

RESOLUTION NO. 2021 – 98

RESOLUTION OF THE TOWNSHIP OF LITTLE EGG HARBOR, COUNTY OF OCEAN, STATE OF NEW JERSEY, AUTHORIZING THE EXECUTION OF AN INDEMNIFICATION AND HOLD HARMLESS AGREEMENT, AND EXECUTION OF A GENERAL PERMIT 24 CAFRA APPLICATION, AS TO BLOCK 326.216, LOTS 22 AND 23.01

WHEREAS, David and Janet Fuller (hereinafter “Fullers”) are the owners of property located at 43 Louisiana Drive, Little Egg Harbor, also known as Block 326.216, Lot 23.01, on the Tax Map of the Township of Little Egg Harbor; and

WHEREAS, Michael & Jennie Shatynski (hereinafter “Shatynskis”) are the owners of property located 41 Louisiana Drive, Little Egg Harbor, also known as Block 326.216, Lot 22, on the Tax Map of the Township of Little Egg Harbor; and

WHEREAS, a ten foot (10’) wide drainage easement lies in and along the premises at Block 326.216, Lot 23.01 and Lot 22, in favor of the Township of Little Egg Harbor as Grantee; and

WHEREAS, the Fullers and the Shatynskis, jointly, wish to apply for a General Permit 24 from the New Jersey Department of Environmental Protection, Coastal Area Facility Review Act (CAFRA), for bank stabilization and wetland enhancement on the lagoon side of their respective properties; and

WHEREAS, the Township agrees to execute the General Permit 24 application, as owner and grantee of the drainage easement which lies across Block 326.216, Lot 22 and Lot 23.01, contingent upon the execution of the within hold harmless and indemnification agreement by the Fullers and the Shatynkis.

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Rothstein, Mandell, Strohm,
Halm & Cipriani, P.A.
ATTORNEYS AT LAW

150 Airport Road
Suite 600
Lakewood, NJ 08701

o: 732.363.0777
f: 732.905.6555

NOW, THEREFORE, BE IT RESOLVED, by the governing body of the Township of Little Egg Harbor, County of Ocean, State of New Jersey as follows:

1. That the governing body, as owner of a drainage easement on Block 326.16, Lot 22 and Lot 23.01, hereby authorizes the execution of a CAFRA General Permit 24 Application for bank stabilization and wetland enhancement made by David and Janet Fuller, and Michael and Jennie Shatynski, contingent upon the execution by the Fullers and Shatynskis of an Indemnification and Hold Harmless Agreement attached hereto as Schedule A.

2. That the governing body is hereby further authorized to execute the Indemnification and Hold Harmless Agreement with David and Janet Fuller and Michael and Jennie Shatynski as to the drainage easement on the premises of Block 326.16, Lot 22 and Lot 23.01, attached hereto as Schedule B.

3. That the Mayor is hereby authorized to execute and the Township Clerk to attest, CAFRA General Permit 24 Application for bank stabilization and wetland enhancement made by David and Janet Fuller, and Michael and Jennie Shatynski, and the Indemnification and Hold Harmless Agreement with David and Janet Fuller and Michael and Jennie Shatynski, as to the drainage easement on the premises of Block 326.16, Lot 22 and Lot 23.01.

4. That a certified copy of this resolution shall be forwarded to the Interim Administrator, David and Janet Fuller, and Michael and Jennie Shatynski.

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CERTIFICATION

I, **SUSAN M. FARRELL, RMC**, Deputy Municipal Clerk of the Township of Little Egg Harbor do hereby certify that the foregoing resolution was duly adopted by the Township of Little Egg Harbor Township Committee at a meeting held on this **8th** day of **April, 2021**.

Susan M. Farrell, RMC

Susan M. Farrell, Deputy Township Clerk
Little Egg Harbor Township

MSA

rmshc

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Halm & Cipriani, P.A.
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State of New Jersey
Department of Environmental Protection
 Division of Land Use Regulation
Application Form for Permit(s)/Authorization(s)
 501 E. State Street Mail Code 601-02A P.O. Box 420
 Trenton, NJ 08625-0420
 Phone #: (609) 777-0454 Web: www.nj.gov/dep/landuse



Please print legibly or type the following: Complete all sections and pages unless otherwise noted. Is this project a NJDOT Priority 1 Repair Project? Yes No
 Is this project a NJDOT Priority 2 Repair Project? Yes No

1. Applicant Name: Mr./Ms./Mrs. David Fuller E-Mail: david.i.fuller@comcast.net
 Address: 43 Louisiana Drive Daytime Phone: (609)-314-5909 Ext. _____
 City/State: Little Egg Harbor Township, NJ Zip Code 08087 Cell Phone: _____

2. Agent Name: Mr./Ms./Mrs. Stephen Griffith E-Mail: sgriffith@thehylandgroupnj.com
 Firm Name: The Hyland Group Daytime Phone: 609-398-4477 Ext. _____
 Address: 701 West Avenue, Suite 301 Zip Code 08226 Cell Phone: _____
 City/State: Ocean City, NJ

3. Property Owner: Mr./Ms./Mrs. Same as Applicant E-mail: _____
 Address: _____ Daytime Phone: _____ Ext. _____
 City/State: _____ Zip Code _____ Cell Phone: _____

4. Project Name: Bank Stabilization and Wetland Enhancement Address/Location: 41 & 43 Louisiana Drive
 Municipality: Township of Little Egg Harbor County: Ocean Zip Code 08087
 Block(s): 326.216 Lot(s): 22 & 23.01
 N.A.D. 1983 State Plane Coordinates (feet) E (x): 525452 N(y): 258918 *Not Longitude/Latitude*
 Watershed: Great Bay Subwatershed: 14AD
 Nearest Waterway: Bogan's Cove

5. Project Description: The application involves a General Permit No. 24 for the the proposed bank stabilization and wetland enhancement.

Provide if applicable: Previous LUR File # (s): _____ Waiver request ID # (s): _____

A. SIGNATURE OF APPLICANT (required):

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining and preparing the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for knowingly submitting false information, including the possibility of fine and imprisonment. If the applicant is an organization such as a corporation, municipal entity, home-owners association etc., the party responsible for the application shall sign on behalf of the organization.

David Fuller
 Signature of Applicant
11/10/20
 Date
David Fuller
 Print Name

 Signature of Applicant

 Date

 Print Name

PROPERTY OWNER'S CERTIFICATION

I hereby certify that the undersigned is the owner of the property upon which the proposed work is to be done. This endorsement is certification that the owner/easement holder grants permission for the conduct of the proposed activity. In addition, written consent is hereby given to allow access to the site by representatives or agents of the Department for the purpose of conducting a site inspection(s) or survey(s) of the property in question.

In addition, the undersigned property owner hereby certifies:

- 1. Whether any work is to be done within an easement? Yes No
(If answer is "Yes" – Signature/title of responsible party is required below)
- 2. Whether any part of the entire project will be located within property belonging to the State of New Jersey? Yes No
- 3. Whether any work is to be done on any property owned by any public agency that would be encumbered by Green Acres? Yes No
- 4. Whether this project requires a Section 106 (National Register of Historic Places) Determination as part of a federal approval? Yes No

David Fuller
Signature of Owner

Date

David Fuller
Print Name

[Signature]
Signature of Owner/Easement Holder

4-14-21
Date

MAJOR
Print Name/Title

C. APPLICANT'S AGENT

I David Fuller, the Applicant/Owner and _____, co-Applicant/Owner authorize to act as my agent/representative in all matters pertaining to my application the following person:

Stephen Griffith
Name of Agent

Principal; Senior Environmental Specialist
Occupation/Profession of Agent

[Signature]
Signature of Applicant/Owner

Signature of co-Applicant/Owner

AGENT'S CERTIFICATION:

I agree to serve as agent for the above-referenced applicant:

Signature of Agent

The Hyland Group
Name of Firm

D. STATEMENT OF PREPARER OF PLANS, SPECIFICATIONS, SURVEYOR'S OR ENGINEER'S REPORT

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining and preparing the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for knowingly submitting false information, including the possibility of fine and imprisonment.

Signature

John E. Halbruner, P.E.
Print Name

Principal Engineer, THG
Position & Name of Firm

24GE04291800
Professional License #

Date

E. STATEMENT OF PREPARER OF APPLICATION, REPORTS AND/OR SUPPORTING DOCUMENTS (other than engineering)

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining and preparing the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for knowingly submitting false information, including the possibility of fine and imprisonment.

Signature

Print Name

Position & Name of Firm

Professional License #
(If Applicable)

Date



State of New Jersey
Department of Environmental Protection
 Division of Land Use Regulation
Application Form for Permit(s)/Authorization(s)
 501 E. State Street Mall Code 501-02A P.O. Box 420
 Trenton, NJ 08625-0420
 Phone #: (609) 777-0454 Web: www.nj.gov/dep/landuse



Please print legibly or type the following: Complete all sections and pages unless otherwise noted. Is this project a NJDOT Priority 1 Repair Project? Yes No
 Is this project a NJDOT Priority 2 Repair Project? Yes No

1. Applicant Name: Mr./Ms./Mrs. Michael & Jennie Shatynski E-Mail: mike.shatynski@solvay.com
 Address: 9 Keen Lane Daytime Phone: (732)-718-2283 Ext. _____
 City/State: Edison, NJ Zip Code 08820 Cell Phone: _____

2. Agent Name: Mr./Ms./Mrs. Stephen Griffith E-Mail: sgriffith@thchylandgroupnj.com
 Firm Name: The Hyland Group Daytime Phone: 609-398-4477 Ext. _____
 Address: 701 West Avenue, Suite 301 Zip Code 08226 Cell Phone: _____
 City/State: Ocean City, NJ

3. Property Owner: Mr./Ms./Mrs. Same as Applicant E-mail: _____
 Address: _____ Daytime Phone: _____ Ext. _____
 City/State: _____ Zip Code _____ Cell Phone: _____

4. Project Name: Bank Stabilization and Wetland Enhancement Address/Location: 41 & 43 Louisiana Drive
 Municipality: Township of Little Egg Harbor County: Ocean Zip Code 08087
 Block(s): 326.216 Lot(s): 22 & 23.01
 N.A.D. 1983 State Plane Coordinates (feet) E (x): 525373 N(y): 258967 Not Longitude/Latitude
 Watershed: Great Bay Subwatershed: 14AD
 Nearest Waterway: Bogan's Cove

5. Project Description: The application involves a General Permit No. 24 for the the proposed bank stabilization and wetland enhancement.

Provide if applicable: Previous LUR File # (s): _____ Waiver request ID # (s): _____

A. SIGNATURE OF APPLICANT (required):

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining and preparing the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for knowingly submitting false information, including the possibility of fine and imprisonment. If the applicant is an organization such as a corporation, municipal entity, home-owners association etc., the party responsible for the application shall sign on behalf of the organization.

Michael Shatynski
 Signature of Applicant
11/12/20
 Date
Michael Shatynski
 Print Name

Jennie Shatynski
 Signature of Applicant
11/12/20
 Date
Jennie Shatynski
 Print Name

PROPERTY OWNER'S CERTIFICATION

I hereby certify that the undersigned is the owner of the property upon which the proposed work is to be done. This endorsement is certification that the owner/easement holder grants permission for the conduct of the proposed activity. In addition, written consent is hereby given to allow access to the site by representatives or agents of the Department for the purpose of conducting a site inspection(s) or survey(s) of the property in question.

In addition, the undersigned property owner hereby certifies:

- 1. Whether any work is to be done within an easement? Yes No
(If answer is "Yes" -- Signature/title of responsible party is required below)
- 2. Whether any part of the entire project will be located within property belonging to the State of New Jersey? Yes No
- 3. Whether any work is to be done on any property owned by any public agency that would be encumbered by Green Acres? Yes No
- 4. Whether this project requires a Section 106 (National Register of Historic Places) Determination as part of a federal approval? Yes No

Michael Shatynski
 Signature of Owner
11/12/20
 Date
Michael Shatynski
 Print Name

[Signature]
 Signature of Owner/Easement Holder
4-14-21
 Date
Mayor
 Print Name/Title

C. APPLICANT'S AGENT

I Michael Shatynski, the Applicant/Owner and Jennie Shatynski, co-Applicant/Owner authorize to act as my agent/representative in all matters pertaining to my application the following person:

Stephen Griffith
 Name of Agent
Principal; Senior Environmental Specialist
 Occupation/Profession of Agent

Michael Shatynski
 Signature of Applicant/Owner
Jennie Shatynski
 Signature of co-Applicant/Owner

AGENT'S CERTIFICATION:

I agree to serve as agent for the above referenced applicant:

[Signature]
 Signature of Agent

The Hyland Group
 Name of Firm

D. STATEMENT OF PREPARER OF PLANS, SPECIFICATIONS, SURVEYOR'S OR ENGINEER'S REPORT

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining and preparing the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for knowingly submitting false information, including the possibility of fine and imprisonment.

[Signature]
 Signature
John E. Halbruner, P.E.
 Print Name
Principal Engineer, THG
 Position & Name of Firm
24GE04291800
 Professional License # 2/9/21
 Date

E. STATEMENT OF PREPARER OF APPLICATION, REPORTS AND/OR SUPPORTING DOCUMENTS (other than engineering)

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining and preparing the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for knowingly submitting false information, including the possibility of fine and imprisonment.

 Signature

 Print Name

 Position & Name of Firm

 Professional License # _____ Date _____
 (If Applicable)

INDEMNIFICATION and HOLD HARMLESS AGREEMENT

WHEREAS, David and Janet Fuller (hereinafter "Fullers") are the owners of property located at 43 Louisiana Drive, Little Egg Harbor, also known as Block 326.216, Lot 23.01, on the Tax Map of the Township of Little Egg Harbor; and

WHEREAS, Michael & Jennie Shatynski (hereinafter "Shatynskis") are the owners of property located 41 Louisiana Drive, Little Egg Harbor, also known as Block 326.216, Lot 22, on the Tax Map of the Township of Little Egg Harbor; and

WHEREAS, a ten foot (10') wide drainage easement lies in and along the premises at Block 326.216, Lot 23.01 and Lot 22, in favor of the Township of Little Egg Harbor as Grantee; and

WHEREAS, the Fullers and the Shatynskis, jointly, wish to apply for a General Permit 24 from the New Jersey Department of Environmental Protection, Coastal Area Facility Review Act (CAFRA), for a Bank Stabilization and Wetland Enhancement project (See "Exhibit A") on the lagoon side of their respective properties, that is the subject of the CAFRA General Permit 24 application (the "Project"); and

WHEREAS, the Township agrees to execute the General Permit 24 application, as owner and grantee of the drainage easement which lies across Block 326.216, Lot 22 and Lot 23.01, contingent upon the execution of the within hold harmless and indemnification agreement by the Fullers and the Shatynskis.

WITNESSETH:

THIS AGREEMENT made this 8th day of April, 2021, by and amongst the **TOWNSHIP OF LITTLE EGG HARBOR**, a municipal corporation of the State of New Jersey, having its principal offices located at 665 Radio Road, Little Egg Harbor, New Jersey, 08087, hereinafter referred to as "Township," and **DAVID AND JANET FULLER** (hereinafter "Fullers"), the owners of property located at 43 Louisiana

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Drive, Little Egg Harbor, New Jersey (Block 326.216, Lot 23.01) and **MICHAEL & JENNIE SHATYNSKI** (hereinafter "Shatynskis"), the owners of property located 41 Louisiana Drive, Little Egg Harbor, New Jersey (Block 326.216, Lot 22).

1. **INDEMNIFICATION.**

- A. To the fullest extent allowable by law, each party shall, for itself, its successors, and assigns, hold harmless, indemnify, defend, protect, and release the other and their officials, officers, employees, agents, and successors and assigns from and against all suits, causes of action, demands, complaints, liabilities, penalties, costs, losses, damages, judgments, expenses or claims, including reasonable attorney's fees, in any form, arising from the gross negligence or willful misconduct of that party or officials, officers, employees, agents, successors or assigns.

- B. The Fullers and Shatynskis agree that any contract with contractors, subcontractors, and consultants shall require such contractors, subcontractors, and consultants to defend, indemnify, protect, and save harmless the Township and release the Township and their officials and employees from and against any suits, claims, demands, or damages of whatever kind or nature arising out of or claimed to arise out of in whole or in part any negligent act, error, or omission of the contractor, subcontractor, consultant, or their agents, subcontractors, servants, and employees in the performance of any work or professional services on the Project or for the benefit of the Project.

- C. Township, the Fullers and the Shatynskis, shall, as soon as practicable after a claim has been made against any of them, give written notice thereof to the others, along with full and complete particulars of the claim. If the suit is brought against Township, the Fullers and/or the Shatynskis, or any of

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their agents, servants, or employees, the parties shall expeditiously forward or have forwarded to the other every demand, complaint, notice, summons, pleading, or other process received by or then in their possession or the possession of its representatives.

D. All claims asserted against the Township shall be subject to the New Jersey Tort Claims Act, N.J.S.A. 59:1-1 et seq., and/or the New Jersey Contractual Liability Act, N.J.S.A. 59:13-1 et seq.

2. Both the Fullers and the Shatynskis agree that the drainage easement and associated drainage installations located therein shall be completely restored to the same condition as it was prior to the Project.
3. Both the Fullers and the Shatynskis represent that no permanent structures are to be installed within the drainage easement in accordance with Section 15-11.11 of the Township Code.
4. The Fullers and the Shatynskis agree that all work conducted on the properties for the Project shall be in performed in accordance with all applicable laws and regulations.
5. This Agreement shall become effective upon full execution by all parties and shall continue until the expiration of any applicable statutes of limitation as pertains to Paragraph 1 above.
6. This Agreement shall not be assigned by a party hereto without the prior written consent of all other parties.
7. All of the terms, conditions, and covenants to be observed and performed by the Parties shall be applicable to and binding upon their several successors and assigns, as the case may be.

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8. All agreements and covenants contained herein are severable, and in the event any of them shall be held to be invalid by any competent court, this Agreement shall be interpreted as if such invalid agreements or covenants were not contained herein. Should one or more covenants or conditions be waived by a party, such waiver shall not be deemed to waive or render unnecessary the consent or approval of the waiving party to or of any subsequent similar act by any other party to this Agreement.
9. This Agreement shall be governed by and interpreted in accordance with the laws of the State of New Jersey and any legal actions filed shall be filed in the courts of the State of New Jersey.
10. This Agreement contains all the terms and conditions agreed upon by the Parties and supersedes all other negotiations, representations, and understandings of the Parties, oral or otherwise, regarding the subject matter.
11. This Agreement may be amended only by an instrument in writing signed by the parties and effective as of the date stipulated therein.

12. Attachments:

EXHIBIT A – Coastal Area Facility Review Act General Permit 24
Application to the State, Department of Environmental Protection, for
Bank Stabilization and Wetland Enhancement

13. By the signatures below, the parties execute this Agreement and confirm that they are mutually bound by and fully authorized and empowered to enter into and bind their person or entity, as applicable, by all provisions contained herein.

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Halm & Cipriani, P.A.
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Lakewood, NJ 08701

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement.

WITNESS & ATTEST:

TOWNSHIP OF
LITTLE EGG HARBOR

Susan M. Farrell

DIANA K. MCCRACKEN, RMC

Susan M. Farrell, RMC
Township Clerk-Deputy
(Seal)

By

[Signature]
JOHN KEHM, Mayor

By

[Signature]
DAVID FULLER

By

[Signature]
JANET FULLER

By

[Signature]
MICHAEL SHATYNSKI

By

[Signature]
JENNIE SHATYNSKI

r|m|s|h|c

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