping with the National Park Service's 2000 National Register Bulletin, *Guidelines for Evaluating and Registering Archeological Properties*. The individual(s) conducting the work will need to meet the relevant Secretary of the Interior's Professional Qualifications Standards for archaeology and historic architecture (48 FR 44738-9).

- i. Architectural survey shall be in keeping with the Office's 1999 *Guidelines for Architectural Survey* (<http://www.nj.gov/dep/hpo/1identify/survarchit.htm>) with reporting conforming to the rules at N.J.A.C. 7:4-8.6. Evaluations to determine the National Register eligibility of historic properties must be in keeping with the National Park Service's National Register Bulletin, *How to Apply the National Register Criteria for Evaluation*. Recommendations for avoidance of impacts to historic properties must conform to The Secretary of the Interior's *Standards for the Treatment of Historic Properties*.

SPECIAL CONDITIONS:

3. In order to protect the *trout production waters* of the tributary to the Delaware River relative to Sheet 10 of the approved drawings, no grading, construction or clearing is permitted within this watercourse between **September 15** and **March 15** of each year. Furthermore, any activity outside this 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.
4. In order to protect the *anadromous waters* of the Delaware River relative to Sheet 22 of the approved drawings, no grading, construction or clearing is permitted within this watercourse from **April 1** through **June 30** and **September 1** through **November 30** of each year. Furthermore, any activity outside this 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.
5. Raw or unset concrete shall not come in contact with any surface waters onsite, since such contact can be toxic to aquatic biota.
6. This permit authorizes the disturbance of 1,404 square feet of riparian zone vegetation.
7. Vegetation within **150 feet or 300 feet** of top of bank of the watercourses in the project area (as depicted on the approved plans) 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.
8. Upon completion of the project, all temporarily disturbed areas within **150 feet or 300 feet** of 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).
9. 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.
10. No riprap is permitted within the channel. After all in-channel activities are completed, native stream bed material shall be replaced within the channel. This material shall be contoured to mimic the

original physical characteristics of the channel (such as its shape, width, slope, thalweg, meander, and ratio of shallow areas to deep areas,) in order to provide low-flow aquatic passage throughout the entire disturbed area.

11. All excavated material and dredge material shall be disposed of in a lawful manner. The material shall 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.
12. For the purposes of this permit, the Department has determined that this project is not a Major Development as defined in the Stormwater Management rules at N.J.A.C. 7:8-1.2. Therefore, the Department did not review the project for compliance with these rules.
13. Conditions of the Freshwater Wetlands Statewide General Permits #10A & 20:
 - a. This portion of the permit authorizes the temporary disturbance of **0.001 ac (37 square feet)** of freshwater wetlands transition areas for the construction of guide rail adjacent to Route 46, under Freshwater Wetlands Statewide General Permit #10A, as depicted on Sheet 10 of the approved drawings.
 - b. This portion of the permit authorizes the permanent disturbance of **0.008 ac (342 square feet)** of freshwater wetlands and **0.022 ac (962 square feet)** of transition areas for the construction of approximately 105 linear feet of shotcrete bank stabilization along an unnamed tributary to the Delaware River, under Freshwater Wetlands Statewide General Permit #20, as depicted on Sheet 10 of the approved drawings.
 - c. The authorization of activities under Freshwater Wetlands Statewide General Permits #10A and 20 includes a transition area waiver that allows encroachment only in that portion of the transition area that has been determined by the Division to be necessary to accomplish the authorized activities.
 - d. All temporarily disturbed transition areas shall be replanted with indigenous, non-invasive vegetation at the completion of the project.
 - e. This permit to conduct a regulated activity in a State open water or wetland includes the Division's approval of a Water Quality Certificate for these activities.

STANDARD CONDITIONS:

14. Responsibilities:

- a. The permittee, its contractors and subcontractors shall comply with all conditions of this permit, authorizing and/or supporting documents and approved plans and drawings.
- b. A copy of this permit, other authorizing documents, records and information 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 upon request.

15. **Permit modification:** Plans and specifications 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. No change in plans or specifications upon

which this permit is issued shall be made except with the prior written permission of the Department. 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.

16. **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. 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
17. **Proper site maintenance:** While the regulated activities are being undertaken, neither the permittee, its contractors nor subcontractors 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, its contractors or subcontractors 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. **Sediment control:** Development which requires soil disturbance, 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. 2:90-1.3-1.14.
19. **Rights of the State:**
 - a. This permit does not convey any property rights of any sort, or any exclusive privilege.
 - b. Upon notification and presentation of credentials, the permittee shall allow Department representatives or their designated agents, to enter upon the project site and/or where records must be kept under the conditions of this permit, inspect at reasonable times any facilities, equipment, practices or operations regulated or required under the permit, and sample or monitor for the purposes of determining compliance. Failure to allow reasonable access shall be considered a violation of this permit and subject the permittee to enforcement action.
 - c. 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.
20. **Duty to Reapply:** If the permittee wishes to continue an activity covered by the permit after the expiration date of the permit authorization, the permittee must apply for and obtain a new permit authorization.
21. **Transfer of Permit:** This permit may not be transferable to any person unless the transfer is approved by the Department. Please refer to the applicable rules for more information.

22. **Other Approvals:** The permittee must obtain any and all other Federal, State and/or Local approvals. Authorization to undertake a regulated activity under this permit does not indicate that the activity also meets the requirements of any other rule, plan or ordinance.
23. **Noncompliance:**
- a. Any noncompliance with this permit constitutes a violation, and is grounds for enforcement action, as well as modification, suspension and/or termination of the permit.
 - b. 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 420, 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.
24. **Appeal of Permit:** In accordance with the applicable regulations, any person who is aggrieved by this decision or any of the conditions of this permit 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/download/lur_024.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 for more information about this process.

APPROVED PLANS:

The drawings hereby approved are twenty six (26) sheets, prepared by Taylor Wiseman & Taylor, certified August 19, 2015, unrevised, unless otherwise noted, entitled:

"NEW JERSEY DEPARTMENT OF TRANSPORTATION, PERMIT PLAN, ROUTE 46, ROUTE 163 TO WATER STREET (C.R. 620)," sheets 1 through 26 of 26, with Sheets 2 and 10 of 26 certified October 9, 2015.

If you need clarification on any section of this permit or conditions, please contact the Division of Land Use Regulation's Technical Support Call Center at (609) 777-0454.

Approved By:

Peter DeMeo, Supervisor
Division of Land Use Regulation

Date