



State of New Jersey

PHILIP D. MURPHY
Governor

DEPARTMENT OF ENVIRONMENTAL PROTECTION

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Commissioner

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Lt. Governor

Division of Land Resource Protection
Mail Code 501-02A
P.O. Box 420
Trenton, New Jersey 08625-0420
www.nj.gov/dep/landuse

August 27, 2021

Edward Meeks
500 Hercules Rd, Building 8145
Wilimington, DE 19808

RE: Freshwater Wetlands Letter of Interpretation: Line Verification
File No.: 1400-20-0003.2
Activity Number: FWW200001
Applicant: MEEKS EDWARD
Block(s) and Lot(s): [70.01, 1] [4002, 5] [6701, 1] [6701, 4] [6701, 5] [6802, 11]
[7204, 2] [8901, 5]
Roxbury Twp, Morris County

Dear Mr. Meeks:

This letter is in response to your request for a Letter of Interpretation to have Division of Land Resource Protection (Division) staff verify the boundary of the freshwater wetlands and/or State open waters on the referenced property.

In accordance with agreements between the State of New Jersey Department of Environmental Protection (NJDEP), the U.S. Army Corps of Engineers (USACOE) Philadelphia and New York Districts, and the U.S. Environmental Protection Agency (USEPA), the NJDEP 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 upon multiple site inspections conducted by Division staff during April and May 2021, the Division has determined that the wetlands and waters boundary line(s) as shown on the plan map entitled: "Former Kenvil Works Facility Kenvil, New Jersey", consisting of twenty-five (25) sheet(s), dated June 2021, and prepared by Stephen R. Montagna, is accurate as shown.

The freshwater wetlands and waters boundary line(s), as determined in this letter, must be shown on any future site development plans. The line(s) should be labeled with the above file number and the following note:

"Freshwater Wetlands/Waters Boundary Line as verified by NJDEP"

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:

Exceptional: Wetland ID 1, 2, 2-1, 3, 4, 42, 42-1, 43, 44, 45, 46, 47, 49, 50, 51, 52, 53, 54, 60, 61, 63, 64, 65, 66, 67, 68, 68-1, 71, 73, 75, 76, 77, 78, 79, 80, 81, Un-named Tributary 2, Flags AN-56 to AN-57, AN-46 to AN-50, Flags AN-41B through AN-45 [150 foot wetland buffer]

Intermediate: Wetland ID 5, 5A, 5-1, 6, 7, 8, 9, 10, 11, 12, 13, 14, 14-1, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 29, 31, 32, 33, 34, 34-1, 35, 37, 37-1, 38, 55, 56, 57, 58, 59-1, 59-2, 60-2, Un-named Tributary 1, Isolated Wetland 2, Morris Canal, [50 foot wetland buffer]

State Open Water: Flags AN-01 to AN41-B, AN-45 to AN-46, AN-50 to AN-56, AN-56 to AN-57 to AN-01 [No wetland buffer]

Isolated Wetlands

The following wetlands do not discharge to a surface water tributary system and are therefore isolated: 14-1, 29, 31, 38, 45, 53, 54, 59-1, 59-2, 60, 60-2, 61, 63, 64, 65, 66, 67, 68, 68-1, 71, 75, 78, & Isolated Wetland 2. Please be advised that the Department is not always able to make the determination as to whether or not a wetland is isolated during the Letter of Interpretation process. As such, wetlands that appear isolated on the approved plan should not be construed as being isolated unless specifically called out as such in this letter.

EPA Priority wetlands

Please be advised that a portion of the wetlands and water on this property are part of the Passaic River Basin. These wetlands are considered to be EPA Priority Wetlands.

Riparian zone

The Department has also identified State Open Waters on the property. State open waters do not require a buffer under the Freshwater Wetland Protection Act, however a riparian zone may be required under the Flood Hazard Area Control Act Rules (FHACAR) N.J.A.C. 7:13. Under the FHACAR, a riparian zone is required along every regulated water with few exceptions (see N.J.A.C. 7:13-4.1). In order to determine the limits of any riparian zone on site, the applicant may obtain a Flood Hazard Area Verification (see 7:13-6.1), which determines all areas regulated under the FHACAR.

Vernal Pools

In addition, there are wetlands on the subject site which potentially meet the definition of a "vernal habitat".

These determinations 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-9 and 10), the types of Statewide General Permits available for the property (see N.J.A.C. 7:7A-5 and 7) and any modification available through a transition area waiver (see N.J.A.C. 7:7A-8). 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 Division. 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 2.3 of the Freshwater Wetlands Protection Act rules, require a permit from this office unless specifically exempted at N.J.A.C. 7:7A-2.4. The approved plan and supporting jurisdictional limit information are now part of the Division's public records.

Please be advised that any surface water features on the site or adjacent to the site may possess flood hazard areas and/or riparian zones and development within these areas may be subject to the Flood Hazard Area Control Act rules at N.J.A.C. 7:13. The Division can verify the extent of flood hazard areas and/or riparian zones through a flood hazard area verification under the application procedures set forth at N.J.A.C. 7:13-5.1.

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.

Recording

Within 90 calendar days of the date of this letter, the applicant shall submit the following information to the clerk of each county in which the site is located, and shall send proof to the Division that this information is recorded on the deed of each lot referenced in the letter of interpretation:

1. The Department file number for the letter of interpretation;
2. The approval and expiration date of the letter of interpretation;
3. A metes and bounds description of the wetland boundary approved under the letter of interpretation;

4. The width and location of any transition area approved under the letter of interpretation; and
5. The following statement: "The State of New Jersey has determined that all or a portion of this lot lies in a freshwater wetland and/or transition area. Certain activities in wetlands and transition areas are regulated by the New Jersey Department of Environmental Protection and some activities may be prohibited on this site or may first require a freshwater wetland permit. Contact the Division of Land Use Regulation at (609) 777-0454 or <http://www.nj.gov/dep/landuse> for more information prior to any construction onsite."

Failure to have this information recorded in the deed of each lot and/or to submit proof of recording to the Division constitutes a violation of the Freshwater Wetlands Protection Act rules and may result in suspension or termination of the letter of interpretation and/or subject the applicant to enforcement action pursuant to N.J.A.C. 7:7A-22.

Appeal Process

In accordance with N.J.A.C. 7:7A-21, 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, Mail Code 401-04L, P.O. Box 402, 401 East State Street, 7th Floor, Trenton, NJ 08625-0402. This request must include a completed copy of the Administrative Hearing Request Checklist found at 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 Stephen Dench of our staff by e-mail at stephen.dench@dep.nj.gov or by phone at (609) 777-0454 should you have any questions regarding this letter. Be sure to indicate the Department's file number in all communication.

Sincerely,



Date: 2021.08.27
08:27:28 -04'00'

Suzanne U. Biggins, Supervising Environmental Specialist
Division of Land Resource Protection

c: Municipal Clerk
Municipal Construction Official
Agent (original)