

## COMMENT IDEAS

### Regulations & Quotes Supporting Denial of Permits by NJDEP

#### The NESE Project does not meet the requirements of the Freshwater Wetlands Protection Act Rules' Standard requirements for all individual permits in N.J.A.C. 7:7A-10.2(b)

(b) The Department shall issue an individual freshwater wetlands or open water fill permit only if the regulated activity:

1. Has no practicable alternative which would meet the requirements at (b)1i and ii below:

i. The alternative would have a less adverse impact on the aquatic ecosystem or would not involve a freshwater wetland or State open water; and

ii. The alternative would not have other significant adverse environmental consequences, that is, it shall not merely substitute other significant environmental consequences for those attendant on the original proposal;

12. Is in the public interest, as determined by the Department in consideration of the following:

i. The public interest in preservation of natural resources and the interest of the property owners in reasonable economic development. In determining whether a proposed activity is in the public interest, the Department shall consider, as one source of guidance, the goals, strategies, policy objectives and policies of the New Jersey State Development and Redevelopment Plan, adopted and/or readopted by the State Planning Commission pursuant to the New Jersey State Planning Act, N.J.S.A. 52:18A-196 et seq., and the State Planning Act rules, N.J.A.C. 5:85;

ii. The relative extent of the public and private need for the proposed regulated activity;

iii. Where there are unresolved conflicts as to resource use, the practicability of using reasonable alternative locations and methods, to accomplish the purpose of the proposed regulated activity;

iv. The extent and permanence of the beneficial or detrimental effects which the proposed regulated activity may have on the public and private uses for which the property is suited;

v. The quality and resource value classification pursuant to N.J.A.C. 7:7A-3.3 of the wetland, which may be affected and the amount of freshwater wetlands to be disturbed;

vi. The economic value, both public and private, of the proposed regulated activity to the general area; and

vii. The functions and values provided by the freshwater wetlands and probable individual and cumulative impacts of the regulated activity on public health and fish and wildlife

Of note, in **the suit filed against E.I. DuPont DeNemours & Co. by the State of New Jersey on 03/27/19 for the Parlin site**, it was written that:

- The State has the ability “through the Department, to protect, conserve and manage the natural resources of the State, which are by law precious and invaluable public resources held by the State in trust for the benefit of the public; and the rights of the people of the State to enjoy their natural resources free from interference by pollution and contamination.” (#208, pages 61-62)
- “The use, enjoyment, and existence of uncontaminated natural resources is a right common to the general public.” (#207, page 61)
- “As the trustee over the State’s natural resources, the State has a duty to protect and restore all natural resources of the State and protect the health and comfort of its inhabitants.” (#216, page 64)

**Accessed from:** [https://www.nj.gov/oag/newsreleases19/Parlin\\_Filed-Complaint\\_and\\_Jury-Demand.pdf](https://www.nj.gov/oag/newsreleases19/Parlin_Filed-Complaint_and_Jury-Demand.pdf)

“Watersheds span state borders, and so do the negative impacts of inappropriate development in wetlands,” said Diane Dow, director of the Division of Land Use at the New Jersey Department of Environmental Protection in an attachment to the comments from the attorneys general.

“Protecting and restoring wetlands is an essential component in mitigating the effects of flooding in the state,” Dow added. From 1993 until April 2010, New Jersey experienced 1,241 floods, causing \$1.25 billion in property damage and 14 deaths, she said.

**Source:** <https://www.njspotlight.com/stories/19/04/17/nj-joins-other-states-to-block-trump-attack-on-clean-water-act/>