



## 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](http://www.state.nj.us/dep/landuse)

CHRIS CHRISTIE  
Governor

KIM GUADAGNO  
Lt. Governor

BOB MARTIN  
Commissioner

Kyle Mitton  
South Main Street  
Forked River, NJ 08731

AUG 15 2017

RE: Freshwater Wetlands Letter of Interpretation: Line Verification  
File No.: 1512-17-0013.1  
Activity Number: FWW170001  
Applicant: Kyle Mitton  
Block(s) and Lot(s): [1001, 4.05]  
Lacey Township, Ocean County

Dear Mr. Mitton:

This letter is in response to your request for a Letter of Interpretation to have Division of Land Use Regulation (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, 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 upon a site inspection conducted by Division staff on June 6, 2017, the Division has determined that the wetlands and waters boundary line(s) as shown on the plan map entitled: "WETLANDS SURVEY, TAX LOT 4.05, BLOCK 1001, REAR OF SOUTH MAIN STREET, TOWNSHIP OF LACEY, OCEAN COUNTY, NEW JERSEY", prepared by DPK Consulting, and dated 1/20/17, last revised 6/27/17 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: All freshwater wetland flag points on or immediately adjacent to the above referenced site. [50 foot wetland buffer]

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 & 5) 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.

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 [www.state.nj.us/dep/landuse/forms](http://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](http://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](http://www.nj.gov/dep/odr) for more information on this process.

Please contact Lisa Dunne of our staff by e-mail at [lisa.dunne@dep.nj.gov](mailto:lisa.dunne@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,



*For* Ryan J. Anderson, Manager  
Coastal Bureau  
Division of Land Use Regulation

c: Municipal Clerk  
Municipal Construction Official  
Agent (original)



## State of New Jersey

PHILIP D. MURPHY  
Governor

DEPARTMENT OF ENVIRONMENTAL PROTECTION

CATHERINE R. McCABE  
Commissioner

SHEILA Y. OLIVER  
Lt. Governor

Division of Land Use Regulation  
Mail Code 501-02A  
P.O. Box 420  
Trenton, New Jersey 08625-0420  
[www.nj.gov/dep/landuse](http://www.nj.gov/dep/landuse)

Pete Murray c/o  
RC Cape May Holding LLC  
900 N. Shore Road  
Beesley's Point, NJ 08223

**MAR 19 2019**

RE: Freshwater Wetlands Letter of Interpretation: Line Verification  
File No.: 0511-03-0011.4  
Activity Number: FWW180001  
Applicant: RC CAPE MAY HOLDINGS, LLC  
Block(s) and Lot(s): [479, 74] [479, 76] [479, 76.01] [479, 94.01]  
Upper Twp., Cape May County

Dear Mr. Murray:

This letter is in response to your request for a Letter of Interpretation to have Division of Land Use Regulation (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, 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 USACE 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 site inspections conducted by Division staff on November 14 and December 27, 2018, the Division has determined that the wetlands and waters boundary line(s) are accurately shown on the plan maps entitled: "PLAN OF FRESHWATER/WATERS DELINEATION, B.L. ENGLAND GENERATING STATION, TAX BLOCK 479 TAX LOTS 74, 76, 76.01 & 94.01, TOWNSHIP OF UPPER, CAPE MAY COUNTY, NEW JERSEY", consisting of seventeen (17) sheets, (all sheets) dated October 14, 2008, (all sheets) last revised August 17, 2018, and prepared by Hyland Design Group, Inc. and further identified as:

Sheet 1 of 17 – "EXISTING CONDITIONS KEY SHEET,"  
Sheets 2 through 14 of 17 – "FRESHWATER WETLANDS/WATERS DELINEATION,"  
Sheets 15 through 17 of 17 – "WETLANDS/WATERS DELINEATION BEARING & DISTANCES."

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:

**Sheet 3 of 17:**

- **Ordinary**: Line segments 230 through 232 and 249 through 252 [No wetland buffer].
- **Exceptional**: All remaining freshwater wetland delineation points and line segments shown on the approved plan sheet referenced within this verification [150 ft. wetland buffer].

**Sheet 7 of 17:**

- **Intermediate**: Line segments 453 through 460 [50 ft. wetland buffer].
- **Exceptional**: All remaining freshwater wetland delineation points and line segments shown on the approved plan sheet referenced within this verification [150 ft. wetland buffer].

**Sheet 8 of 17:**

- **Intermediate**: Line segments 460 through 472, 453, 473 through 486, 487 through 506, 529 through 537 [50 ft. wetland buffer].
- **Exceptional**: All remaining freshwater wetland delineation points and line segments shown on the approved plan sheet referenced within this verification [150 ft. wetland buffer].

**Sheet 9 of 17:**

- **Exceptional**: All freshwater wetland delineation points and line segments shown on the approved plan sheet referenced within this verification [150 ft. wetland buffer].

**Sheet 10 of 17:**

- **Ordinary**: Line segments 233 through 253, flag points W-453 through W-460 and W-461 through W-470 [No wetland buffer]
- **Exceptional**: Line segments 119 through 160, 168, 169 and 270 through 283 [150 ft. wetland buffer].
- **Intermediate**: All remaining freshwater wetland delineation points and line segments shown on the approved plan sheet referenced within this verification [50 ft. wetland buffer].

**Sheet 11 of 17:**

- **Exceptional**: All freshwater wetland delineation points and line segments shown on the approved plan sheet referenced within this verification [150 ft. wetland buffer].

Sheet 12 of 17:

- **Ordinary**: Flag points W-1011 through W-1016 [No wetland buffer]
- **Intermediate**: All remaining freshwater wetland delineation points and line segments shown on the approved plan sheet referenced within this verification [50 ft. wetland buffer].

Sheet 13 of 17:

- **Ordinary**: Flag points W-1001 through W-1011 [No wetland buffer].
- **Intermediate**: All remaining freshwater wetland delineation points and line segments shown on the approved plan sheet referenced within this verification [50 ft. wetland buffer].

Sheet 14 of 17:

- **Intermediate**: Line segments 432 through 435 [No wetland buffer].
- **Exceptional**: Line segments 422 through 429 [150 ft. wetland buffer].
- **Mapped Coastal Wetlands**: Line segments 430 to 431 and 436 through 443 [a buffer of up to 300 feet may be imposed].

**Please be advised, there are additional mapped coastal wetlands on Block: 479, Lots: 74, 76 and 76.01 as shown on Coastal Wetlands Map #161-2004 and as such is regulated pursuant to the Coastal Wetlands Act of 1970 (N.J.S.A. 13:9A-1 et seq.). Please be advised that if the proposed project is regulated under the Rules for Coastal Zone Management (N.J.A.C. 7:7E), then a buffer of up to 300 feet may be imposed adjacent to coastal wetlands.**

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-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 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 2.3 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.

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.

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.

#### **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) 292-0060 or <http://www.nj.gov/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.

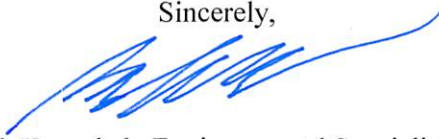
#### **Appeal Process**

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, 7<sup>th</sup> 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](http://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](http://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/odrn](http://www.nj.gov/dep/odrn) for more information on this process.

Please contact April Grabowski of our staff by e-mail at [April.Grabowski@dep.nj.gov](mailto:April.Grabowski@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,



Bob Kozachek, Environmental Specialist 3  
Division of Land Use Regulation



c: Municipal Clerk  
Municipal Construction Official  
Agent (original)

