



State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION
COASTAL & LAND USE COMPLIANCE & ENFORCEMENT

401 East State Street
P.O. Box 420, Mail Code 401-04C
Trenton, New Jersey 08625-0420
Tel. (609) 292-1240 • Fax (609) 633-6798

PHILIP D. MURPHY
Governor

SHEILA Y. OLIVER
Lt. Governor

SHAWN M. LATOURETTE
Commissioner

July 2, 2021

CERTIFIED MAIL/RRR
7014 3490 0000 0277 4543

Keith Sturn, Project Manager
New Jersey Natural Gas Company
1415 Wyckoff Road, PO Box 1468
Wall, New Jersey 07719

RE: Notice of Civil Administrative Penalty Assessment
Southern Reliability Link Project
EA ID #: PEA200002 - 0000-15-0007.1
Upper Freehold Township, Monmouth County
Jackson Township, Ocean County
Chesterfield Township, Burlington County

Dear Mr. Sturn:

Enclosed for service upon you is a Notice of Civil Administrative Penalty Assessment issued by the Department. Contained within the enclosed document is a notice and instructions for requesting an Administrative Hearing. Failure to request a hearing within 35 days as per instructions will result in loss of your right to a hearing.

If multiple respondents are named, each respondent interested in contesting the NOCAPA must individually file an Administrative Hearing Request Checklist and Tracking Form. The Administrative Hearing Request Checklist and Tracking Form is enclosed with this letter.

If you have any questions concerning the enclosed Notice of Civil Administrative Penalty Assessment, please contact Andrew Edelhauser of my staff at (609) 292-1240 or via email at Andrew.Edelhauser@dep.nj.gov.

Sincerely,

Michele Kröpilak, Chief
Bureau of Coastal and Land Use
Compliance and Enforcement

Enclosure



State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION
COMPLIANCE & ENFORCEMENT
WATER & LAND USE ENFORCEMENT
401 East State Street
P.O. Box 420, Mail Code 401-04B
Trenton, New Jersey 08625-0420
Tel. (609) 984-2011 • Fax, (609) 984-9658

PHILIP D. MURPHY
Governor

SHEILA Y. OLIVER
Lt. Governor

SHAWN M. LATOURETTE
Commissioner

CERTIFIED MAIL/RRR

IN THE MATTER OF

New Jersey Natural Gas Company
Southern Reliability Link
Upper Freehold Township, Monmouth County
Jackson Township, Ocean County
Chesterfield Township, Burlington County
North Hanover Township, Burlington County

NOTICE OF CIVIL ADMINISTRATIVE
PENALTY ASSESSMENT

EA ID # PEA200002 - 0000-15-0007.1

This Notice of Civil Administrative Penalty Assessment (NOCAPA) is issued pursuant to the authority vested in the Commissioner of the New Jersey Department of Environmental Protection (NJDEP or the Department) by N.J.S.A. 13:1D-1 et seq., and the Freshwater Wetlands Protection Act, N.J.S.A. 13:9B-1 et seq. (FWPA) and duly delegated to the Assistant Commissioner of Compliance and Enforcement and her assignees pursuant to N.J.S.A.13:1B-4. The FWPA shall be referred to as the "Act".

FINDINGS

- 1. New Jersey Natural Gas Company, (hereinafter, "NJNG") is the responsible entity for the construction of the Southern Reliability Link natural gas pipeline through Burlington, Monmouth and Ocean Counties.
2. On February 24, 2017, the Department's Division of Land Use Regulation (DLUR) issued a CAFRA Individual Permit (CAF150001) and Freshwater Wetlands General Permit 2 (FWW15001), File # 0000-15-0007.1, hereinafter referred to as the "permit", to NJNG. The permit expires on February 23, 2022. The permit authorizes the construction of the Southern Reliability Link (hereinafter, "SRL") natural gas pipeline within the CAFRA area, as well as permanent and temporary disturbances of freshwater wetlands and freshwater wetland transition areas.
3. NJNG utilized horizontal directional drilling (hereinafter "HDD") for a portion of the SRL pipeline installation. An inadvertent return is an unintended, unpermitted discharge of the bentonite drilling

mixture to the surface of the earth through natural underground cracks or fissures during HDD. On January 29, 2019, inadvertent returns occurred during HDD-17, disturbing freshwater wetlands with approximately 444 gallons of drilling fluid. The freshwater wetland impacts occurred on Block 23601, Lot 1 in Jackson Township on Joint Base McGuire-Dix-Lakehurst.

4. On February 4, 2019, inadvertent returns occurred during HDD-17 disturbing freshwater wetlands with approximately 80 gallons of drilling fluid. The freshwater wetland impacts occurred on Block 23601, Lot 1 in Jackson Township on Joint Base McGuire-Dix-Lakehurst.
5. On February 19, 2019, inadvertent returns occurred during HDD-17 disturbing freshwater wetlands with approximately 190 gallons of drilling fluid. The freshwater wetland impacts occurred on Block 23601, Lot 1 in Jackson Township on Joint Base McGuire-Dix-Lakehurst.
6. Between April 9, 2020, and April 15, 2020, inadvertent returns occurred periodically during HDD-08 disturbing approximately 1,300 linear feet of a Deep Run tributary by filling the stream with drilling fluid. The stream impacts were located on Block 53, Lot 13.09 in Upper Freehold Township and Block 403, Lot 1 in North Hanover Township.
7. On June 16, 2020, an inadvertent return occurred during HDD-07 disturbing approximately 800 linear feet of a Deep Run tributary by filling the stream with drilling fluid. The stream impacts were on Block 53, Lots 13.04, 13.05, & 13.08 in Upper Freehold Township.
8. On June 19, 2020, an inadvertent return occurred during HDD-07 damaging the foundation of a house at 39 Hutchinson Road in Upper Freehold Township. Drilling fluid passed through the drainage system in the basement of the house and discharged the drilling fluid into the stream disturbing approximately 500 linear feet of a Deep Run tributary. The stream impacts were on Block 53, Lots 14.01 & 13.04 in Upper Freehold Township.
9. On June 19, 2020, the Burlington County Engineering Department issued a stop work order to NJNG halting any additional HDD pipeline installation until the HDD events were investigated and resolved.
10. As a result of an investigation, including site inspections by representatives of the Department's Bureau of Coastal and Land Use Compliance and Enforcement (CLUE) conducted on June 18, 2020, and June 19, 2020, the Department determined that NJNG failed to comply with applicable requirements as follows:

A. Requirement: Pursuant to N.J.A.C. 7:7A-20.2(c)8, any noncompliance with a permit, constitutes a violation of this chapter and is grounds for enforcement action under N.J.A.C. 7:7A-22 as well as, in appropriate cases, suspension and/or termination of the permit.

Description of Noncompliance: Failure to comply with condition #3 of the Freshwater Wetland Permit which states that 'in order to protect fishery resources within the streams crossed by the project, any sediment generating activities are prohibited, between May 1 to June 30 for warm water fisheries' Specifically, inadvertent return events on June 16 and June 19, 2020, caused the bentonite drilling mixture to enter a Deep Run tributary.

B. Requirement: Pursuant to N.J.A.C. 7:7A-20.2(c)8, any noncompliance with a permit, constitutes a violation of this chapter and is grounds for enforcement action under N.J.A.C. 7:7A-22 as well as, in appropriate cases, suspension and/or termination of the permit.

Description of Noncompliance: Failure to comply with condition #10 of the Freshwater Wetland Permit which states that any additional disturbance of freshwater wetlands, wetland transition areas, and/or State open waters shall be considered a violation of the Freshwater Wetlands Protection Act unless a permit is obtained prior to the start of the disturbances from the Division of Land Use Regulation. Specifically, inadvertent return events on April 9-15, 2020, June 16, 2020, and June 19, 2020, disturbed approximately 1,300 linear feet of a Deep Run tributary by filling the stream with the bentonite drilling mixture without permit authorization.

11. On June 25, 2020, CLUE issued a Notice of Violation (NOV) to NJNG for the violations listed above.
12. In addition, on June 25, 2020, turbid water discharged from the June 16 inadvertent return location to the Deep Run tributary as drill rods were being removed from HDD-07.
13. On June 30, 2020, CLUE received an emailed response and confirmation of receipt of the NOV from NJNG.
14. On July 7, 2020, the Department's Division of Land Resource Protection (DLRP), formerly known as DLUR, suspended NJNG's Freshwater Wetland General Permit #2 and required a written strategy to remedy the cause of the suspension.
15. On August 6, 2020, NJNG submitted a written strategy to DLRP and on September 4, 2020, DLRP requested additional information from NJNG to evaluate the sufficiency of the submittal. On October 23, 2020, NJNG submitted a revised written strategy.
16. On November 9, 2020, DLRP approved NJNG's written strategy and reinstated their Freshwater Wetland General Permit #2.
17. On March 17, 2021, an inadvertent return occurred during HDD-01 disturbing freshwater wetland transition area with approximately 100 gallons of drilling fluid. The freshwater wetland transition area impacts occurred on Block 204, Lot 4 in Chesterfield Township.
18. On March 20, 2021, an inadvertent return occurred during HDD-01 disturbing freshwater wetland transition area with approximately 50 gallons of drilling fluid. The freshwater wetland transition area impacts occurred on Block 203, Lot 44.04 in Chesterfield Township.
19. As a result of an investigation, including site inspections by representatives of CLUE conducted on March 17, 2021, and March 22, 2021, the Department determined that NJNG failed to comply with applicable requirements as follows:

- A. Requirement: Pursuant to N.J.A.C. 7:7A-20.2(c)8, any noncompliance with a permit, constitutes a violation of this chapter and is grounds for enforcement action under N.J.A.C. 7:7A-22 as well as, in appropriate cases, suspension and/or termination of the permit.

Description of Noncompliance: Failure to comply with condition #10 of Freshwater Wetland Permit which states that 'any additional disturbance of freshwater wetlands, wetland transition areas, and/or State open waters shall be considered a violation of the Freshwater Wetlands Protection Act unless a permit is obtained prior to the start of the disturbances from the Division of Land Use Regulation.' Specifically, inadvertent return events on March 17, 2021 and March 20, 2021 disturbed approximately 200 square feet of freshwater wetland transition area by filling with a bentonite drilling mixture without permit authorization.

20. On March 26, 2021, CLUE issued an NOV to NJNG for violations described in paragraph 19 above.
21. On April 20, 2021, CLUE received an emailed response and confirmation of receipt of the March 26, 2021, NOV from NJNG.
22. Based on the facts set forth in these FINDINGS, the Department has determined that NJNG has violated the FWPA, N.J.S.A. 13:9B-1 et seq., and the regulations promulgated pursuant thereto, specifically, N.J.A.C. 7:7A-20.2(c)8.

NOTICE OF CIVIL ADMINISTRATIVE PENALTY ASSESSMENT
AND
NOTICE OF RIGHT TO A HEARING

23. Pursuant to N.J.S.A. 13:9B-21 and N.J.A.C. 7:7A-22.8(d), and based upon the above FINDINGS, the Department has determined that a civil administrative penalty is hereby assessed against NJNG in the amount of \$165,000.00. The Department's rationale for the civil administrative penalty is set forth in the attachment and incorporated herein.
24. Pursuant to N.J.S.A.13:9B-21(b), NJNG is entitled to request a hearing. NJNG shall, in its request for a hearing, complete and submit the enclosed ADMINISTRATIVE HEARING REQUEST AND CHECKLIST TRACKING FORM along with all required information. Submittal or granting of a hearing request does not stay the terms or effect of this ORDER.
25. If no request for a hearing is received within 35 calendar days from receipt of this NOCAPA, it shall become a Final Order upon the 36th calendar day following its receipt and the penalty shall be due and payable.
26. If a timely request for a hearing is received, payment of the penalty is due when NJNG receives a notice of the denial of the request, or, if the hearing request is granted, when NJNG withdraws the request or abandons the hearing, or, if the hearing is conducted, when NJNG receives a final decision from the Commissioner in this matter.
27. Payment shall be made by check payable to Treasurer, State of New Jersey and shall be submitted along with the enclosed Enforcement Invoice to:

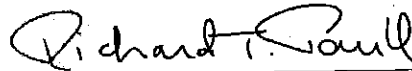
Department of Treasury
Division of Revenue
P.O. Box 417
Trenton, NJ 08646-0417

GENERAL PROVISIONS

28. This NOCAPA is binding on NJNG, their principals, directors, officers, agents, successors, assigns, employees, tenants, any trustee in bankruptcy or other trustee, and any receiver appointed pursuant to a proceeding in law or equity.

29. No obligations imposed by this NOCAPA are intended to constitute a debt which should be limited or discharged in a bankruptcy proceeding. All obligations are imposed pursuant to the police powers of the State of New Jersey, intended to protect the public health, safety, welfare and the environment.
30. This NOCAPA is issued only for the violations identified in the FINDINGS herein above and that violations of any statutes, rules or permits other than those herein cited may be cause for additional enforcement actions, either administrative or judicial, being instituted. By issuing this NOCAPA, NJDEP does not waive its rights to initiate additional enforcement actions.
31. Neither the issuance of this NOCAPA nor anything contained herein shall relieve NJNG of the obligation to comply with all applicable laws, including but not limited to the statutes and regulations cited herein.
32. Pursuant to N.J.A.C. 7:7A-22 any person who violates the provisions of the Act, or any code, rule regulation or order promulgated or issued pursuant thereto, or who fails to pay a civil administrative penalty in full, shall be subject, upon order of the court, to a civil penalty not to exceed \$25,000 per day. Each day during which the violation continues constitutes an additional, separate and distinct offense.
33. Pursuant to N.J.S.A.13:9B-21(f), any person who willingly or negligently violates the provisions of the FWPA, or any code, rule, regulation, administrative order or court order, promulgated or issued pursuant thereto, is guilty of a crime of the fourth degree.

DATE: July 2, 2021



Richard T. Paull, Director
Water and Land Use Enforcement

PENALTY RATIONALE**FRESHWATER WETLANDS PROTECTION ACT (FWPA) VIOLATION OF PERMIT CONDITIONS**

Inspections and investigation, as detailed in the FINDINGS, identify that unauthorized regulated activities have occurred within freshwater wetlands and/or freshwater wetland transition areas.

Pursuant to N.J.S.A. 13:9B-21, each violation of any applicable law and/or condition [of a permit or approval] shall constitute an additional, separate, and distinct violation for which a separate penalty may be assessed. Any amount assessed shall fall within a range established by the regulations, specifically N.J.A.C. 7:7A-22.7 through 10.

2019 INCIDENTS

For each violation, the penalty calculation shall be as follows:

The Department shall determine the applicable daily penalty amount from the Conduct/Seriousness Table below on the basis of the seriousness of the violation and the conduct of the violator.

		SERIOUSNESS		
		MAJOR	MODERATE	MINOR
CONDUCT	MAJOR	\$25,000	\$15,000	\$10,000
	MODERATE	\$15,000	\$7,500	\$5,000
	MINOR	\$10,000	\$5,000	\$1,000

1. Type of violation: Violation of a permit condition: Failure to comply with **Condition #10** of Freshwater Wetland Permit which states that 'any additional disturbance of freshwater wetlands, wetland transition areas, and/or State open waters shall be considered a violation of the Freshwater Wetlands Protection Act unless a permit is obtained prior to the start of the disturbances from the Division of Land Use Regulation'.

2019 Inadvertent Return Events

Date	Amount/Size	Regulated Area
1/29/19	444 gallons	Freshwater Wetlands
2/4/19	80 gallons	Freshwater Wetlands
2/19/19	190 gallons	Freshwater Wetlands

2. Conduct of Respondent(s): conduct shall be classified as major, moderate, or minor as follows:

Major: any intentional, deliberate, purposeful, knowing, or willful act or omission by the violator. The Department presumes all violations of Department permits or authorizations to be knowing violations.

Moderate: any **unintentional but foreseeable act or omission**

Minor: any conduct not identified as major or moderate

The Respondent has been issued a permit to conduct regulated activities on the site. Incumbent in that permit and receipt thereof is a knowledge of the requirements and the obligation to comply with all conditions, requirements, and limitations therein. Inadvertent returns are unintended transfers of drilling mud to the surface by way of fractures or fissures. Therefore, the conduct of the Respondent is considered to be **Moderate**.

3. Seriousness of violation: seriousness shall be classified as major, moderate, or minor as follows:

Major: any violation which has caused or has the potential to cause serious harm to human health, safety, the Freshwater Wetlands Protection Act regulatory program, or the environment, or seriously deviates from the applicable law and/or condition. "Serious deviations" include but are not limited to those violations which are in complete contravention of the law, requirement and/or condition, and/or which severely impair or undermine the protection, operation, or intent of the law, requirement or condition. Violations of "major" seriousness include, but are not limited to, any activities that negatively affect water quality; the clearing, grading, or filling of freshwater wetlands; the clearing grading or filling of transition areas when done in conjunction with such activities in freshwater wetlands; the clearing, grading, filling or disturbance of freshwater wetlands and/or transition areas in excess of that authorized by a permit or plan; the failure to timely record a required conservation restriction or easement and the property has been sold or transferred; the failure to report the presence of a historic resource during construction and/or the destruction of a historic resource without Department approval; the failure to comply with a mitigation requirement; and failure of an applicant or permittee to provide information upon request to determine compliance with any applicable law and/or condition pursuant to N.J.A.C. 7:7A-22.8(e)1.

Moderate: any violation which has caused or has the potential to cause substantial harm to human health, safety, property, the Freshwater Wetlands Protection Act regulatory program or the environment, or substantially deviates from the applicable law and/or condition. "Substantial deviations" shall include, but not be limited to violations which are in substantial contravention of the law, requirement and/or condition, and/or which severely impair or undermine the protection, operation, or intent of the law, requirement and/or condition. The Department will consider a violation, if limited solely to the transition area, to be of moderate seriousness. Violations of "moderate" seriousness also include, but are not limited to, failure to notify the Department of commencement of construction, failure to transfer a permit as required in this chapter, and failure to timely record a conservation restriction or easement and the property has not been sold pursuant to N.J.A.C. 7:7A-22.8(e)2.

Minor: any violation not identified as major or moderate

The inadvertent return events occurred within freshwater wetlands (as identified by NJNG's consultant in subsequent reports) causing a drilling mud mixture to be deposited within freshwater wetlands.

The seriousness of the violations is considered to be **Major**.

The daily penalty amount obtained from applying the conduct and seriousness factors to the Conduct/Seriousness Table Matrix above is calculated as **\$15,000.00**

4. Duration of violation:

Pursuant to N.J.A.C. 7:7A-22.7(c) and 7:7A-22.8(g), each day during which the violation continues constitutes an additional, separate, and distinct offense for which a separate penalty may be assessed.

The Department is using its discretion to assess a penalty for 1 day of violation for each of the three inadvertent return events that occurred in 2019 in violation of Condition #10 of the Freshwater Wetland Permit.

3 days of violation at \$15,000.00 per violation = **\$45,000.00** FWPA Civil Administrative Penalty

FWPA PENALTY CALCULATION FOR VIOLATION OF A FWPA PERMIT CONDITIONS

2020 INCIDENTS

For each violation, the penalty calculation shall be as follows:

The Department shall determine the applicable daily penalty amount from the Conduct/Seriousness Table below on the basis of the seriousness of the violation and the conduct of the violator.

		SERIOUSNESS		
		MAJOR	MODERATE	MINOR
CONDUCT	MAJOR	\$25,000	\$15,000	\$10,000
	MODERATE	\$15,000	\$7,500	\$5,000
	MINOR	\$10,000	\$5,000	\$1,000

1. Type of violation: Violation of permit conditions: Failure to comply with **Condition #10** of Freshwater Wetland Permit which states that 'any additional disturbance of freshwater wetlands, wetland transition areas, and/or State open waters shall be considered a violation of the Freshwater Wetlands Protection Act unless a permit is obtained prior to the start of the disturbances from the Division of Land Use Regulation' AND failure to comply with **Condition #3** of Freshwater Wetland Permit which states that 'in order to protect fishery resources within the streams crossed by the project, any sediment generating activities are prohibited, between May 1 to June 30 for warm water fisheries, and from ice out (disappearance of ice from the surface of a body of water as a result of thawing) to April 30 for streams supporting pickerel.'

2020 Inadvertent Return Events

Date	Amount/Size	Regulated Area
4/9/20-4/15/20	100 gallons	State Open Water
6/16/20	800 linear feet of stream impacted	State Open Water
6/19/20	500 linear feet of stream impacted	State Open Water
6/25/20	Stream impacted/turbid / rod removal	State Open Water

2. Conduct of Respondent(s): conduct shall be classified as major, moderate, or minor as follows:

Major: any intentional, deliberate, purposeful, knowing, or willful act or omission by the violator. The Department presumes all violations of Department permits or authorizations to be knowing violations.

Moderate: any unintentional but foreseeable act or omission

Minor: any conduct not identified as major or moderate

The Respondent has been issued a permit to conduct regulated activities on the site. Incumbent in that permit and receipt thereof is a knowledge of the requirements and the obligation to comply with all conditions, requirements, and limitations therein. Inadvertent returns are unintended transfers of drilling mud to the surface by way of fractures or fissures. Therefore, the conduct of the Respondent is considered to be **Moderate**.

3. Seriousness of violation: seriousness shall be classified as major, moderate, or minor as follows:

Major: any violation which has caused or has the potential to cause serious harm to human health, safety,

the Freshwater Wetlands Protection Act regulatory program, or the environment, or seriously deviates from the applicable law and/or condition. "Serious deviations" include but are not limited to those violations which are in complete contravention of the law, requirement and/or condition, and/or which severely impair or undermine the protection, operation, or intent of the law, requirement or condition. Violations of "major" seriousness include, but are not limited to, any activities that negatively affect water quality; the clearing, grading, or filling of freshwater wetlands; the clearing grading or filling of transition areas when done in conjunction with such activities in freshwater wetlands; the clearing, grading, filling or disturbance of freshwater wetlands and/or transition areas in excess of that authorized by a permit or plan; the failure to timely record a required conservation restriction or easement and the property has been sold or transferred; the failure to report the presence of a historic resource during construction and/or the destruction of a historic resource without Department approval; the failure to comply with a mitigation requirement; and failure of an applicant or permittee to provide information upon request to determine compliance with any applicable law and/or condition pursuant to N.J.A.C. 7:7A-22.8(e)1.

Moderate: any violation which has caused or has the potential to cause substantial harm to human health, safety, property, the Freshwater Wetlands Protection Act regulatory program or the environment, or substantially deviates from the applicable law and/or condition. "Substantial deviations" shall include, but not be limited to violations which are in substantial contravention of the law, requirement and/or condition, and/or which severely impair or undermine the protection, operation, or intent of the law, requirement and/or condition. The Department will consider a violation, if limited solely to the transition area, to be of moderate seriousness. Violations of "moderate" seriousness also include, but are not limited to, failure to notify the Department of commencement of construction, failure to transfer a permit as required in this chapter, and failure to timely record a conservation restriction or easement and the property has not been sold pursuant to N.J.A.C. 7:7A-22.8(e)2.

Minor: any violation not identified as major or moderate

The inadvertent return events occurred in and adjacent to a Deep Run tributary causing a drilling mixture to enter a State open water which negatively affected water quality.

The seriousness of the violations is considered to be **Major**.

The daily penalty amount obtained from applying the conduct and seriousness factors to the Conduct/Seriousness Table Matrix above is calculated as **\$15,000.00**

4. Duration of violation:

Pursuant to N.J.A.C. 7:7A-22.7(c) and 7:7A-22.8(g), each day during which the violation continues constitutes an additional, separate, and distinct offense for which a separate penalty may be assessed.

The Department is using its discretion to assess a penalty for 1 day of violation for each of the three inadvertent return events that occurred in 2020 in violation of Condition #3 of the Freshwater Wetland Permit and 1 day of violation for each of the four inadvertent return events that occurred 2020 in violation of Condition #10 of the Freshwater Wetland Permit.

7 days of violation at **\$15,000.00** per violation = **\$105,000.00** FWPA Civil Administrative Penalty

FWPA PENALTY CALCULATION FOR VIOLATION OF A FWPA PERMIT CONDITIONS

2021 INCIDENTS

For each violation, the penalty calculation shall be as follows:

The Department shall determine the applicable daily penalty amount from the Conduct/Seriousness Table below on the basis of the seriousness of the violation and the conduct of the violator.

		SERIOUSNESS		
		MAJOR	MODERATE	MINOR
CONDUCT	MAJOR	\$25,000	\$15,000	\$10,000
	MODERATE	\$15,000	\$7,500	\$5,000
	MINOR	\$10,000	\$5,000	\$1,000

1. Type of violation: Violation of a permit condition: Failure to comply with **Condition #10** of Freshwater Wetland Permit which states that 'any additional disturbance of freshwater wetlands, wetland transition areas, and/or State open waters shall be considered a violation of the Freshwater Wetlands Protection Act unless a permit is obtained prior to the start of the disturbances from the Division of Land Use Regulation'.

2021 Inadvertent Return Events		
Date	Amount/Size	Regulated Area
3/17/21	100 gallons	Freshwater Wetland Transition Area
3/20/21	50 gallons	Freshwater Wetlands Transition Area

2. Conduct of Respondent(s): conduct shall be classified as major, moderate or minor as follows:

Major: any intentional, deliberate, purposeful, knowing, or willful act or omission by the violator. The Department presumes all violations of Department permits or authorizations to be knowing violations.

Moderate: any unintentional but foreseeable act or omission

Minor: any conduct not identified as major or moderate

The Respondent has been issued a permit to conduct regulated activities on the site. Incumbent in that permit and receipt thereof is a knowledge of the requirements and the obligation to comply with all conditions, requirements, and limitations therein. Inadvertent returns are unintended transfers of drilling mud to the surface by way of fractures or fissures. Therefore, the conduct of the Respondent is considered to be **Moderate**.

3. Seriousness of violation: seriousness shall be classified as major, moderate, or minor as follows:

Major: any violation which has caused or has the potential to cause serious harm to human health, safety, the Freshwater Wetlands Protection Act regulatory program, or the environment, or seriously deviates from the applicable law and/or condition. "Serious deviations" include but are not limited to those violations which are in complete contravention of the law, requirement and/or condition, and/or which severely impair or undermine the protection, operation, or intent of the law, requirement or condition. Violations of "major" seriousness include, but are not limited to, any activities that negatively affect water quality; the clearing, grading, or filling of freshwater wetlands; the clearing grading or filling of transition areas when done in conjunction with such

activities in freshwater wetlands; the clearing, grading, filling or disturbance of freshwater wetlands and/or transition areas in excess of that authorized by a permit or plan; the failure to timely record a required conservation restriction or easement and the property has been sold or transferred; the failure to report the presence of a historic resource during construction and/or the destruction of a historic resource without Department approval; the failure to comply with a mitigation requirement; and failure of an applicant or permittee to provide information upon request to determine compliance with any applicable law and/or condition pursuant to N.J.A.C. 7:7A-22.8(e)1.

Moderate: any violation which has caused or has the potential to cause substantial harm to human health, safety, property, the Freshwater Wetlands Protection Act regulatory program or the environment, or substantially deviates from the applicable law and/or condition. "Substantial deviations" shall include, but not be limited to violations which are in substantial contravention of the law, requirement and/or condition, and/or which severely impair or undermine the protection, operation, or intent of the law, requirement and/or condition. The Department will consider a violation, if limited solely to the transition area, to be of moderate seriousness. Violations of "moderate" seriousness also include, but are not limited to, failure to notify the Department of commencement of construction, failure to transfer a permit as required in this chapter, and failure to timely record a conservation restriction or easement and the property has not been sold pursuant to N.J.A.C. 7:7A-22.8(e)2.

Minor: any violation not identified as major or moderate

The inadvertent return events occurred within freshwater wetland transition area causing a drilling mud mixture to be deposited within freshwater wetland transition area.

The seriousness of the violations is considered to be **Moderate**.

The daily penalty amount obtained from applying the conduct and seriousness factors to the Conduct/Seriousness Table Matrix above is calculated as **\$7,500.00**

4. Duration of violation:

Pursuant to N.J.A.C. 7:7A-22.7(c) and 7:7A-22.8(g), each day during which the violation continues constitutes an additional, separate, and distinct offense for which a separate penalty may be assessed.

The Department is using its discretion to assess a penalty for 1 day of violation for each of the two inadvertent return events that occurred in 2021 in violation of permit Condition #10 of the Freshwater Wetland Permit.

2 days of violation at \$7500.00 per violation = **\$15,000.00** FWPA Civil Administrative Penalty

TOTAL CIVIL ADMINISTRATIVE PENALTY FOR 2019, 2020 AND 2021 VIOLATIONS

The total FWPA civil administrative penalty for this AONOCAPA shall be:

$$(2019) \$45,000 + (2020) \$105,000 + (2021) \$15,000 = \mathbf{\$165,000.00}$$

Administrative Hearing Request Checklist and Tracking Form

I. Document Being Appealed: **EA ID #** PEA200002 – ID# 0000-15-0007.1

II. Person Requesting Hearing (Each Respondent named in the Enforcement Document, who wants to Contest the Enforcement Document must individually file a hearing request):

Name/Company	Date Document Issued
Address	Name of Attorney (if applicable)
Telephone #	Address
Telephone #	Telephone #

III. Please Include the Following Information As Part of Your Request:

- A. The date the alleged violator received the Enforcement Document.
- B. **A copy of the Enforcement Document** and a list of all issues being appealed.
- C. An admission or denial of each of the findings of fact, or a statement of insufficient knowledge;
- D. The defenses to each of the findings of fact in the enforcement document;
- E. Information supporting the request;
- F. An estimate of the time required for the hearing;
- G. A request, if necessary, for a barrier-free hearing location for physically disabled persons;
- H. A clear indication of any willingness to negotiate a settlement with the Department prior to the Department's processing of your hearing request to the Office of Administrative Law; and
- I. This form, completed, signed and dated with all of the information listed above, including attachment, to:

1. New Jersey Department of Environmental Protection
Office of Legal Affairs
Attention: Adjudicatory Hearing Requests
401 E. State Street, P.O. Box 402
Trenton, New Jersey 08625
2. Barbara E. Baus, Section Chief
Bureau of Coastal and Land Use Compliance and Enforcement
401 East State Street
PO Box 420 Mail Code 401 -04C
Trenton, New Jersey 08625-0420

IV. Signature: _____

Date: _____

Attachment A

New Jersey Department of Environmental Protection

Invoice NO.
210912730

Enforcement - Freshwater Wetlands

Program Interest NJ NATURAL GAS MULTIPLE LOCATIONS Chesterfield, NJ 00000 0000-15-0007.1	Type of Notice		Amount Due
	Original (Non-Initial)		\$165,000.00
	Billing Date	Due Date	NJEMS Bill ID
	7/1/2021	8/10/2021	000000225503000

SUMMARY	
Total Amount Assessed	\$165,000.00
Amount Received Before Installment Plan (If installment plan is allowed)	\$0.00
Amount Transferred to Installment Plan	\$0.00
Installment Amount	\$0.00
Total Amount Credited	\$0.00
Total Amount Debited (Other Than Amounts Assessed)	\$165,000.00
Total Amount Due	

Cut Here

New Jersey Department of Environmental Protection

Invoice NO.
210912730

Enforcement - Freshwater Wetlands

Program Interest ID 0000-15-0007.1	Type of Notice		Billing Date	Due Date	Amount Due
	Original (Non-Initial)		7/1/2021	8/10/2021	\$165,000.00
					NJEMS Bill ID 000000225503000

For name and/or address change, check box and write corrections on the back of this invoice

RETURN THIS PORTION

Enter the amount of your payment -->

\$

With your check made payable to:

TREASURER - STATE OF NEW JERSEY

and mail to:

NJ NATURAL GAS CO
ATTN:
PO BOX 1468 - 1415 WYCKOFF RD
Wall, NJ 07719

NJ DEPARTMENT OF TREASURY
DIVISION OF REVENUE
PO BOX 417
TRENTON, NJ 08646-0417