



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
www.state.nj.us/dep/landuse

CHRIS CHRISTIE
Governor

KIM GUADAGNO
Lt. Governor

10/14/15 (cc: Adm. Plan Gerz B.)

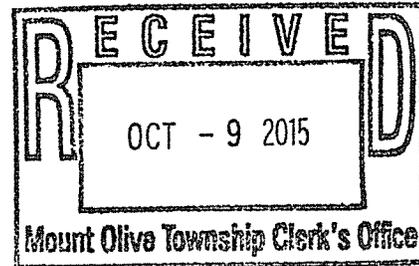
map on file in Clerk's Office

BOB MARTIN
Commissioner

Mr. Luis Garzon
16 Oak Street
Mount Arlington, NJ 07856

OCT 01 2015

RE: Letter of Interpretation: Line Delineation
File No.: 1427-05-0014.1, FWW 150002
Applicant: Luis Garzon
Block: 3207; Lots: 8.01 and 9
Mount Olive Township, Morris County



Dear Mr. Garzon:

This letter is in response to your request for a Letter of Interpretation to have staff of the Division of Land Use Regulation (Division) establish the boundary of the freshwater wetlands on the referenced property.

In accordance with agreements between the State of New Jersey Department of Environmental Protection, the U.S. Army Corps of Engineers Philadelphia and New York Districts, and the U.S. Environmental Protection Agency, the NJDEP, the Division is the lead agency for establishing the extent of State and Federally regulated wetlands and waters. The USEPA and/or USACOE retain the right to reevaluate and modify the jurisdictional determination at any time should the information prove to be incomplete or inaccurate.

Based upon the information submitted, and a site inspection conducted by staff of the Division on May 2, 2015, the Division has determined that the wetlands boundary line as shown on the plan map entitled: "Wetland Location Plan, Lot 8.01 & 9, Block 3207, Township of Mount Olive, Morris County, New Jersey", Sheet No. 4 of 8, dated January 15, 2005, last revised February 28, 2006, and prepared by Marc A. Bricker of Bricker and Associates, Inc., is accurate as shown.

Wetlands Resource Value Classification ("RVC")

In addition, the Division has determined that the resource value and the standard transition area or buffer required adjacent to the delineated wetlands are as follows:

Intermediate: Flag numbers WD1A1 through WD10A. [50 foot wetland buffer]

The wetlands noted above have also been determined to be isolated and not "part of a surface water tributary system" as defined at N.J.A.C. 7:7A-1.4. RVC may affect requirements for wetland and/or transition area permitting. This classification may affect the requirements for

an Individual Wetlands Permit (see N.J.A.C. 7:7A-7), the types of Statewide General Permits available for the property (see N.J.A.C. 7:7A-4) and any modification available through a transition area waiver (see N.J.A.C. 7:7A-6). Please refer to the Freshwater Wetlands Protection Act (N.J.S.A. 13:9B-1 et seq.) and implementing rules for additional information.

Wetlands resource value classification is based on the best information available to the Department. The classification is subject to reevaluation at any time if additional or updated information is made available, including, but not limited to, information supplied by the applicant.

Under N.J.S.A. 13:9B-7a(2), if the Division has classified a wetland as Exceptional resource value, based on a finding that the wetland is documented habitat for threatened and endangered species that remains suitable for use for breeding, resting or feeding by such species, an applicant may request a change in this classification. Such requests for a classification change must demonstrate that the habitat is no longer suitable for the documented species because there has been a change in the suitability of this habitat. Requests for resource value classification changes and associated documentation should be submitted to the Division at the address at the top of this letter.

General Information

Pursuant to the Freshwater Wetlands Protection Act rules, you are entitled to rely upon this jurisdictional determination for a **period of five years** from the date of this letter unless it is determined that the letter is based on inaccurate or incomplete information. Should additional information be disclosed or discovered, the Division reserves the right to void the original letter of interpretation and issue a revised letter of interpretation.

Regulated activities proposed within a wetland, wetland transition area or water area, as defined by N.J.A.C. 7:7A-2.2 and 2.6 of the Freshwater Wetlands Protection Act rules, require a permit from this office unless specifically exempted at N.J.A.C. 7:7A-2.8. The approved plan and supporting jurisdictional limit information are now part of the Division's public records.

This letter in no way legalizes any fill which may have been placed, or other regulated activities which may have occurred on-site. This determination of jurisdiction extent or presence does not make a finding that wetlands or water areas are "isolated" or part of a surface water tributary system unless specifically called out in this letter as such. Furthermore, obtaining this determination does not affect your responsibility to obtain any local, State, or Federal permits which may be required.

Appeal Process

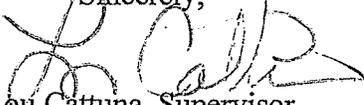
In accordance with N.J.A.C. 7:7A-1.7, any person who is aggrieved by this decision may request a hearing within 30 days of the date the decision is published in the DEP Bulletin by writing to: New Jersey Department of Environmental Protection, Office of Legal Affairs, Attention: Adjudicatory Hearing Requests, P.O. Box 402, Trenton, NJ 08625-0402. This request must include a completed copy of the Administrative Hearing Request Checklist found at

File No.: 1427-05-0014.1

www.state.nj.us/dep/landuse/forms. Hearing requests received after 30 days of publication notice may be denied. The DEP Bulletin is available on the Department's website at www.state.nj.us/dep/bulletin. 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 on this process.

Please contact Susan Michniewski of our staff by e-mail at Susan.Michniewski@dep.nj.gov or by telephone at (609) 777-0454 should you have any questions regarding this letter. Be sure to indicate the Division's file number in all communication.

Sincerely,



Lou Cattuna, Supervisor
Division of Land Use Regulation

c: Municipal Clerk
Municipal Construction Official
Agent (original)



**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 OCT 01 2015
		Expiration Date SEP 30 2020
Permit Number(s): 1427-05-0014.1, FWW150001	Type of Approval(s): FWGP6 filling of isolated wetlands	Enabling Statute(s): NJSA 13:9B FWPA NJSA 40:55D-93-99 WQPA NJSA 58:10A WPCA
Permittee: Luis Garzon 16 Oak Street Mount Arlington, NJ 07856	Site Location: Block: 3207; Lots: 8.01 & 9 Municipality: Mount Olive Township County: Morris	
<p>Description of Authorized Activities:</p> <p>The permit authorizes the disturbance of isolated freshwater wetlands and wetland transition areas for the construction of two single family dwellings on Block 3207, Lots 8.01 and 9 in Mount Olive Township, Morris County. Specifically, the permit authorizes the disturbance of 3,738 square feet (0.086 acres) of wetlands and 14,105 square feet (0.324 acres) of transition areas under Freshwater Wetlands General Permit No. 6. This authorization to conduct regulated activities in a wetland includes a Water Quality Certificate for these activities.</p>		
Prepared by: Susan Michniewski	Received and/or Recorded by County Clerk:	
<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>		
<p align="center">This permit is not valid unless authorizing signature appears on the last page.</p>		

SPECIAL CONDITIONS:

1. In order to avoid direct impacts to foraging/roosting Indiana and northern long-eared bats, the clearing of trees may not occur within the entire project area from April 1 to November 15 of each year. Limited tree clearing during this time may be allowed subject to review and approval by the United States Fish and Wildlife Service (USFWS). You may call Carlo Popolizio, USFWS, at (609) 383-3938, Extension 32, to inquire about limited tree clearing.
2. Prior to the commencement of site clearing, grading or construction, the permittee shall have a silt fence and construction fence erected at the "Limit of Disturbance Line" in and adjacent to the wetland area, as depicted on the approved plan. These fences shall serve as siltation and debris barriers and shall remain in place and be maintained throughout the duration of construction, and until such time as the site is stabilized.
3. This permit authorizes the disturbance of 3,738 square feet (0.086 acres) of isolated freshwater wetlands and 14,105 square feet (0.324 acres) of transition areas for the construction of two single family dwellings under Freshwater Wetlands General Permit No. 6. In addition, this permit to conduct a regulated activity in a wetland includes the Department's approval of a Water Quality Certificate for these activities. Any additional disturbance of freshwater wetlands, State open waters or transition areas shall be considered a violation of the Freshwater Wetlands Protection Act unless a permit is obtained from the Division of Land Use Regulation prior to the start of the disturbances.
4. **Material Disposal:** 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.

STANDARD CONDITIONS:

1. **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.
2. **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.

3. **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
4. **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.
5. **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.
6. **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.
7. **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.

8. **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.
9. **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.
10. **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.
11. **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 PLAN:

The drawing hereby approved is one (1) sheet prepared by Marc A. Bricker of Bricker and Associates, Inc., dated January 15, 2005, last revised February 28, 2006, and entitled:

“Wetland Location Plan, Lot 8.01 & 9, Block 3207, Township of Mount Olive, Morris County, New Jersey”, Sheet No. 4 of 8

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:



Lou Cattuna, Supervisor
Division of Land Use Regulation

10-1-15

Date

Original sent to Agent

c: Permittee

Municipal Clerk

Municipal Construction Official