



**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.nj.gov/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 terms, conditions, and limitations 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>October 7, 2020</b>
		Expiration Date <b>October 6, 2025</b>
<b>Permit Number(s):</b> 1215-08-0004.1 LUP190001	<b>Type of Approval(s):</b> Freshwater Wetlands General Permit 7; Freshwater Wetlands General Permit 11; Freshwater Wetlands Transition Area Waiver - Averaging Plan; Water Quality Certificate	<b>Enabling Statute(s):</b> N.J.S.A. 13:9B-1 et seq. N.J.S.A. 58:10A-1 et seq. N.J.S.A. 40:55D-93.99
<b>Permittee:</b> 1460 Livingston Avenue Investors LP 920 East County Line Road, Suite 103 Lakewood, New Jersey 08701	<b>Site Location:</b> Block: 140.01 Lot: 5.02, 7.01 Municipality: North Brunswick County: Middlesex	
<p><b>Description of Authorized Activities:</b>          This permit authorizes the following freshwater wetland disturbances at the above referenced block and lot in the township of North Brunswick, Middlesex County:</p> <ul style="list-style-type: none"> <li>Filling 0.159 acres of a manmade ditch under a Freshwater Wetlands General Permit 7;</li> <li>A disturbance of 0.0001 acres (18 linear feet) for the purpose of constructing a stormwater outfall structure under a Freshwater Wetlands General Permit 11; and</li> <li>Modifications to 0.088 acres (3,826 square feet) of Intermediate Resource Value freshwater wetlands transition area for the purposes of constructing two warehouses and associated amenities. This transition area reduction will be compensated by 0.111 acres (4,849 square feet) of transition area under a Freshwater Wetlands Transition Area Waiver Averaging Plan, as shown on the plans referenced on the last page of this permit.</li> </ul> <p>Section 7:7A-6 of the Freshwater Wetlands Protection Act Rules discusses the conditions under which the standard transition area may be modified if the Department determines that the modification will result in minimal environmental impact and that the modified transition area will continue to feature the purposes and functions set forth in N.J.A.C. 7:7A-2.5. Based upon a review of the submitted information, the Division of Land Use Regulation (Division) has determined that the proposed modified transition area as shown on the plans referenced below will continue to serve the functions of a transition area as detailed in the Act and implementing rules, provided that standard conditions set forth in section 7:7A-6 and all permit conditions are met. Any additional un-permitted disturbance of freshwater wetlands, State open waters and/or transition areas besides that shown on the approved plans referenced herein shall be considered a violation of the Freshwater Wetlands Protection Act Rules unless the activity is exempt or a permit is obtained from the Department prior to the start of the proposed disturbance.</p>		
<b>Prepared by:</b>  Tejal Kuray	<b>Received and/or Recorded by County Clerk:</b>	
<p>If the permittee undertakes any regulated activity, project, or development authorized under this permit, such action shall constitute the permittee's acceptance of the permit in its entirety as well as the permittee's agreement to abide by the requirements of the permit and all conditions therein.</p>		
<p><b>This permit is not valid unless authorizing signature appears on the last page.</b></p>		

## PRE-CONSTRUCTION CONDITIONS

1. Prior to the commencement of site clearing, grading or construction, the permittee shall have a silt fence or sediment barrier erected at the limits of disturbance authorized herein and at the limits of the modified transition area as authorized herein. These fences shall serve as both a siltation and debris barrier as well as a physical barrier protecting the wetland and modified transition area from encroachment by construction vehicles or activities. These fences shall be kept in place and maintained throughout the duration of construction, until such time that the site is stabilized. No regulated activities, including grading or clearing may occur in the wetland or modified transition area on site without the prior approval of the Department.
2. Pursuant to N.J.A.C. 7:7A-8.1(b) 3, prior to construction of the structure (including site preparation), the permittee shall install a split rail fence or equivalent physical barrier along the limits of the modified transition area (with the exception of the PSE&G easement) to ensure that subsequent activities on site do not encroach into the conservation restricted wetlands and transition areas.
3. Within 90 days of the permit issuance and/or prior to construction (whichever occurs first), the property owner shall sign a Department-approved conservation restriction for the compensation areas only on the subject parcel(s) in accordance with N.J.A.C. 7:7A-8.1(e) and N.J.A.C. 7:7A 8.2 (f). The conservation restriction shall preclude future transition area disturbance within the compensation area on-site, *unless said activity is permissible pursuant to the language of the deed restriction*. The restriction shall be included on the deed and recorded in the office of the County Clerk (the Registrar of Deeds and Mortgages), in the county wherein the lands included in the waiver are located. Said restriction shall run with the land and be binding upon all successive owners. All individual lot surveys shall show the approved wetland and transition area boundaries. Any regulated activities undertaken on the site before a copy of this recorded restriction is submitted to the Department will be considered in violation of the Freshwater Wetlands Protection Act. The conservation restriction shall conform, verbatim, to the format and content of the model Conservation Restriction/Easement for Freshwater Wetlands Transition Area – Averaging Plan on the Division's website at <http://www.nj.gov/dep/landuse/download/lur036.pdf>. A copy of the recorded conservation restriction shall be forwarded to the Division's project manager via email at [Tejal.Kuray@dep.nj.gov](mailto:Tejal.Kuray@dep.nj.gov) before beginning regulated activities.

## SPECIAL CONDITIONS

1. A portion of the wetlands affected by this permit authorization are of Intermediate Resource Value and the standard transition area or buffer required adjacent to these wetlands is 50 feet. This general permit includes a transition area waiver which allows encroachment only in that portion of the transition area, which has been determined by the Department to be necessary to accomplish the regulated activities. Any additional regulated activities conducted within the standard transition area on-site shall require a separate transition area waiver from the Division. Regulated activities within a transition area are defined at N.J.A.C. 7:7A-2.3. Please refer to the Freshwater Wetlands Protection Act (N.J.S.A. 13:9B-1 et seq.) and implementing rules (N.J.A.C. 7:7A) for additional information.
2. This authorization for a General Permit is valid for a term not to exceed five years from the date of this permit. If the permittee wishes to continue an activity covered by the permit after the expiration date of the permit, the permittee must apply for and obtain a permit extension or a new permit prior to the permit's expiration. If the term of the authorization exceeds the expiration date

of the general permit issued by rule, and the permit upon which the authorization is based is modified by rule to include more stringent standards or conditions, or is not reissued, the applicant must comply with the requirements of the new regulations by applying for a new General Permit authorization or an Individual permit.

3. The transition area shall not be reduced to less than 10 feet in width as shown on the referenced plan.
4. All temporary disturbances must be permanently discontinued within six months after they are begun, and all temporary disturbed areas must be restored to their original condition.
5. All excavated material and construction debris 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.
6. The applicant shall make specific arrangements to ensure the continuous maintenance and efficient operation of all proposed stormwater management measures onsite. This includes the inspection (and cleaning where necessary) of any and all constructed swales, basins, inlets at least four times per year and after every major storm totaling 1 inch of rainfall or more, the inspection and cleaning of all manufactured treatment devices per Department certification letters as found on [www.njstormwater.org/treatment.html](http://www.njstormwater.org/treatment.html), and the use of appropriate soil conservation practices onsite, and any other reasonable effort required to maintain the stormwater management system in good working order.
7. The Department has determined that this project meets the requirements of the Stormwater Management rules at N.J.A.C. 7:8. Any future expansion or alteration of the approved stormwater management system, 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.

#### **STANDARD CONDITIONS**

1. The Division of Land Use Regulation has reviewed the referenced application for a General Permit authorization pursuant to the requirements of the Freshwater Wetlands Protection Act Rules at N.J.A.C. 7:7A-7. The activities allowed by this authorization shall comply with applicable conditions noted at N.J.A.C. 7:7-5.7, -7.7, -7.11 and -20.2. Failure to comply with these conditions shall constitute a violation of the Freshwater Wetland Protection Act (N.J.S.A. 13:9B-1 et. seq.).
2. The issuance of a 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 or structure(s).

Neither the State nor the Department shall, in any way, be liable for any loss of life or property that may occur by virtue of the activity or project conducted as authorized under a permit.

3. The issuance of a permit does not convey any property rights or any exclusive privilege.
4. The permittee shall obtain all applicable Federal, State, and local approvals prior to commencement of regulated activities authorized under a permit.
5. A permittee conducting an activity involving soil disturbance, the creation of drainage structures, or changes in natural contours shall obtain any required approvals from the Soil Conservation District or designee having jurisdiction over the site.
6. 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.
7. 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 the 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.
8. The permittee shall immediately inform the Department by telephone at (877) 927-6337 (WARN DEP hotline) of any noncompliance that may endanger public health, safety, and welfare, or the environment. The permittee shall inform the Division of Land Use Regulation by telephone at (609) 777-0454 of any other noncompliance within two working days of the time the permittee becomes aware of the noncompliance, and in writing within five working days of the time the permittee becomes aware 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. The written notice shall include:
  - i) A description of the noncompliance and its cause;
  - ii) The period of noncompliance, including exact dates and times;
  - iii) If the noncompliance has not been corrected, the anticipated length of time it is expected to continue; and
  - iv) The steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance.
9. Any noncompliance with a permit constitutes a violation of this chapter and is grounds for enforcement action, as well as, in the appropriate case, suspension and/or termination of the permit.
10. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the authorized activity in order to maintain compliance with the conditions of the permit.
11. The permittee shall employ appropriate measures to minimize noise where necessary during construction, as specified in N.J.S.A. 13:1G-1 et seq. and N.J.A.C. 7:29.

12. The permittee shall allow an authorized representative of the Department, upon the presentation of credentials, to:
  - (i) Enter upon the permittee's premises where a regulated activity, project, or development is located or conducted, or where records must be kept under the conditions of the 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 paragraph 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 or as otherwise authorized by the Federal Act, by the Freshwater Wetlands Protection Act, or by any rule or order issued pursuant thereto, any substances or parameters at any location.
13. The permittee shall not cause or allow any unreasonable interference with the free flow of a regulated water by placing or dumping any materials, equipment, debris or structures within or adjacent to the channel while the regulated activity, project, or development is being undertaken. Upon completion of the regulated activity, project, or development, the permittee shall remove and dispose of in a lawful manner all excess materials, debris, equipment, and silt fences and other temporary soil erosion and sediment control devices from all regulated areas.
14. The permittee and its contractors and subcontractors shall comply with all conditions, site plans, and supporting documents approved by the permit.
15. All conditions, site plans, and supporting documents approved by a permit shall remain in full force and effect, so long as the regulated activity, project, or development, or any portion thereof, is in existence, unless the permit is modified pursuant to the rules governing the herein approved permits.
16. If any condition or permit is determined to be legally unenforceable, modifications and additional conditions may be imposed by the Department as necessary to protect public health, safety, and welfare, or the environment.
17. Any permit condition that does not establish a specific timeframe within which the condition must be satisfied (for example, prior to commencement of construction) shall be satisfied within six months of the effective date of the permit.
18. A copy of the permit and all approved site plans and supporting documents shall be maintained at the site at all times and made available to Department representatives or their designated agents immediately upon request.
19. The permittee shall provide monitoring results to the Department at the intervals specified in the permit.

20. A permit shall be transferred to another person only in accordance with the rules governing the herein approved permits.
21. A permit can be modified, suspended, or terminated by the Department for cause.
22. The submittal of a request to modify a permit by the permittee, or a notification of planned changes or anticipated noncompliance, does not stay any condition of a permit.
23. 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.
24. The permittee shall submit written notification to the Bureau of Coastal and Land Use Compliance and Enforcement, 401 East State Street, 4th Floor, PO Box 420, Mail Code 401-04C, Trenton, NJ 08625, at least three working days prior to the commencement of regulated activities.
25. The permittee shall record the permit, including all conditions listed therein, with the Office of the County Clerk (the Registrar of Deeds and Mortgages, if applicable) of each county in which the site is located. The permit shall be recorded within 30 calendar days of receipt by the permittee, unless the permit authorizes activities within two or more counties, in which case the permit shall be recorded within 90 calendar days of receipt. Upon completion of all recording, a copy of the recorded permit shall be forwarded to the Division of Land Use Regulation at the address listed on page one of this permit.

**APPROVED PLAN(S):**

The drawing(s) hereby approved consist of eight (8) sheet(s) prepared by Menlo Engineering Associates, dated April 2, 2019, last revised September 14, 2020, unless otherwise noted, and entitled:

“LIVINGSTON WAREHOUSE, TOWNSHIP OF NORTH BRUNSWICK, MIDDLESEX COUNTY, NEW JERSEY, BLOCK 140.01, LOTS 5.02 & 7.01, TAX MAP SHEET 30, 21.03 ACRES”,

- “GRADING & UTILITY PLAN”, sheet GU-1,
- “SOIL EROSION & SEDIMENT CONTROL PLAN”, sheet SE-1,
- “SOIL EROSION & SEDIMENT CONTROL DETAILS (1)”, sheet SED-1,
- “SOIL EROSION & SEDIMENT CONTROL DETAILS (2)”, sheet SED-2,
- “CONSTRUCTION DETAILS (2)”, sheet DE-2,
- “CONSTRUCTION DETAILS (3)”, sheet DE-3,
- “WETLAND PERMIT PLAN”, sheet WPP-1,
- “WETLAND TRANSITION PLANING PLAN”, dated October 18, 2019.

**APPEAL OF DECISION:**

Any person who is aggrieved by this decision may submit an adjudicatory hearing request within 30 calendar days after public notice of the decision is published in the DEP Bulletin (available at [www.nj.gov/dep/bulletin](http://www.nj.gov/dep/bulletin)). If a person submits the hearing request after this time, the Department shall

DLUR File No. 1215-08-0004.1  
LUP 190001 FWW GP 7, GP 11, & TAW  
Applicant: 1460 Livingston Ave Investors LP

deny the request. The hearing request must include a completed copy of the Administrative Hearing Request Checklist (available at [www.nj.gov/dep/landuse/forms.html](http://www.nj.gov/dep/landuse/forms.html)). A person requesting an adjudicatory hearing shall submit the original hearing request to: NJDEP 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. Additionally, a copy of the hearing request shall be submitted to the Director of the Division of Land Use Regulation at the address listed on page one of this permit. 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 [www.nj.gov/dep/odr](http://www.nj.gov/dep/odr) for more information on this process.

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:



Digitally signed by  
Christopher Jones

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Christopher Jones, Manager  
Bureau of Urban Growth and Redevelopment  
Division of Land Use Regulation

October 7, 2020  
Date

c: Township of North Brunswick Construction Official  
Agent: G. Oman, Menlo Engineering Associates, Inc.  
Permittee: 1460 Livingston Ave Investors LP