

THE RIPARIAN ZONE

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Division of Land Use Regulation

New Jersey Department of Environmental Protection

FHA Jurisdiction

N.J.A.C. 7:13-2.2

- There are **two** distinct and overlapping areas of jurisdiction:
 - The **flood hazard area**
 - The **riparian zone**

Purpose and Scope

- To minimize damage to life and property from flooding caused by development within the FHA, to preserve the quality of surface waters, and to protect the wildlife and **VEGETATION** that exist and depend upon such areas for sustenance and habitat.



Riparian Zone

All waters in New Jersey are regulated except for the following:

- Any manmade canal, i.e., Delaware Canal & Raritan Canal
- Any coastal wetland regulated under the Wetlands Act of 1970
- Any segment of water that drains less than 50 acres, which has no discernible channel, and/or is within a lawfully existing manmade conveyance structure, and/or is not connected to a regulated water by a channel or pipe

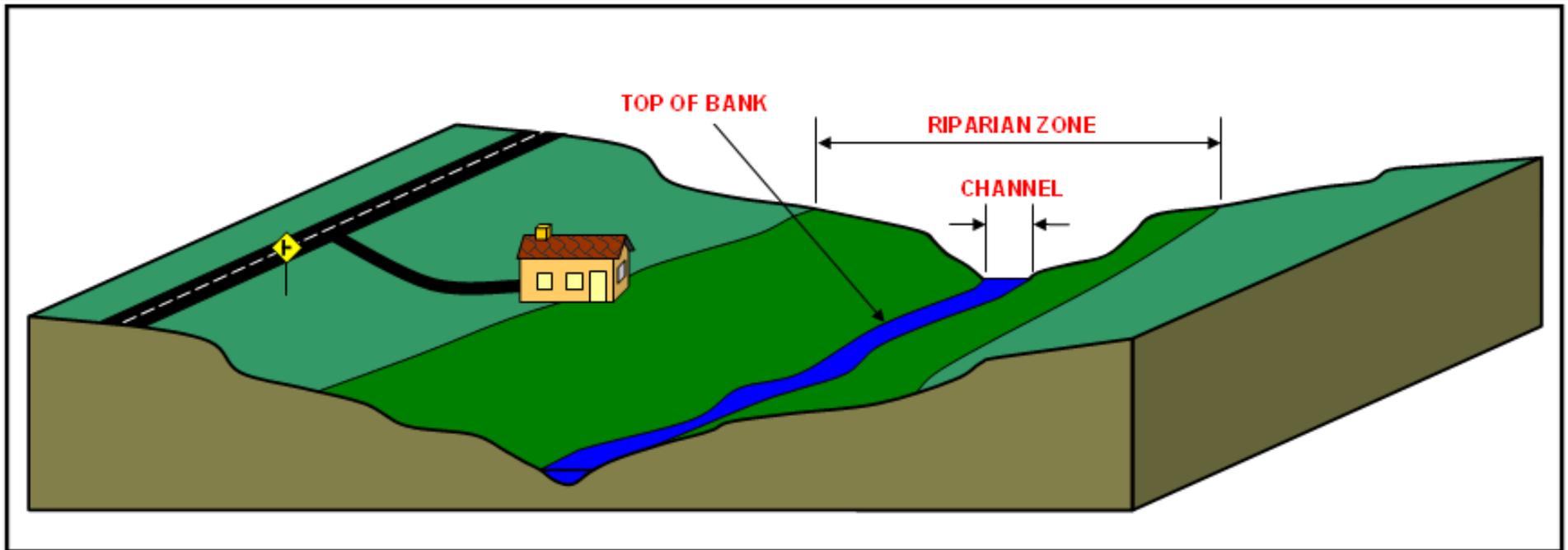
Riparian Zone

A RIPARIAN ZONE EXISTS ALONG ALL REGULATED WATERS EXCEPT:

- **The Atlantic Ocean**
- **Manmade lagoons**
- **Stormwater management basins**
- **Any oceanfront barrier island, spit or peninsula**
- **Any lawfully-piped section of an otherwise regulated water (As noted previously, this is not listed in the rules)**

Riparian Zone

- Measures 50, 150, or 300 ft along both sides of a regulated water

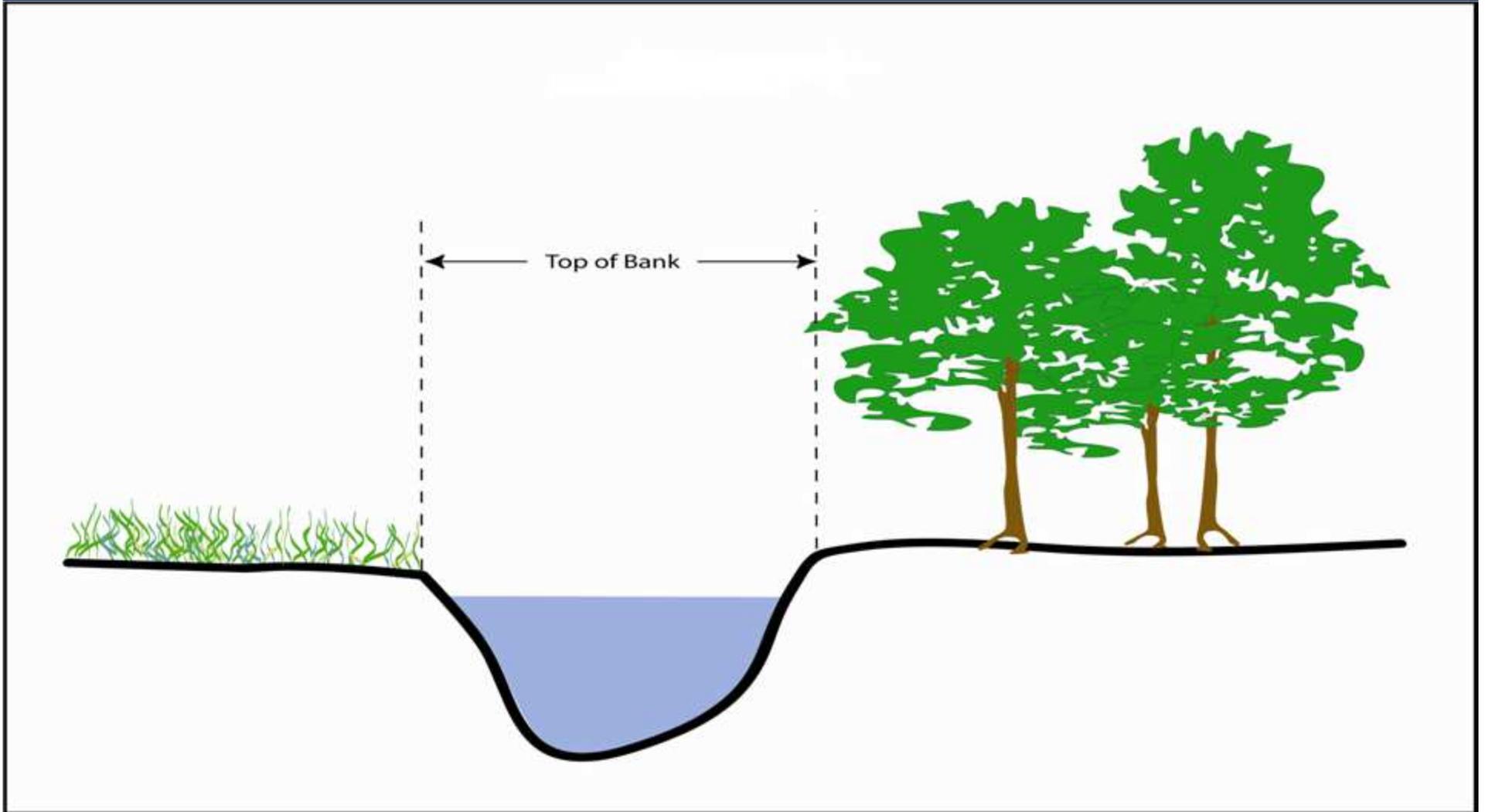


Riparian Zone

- To determine the limits of the riparian zone, you need to know where to measure it from
- It is generally measured **outward** from the **top of bank** along a **regulated water**

Riparian Zone

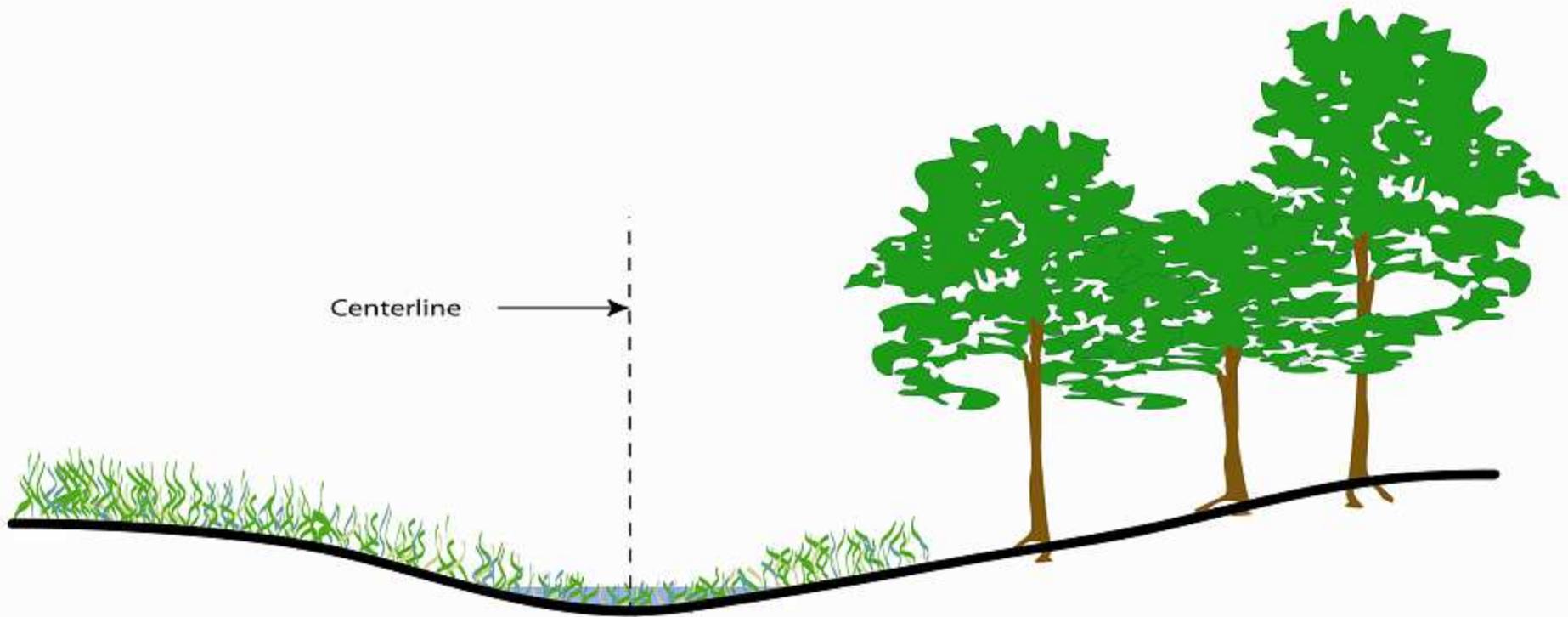
If a bank is present





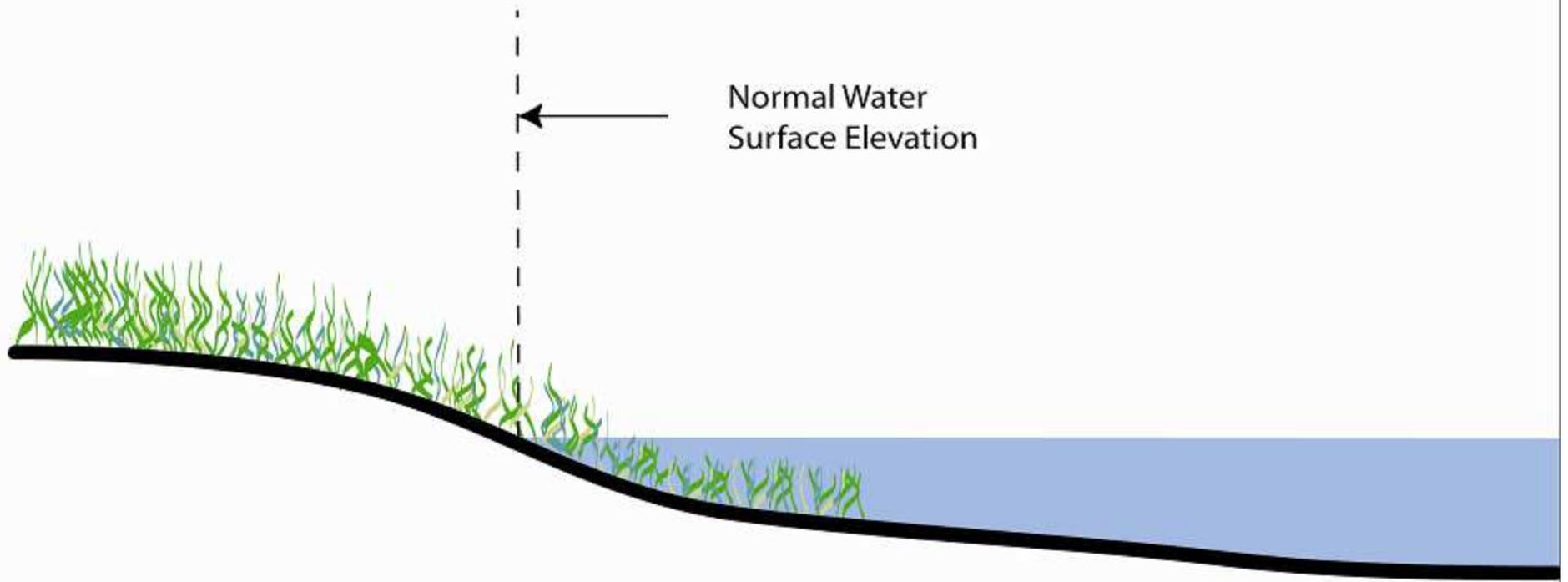


If a discernible bank is **NOT** present: Along a linear fluvial or tidal water, such as a small stream, the riparian zone is measured landward of the feature's centerline

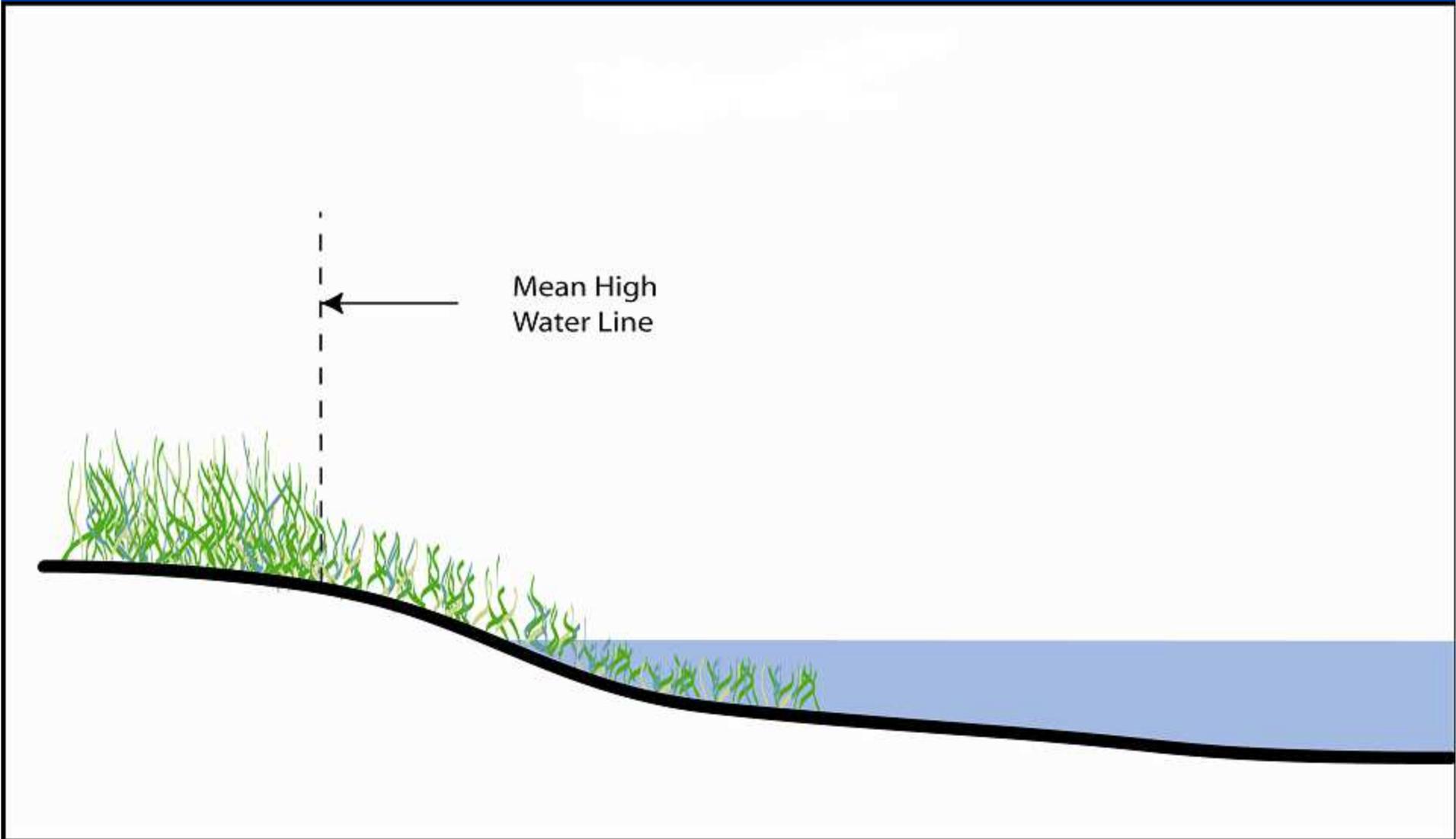




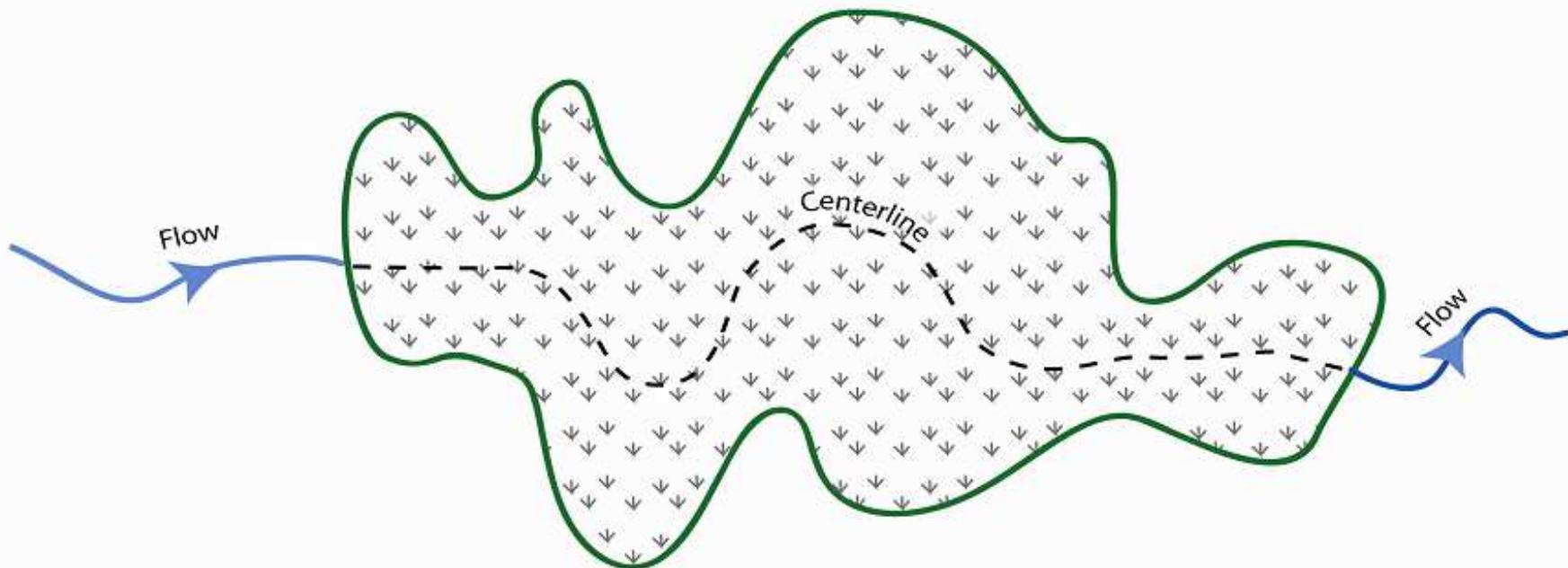
If a discernible bank is NOT present: Along a non-linear fluvial water, such as a lake or pond, the riparian zone is measured landward of the normal water surface limit



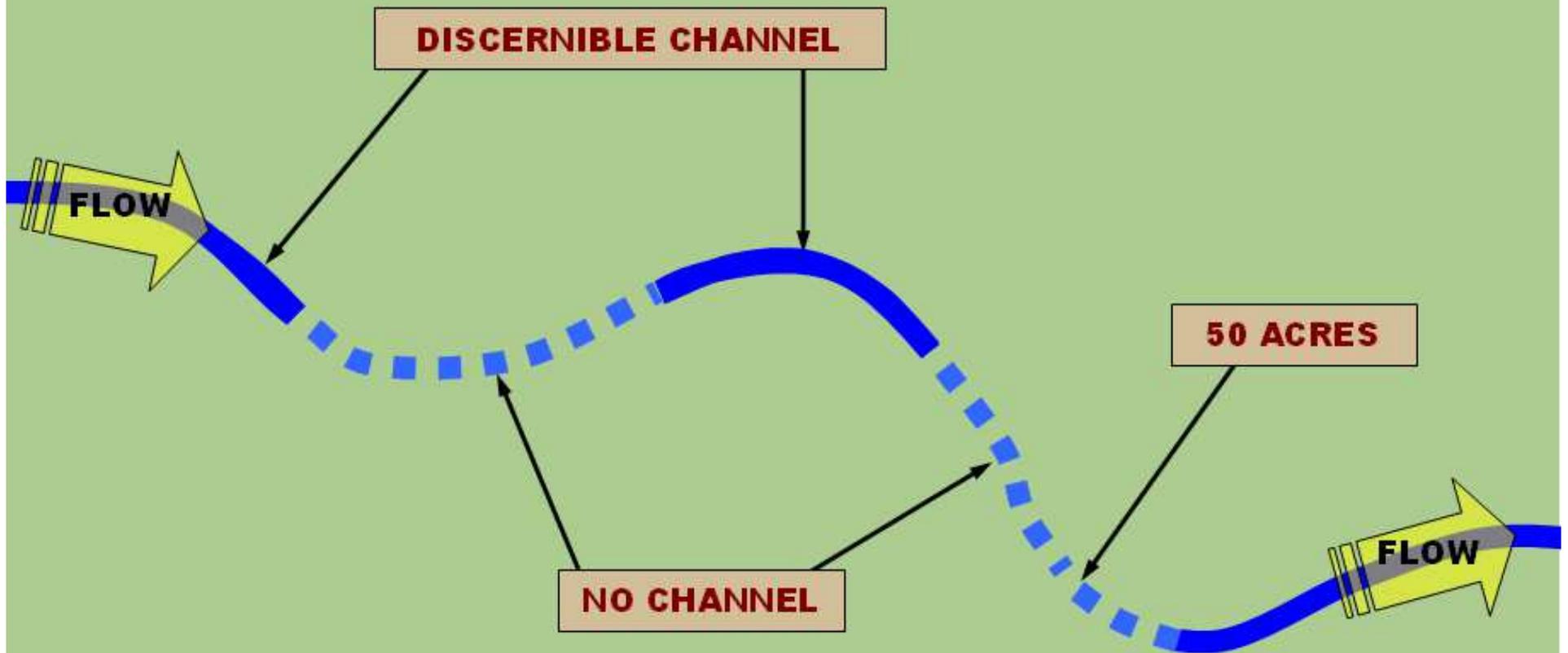
If a discernible bank is NOT present: Along a non-linear tidal water, such as a bay or inlet, the riparian zone is measured landward of the mean high water



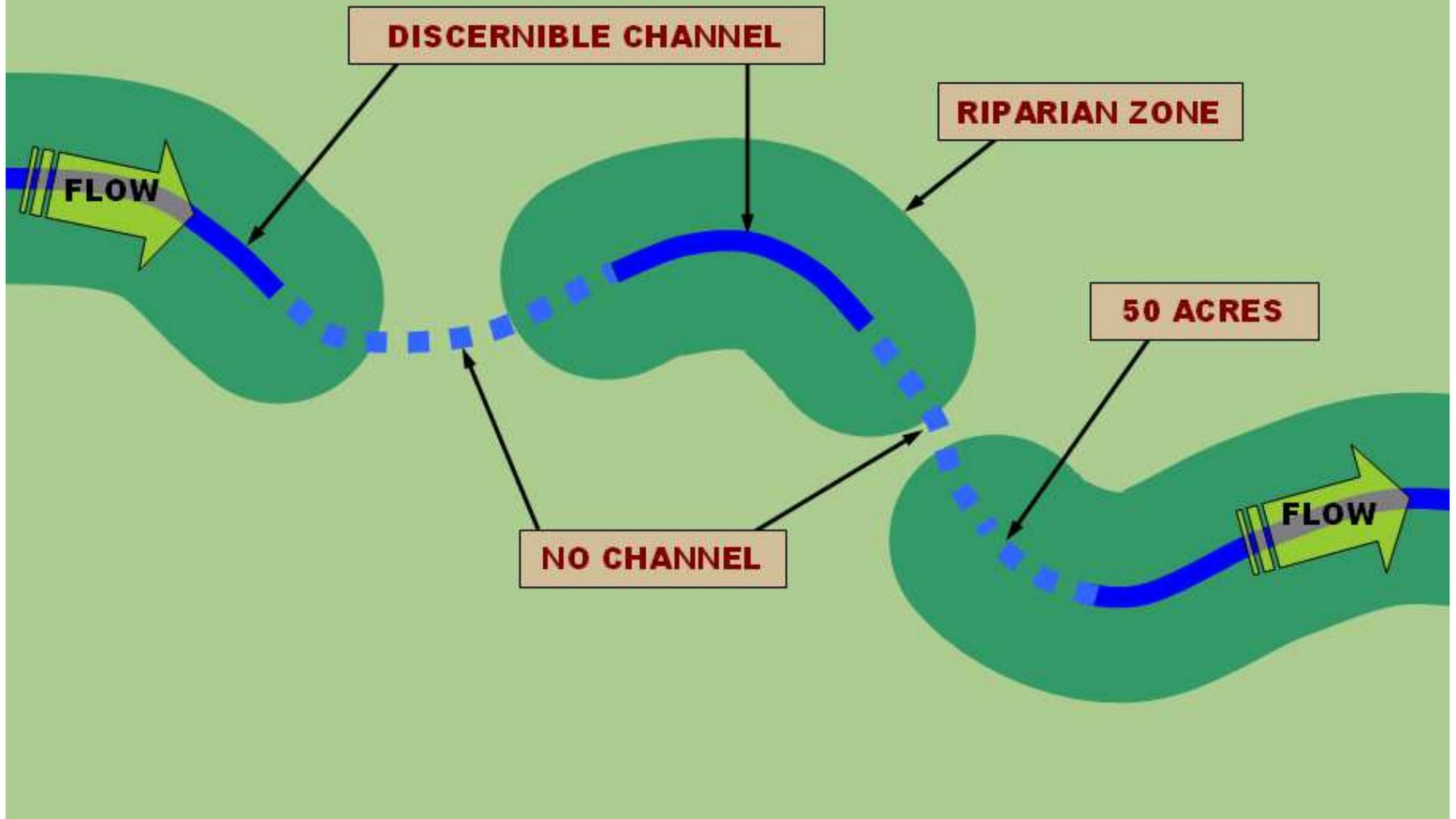
If a discernible bank is NOT present: Along an amorphous feature, such as a wetland complex, through which a regulated water flows but which lacks a discernible channel, the riparian zone is measured landward of the feature's centerline



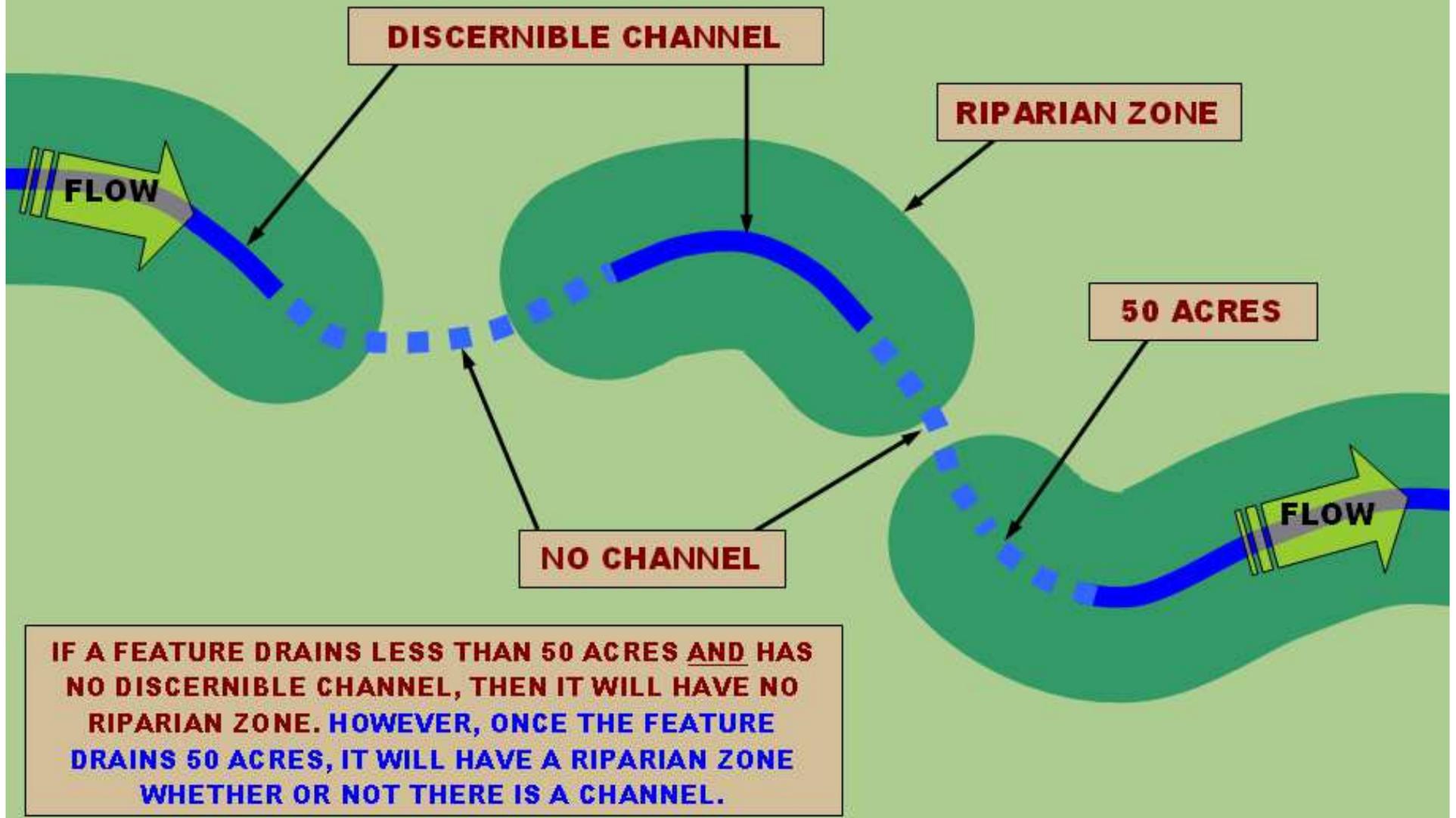
Drainage Area and Riparian Zone



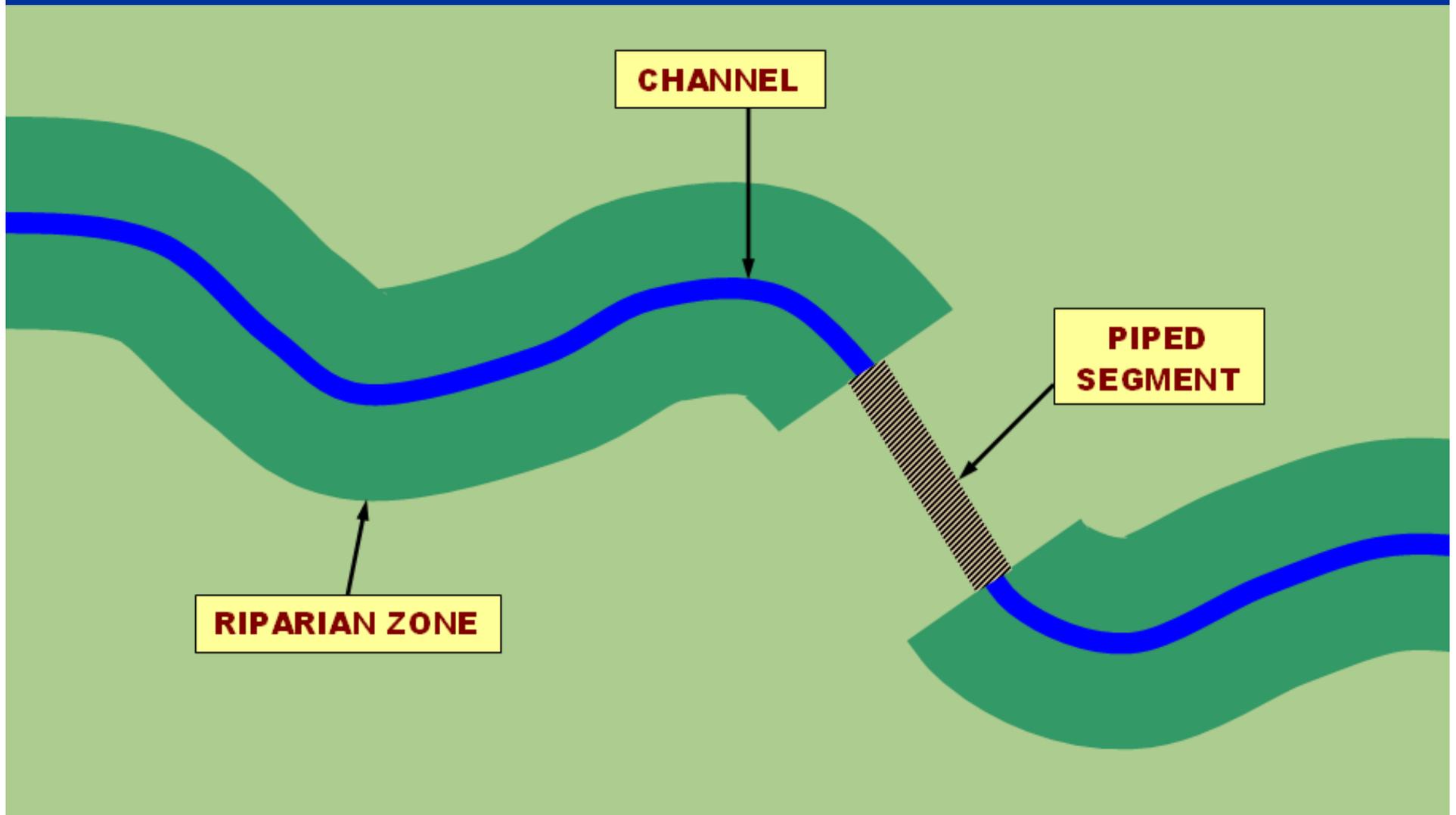
Drainage Area and Riparian Zone



Drainage Area and Riparian Zone



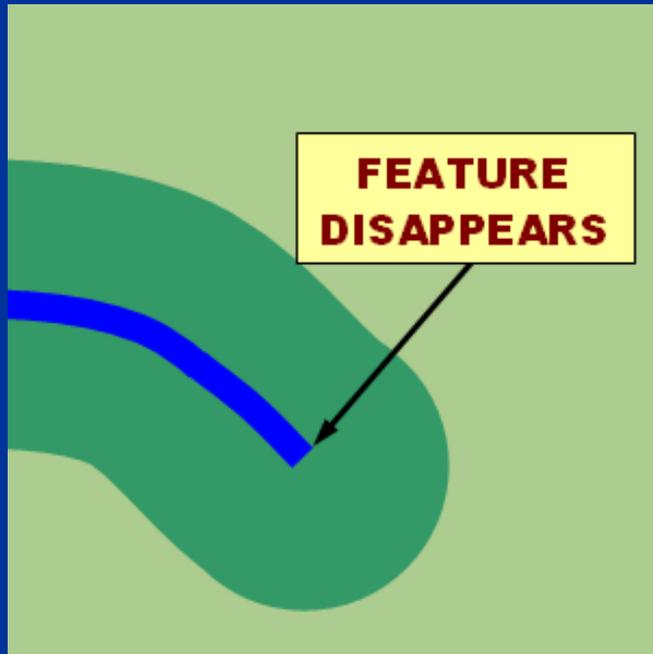
There is no riparian zone along a lawfully piped or culverted section of stream:



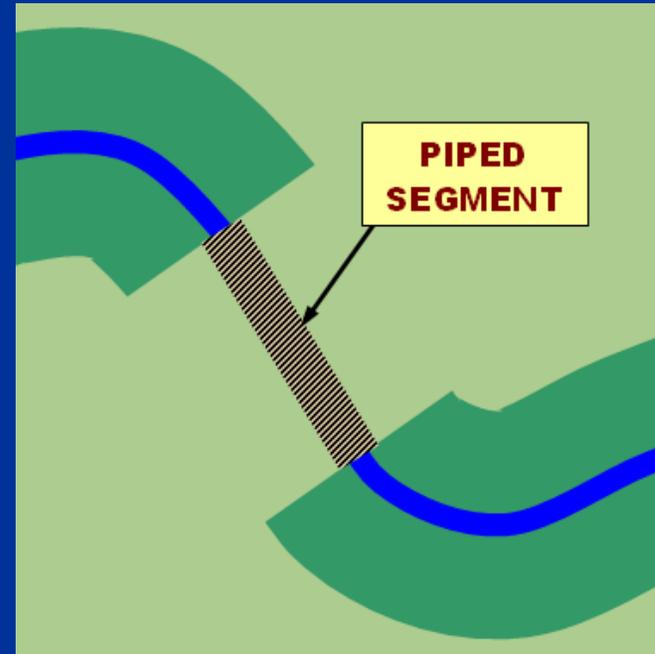


Does the riparian zone arc around the “end” of a regulated water?

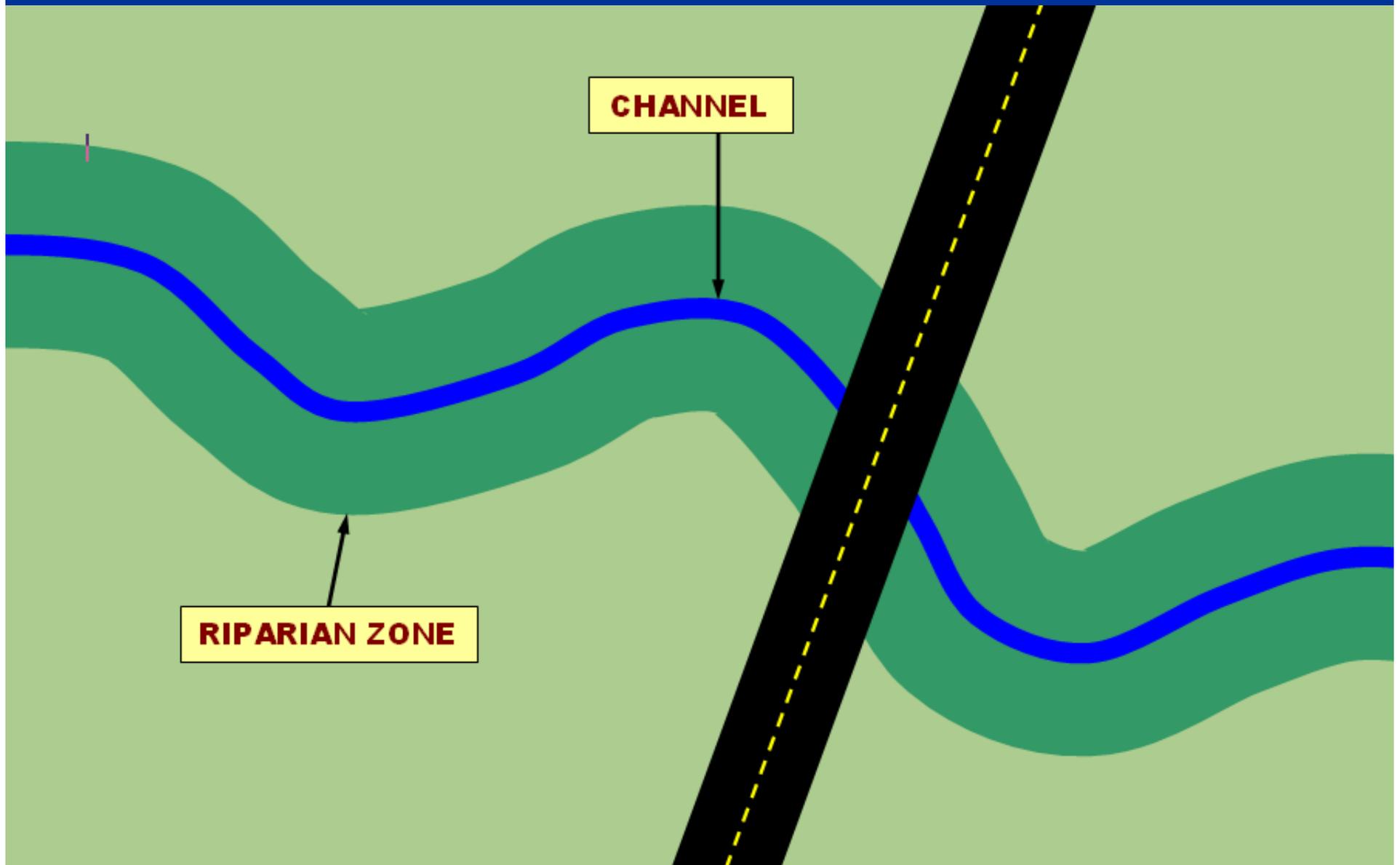
- **Yes:** If the feature “ends” because of natural causes



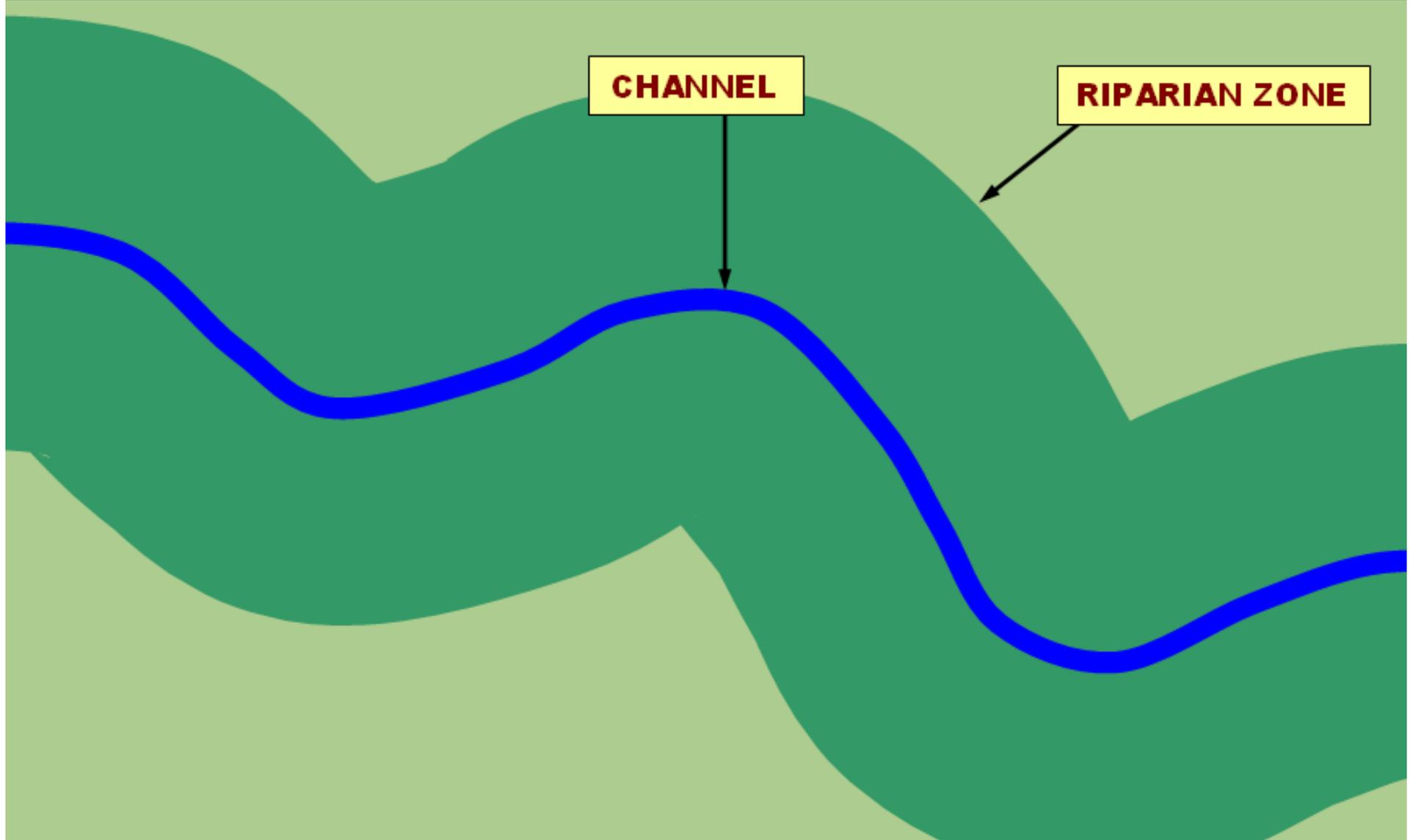
- **No:** If the feature enters a pipe



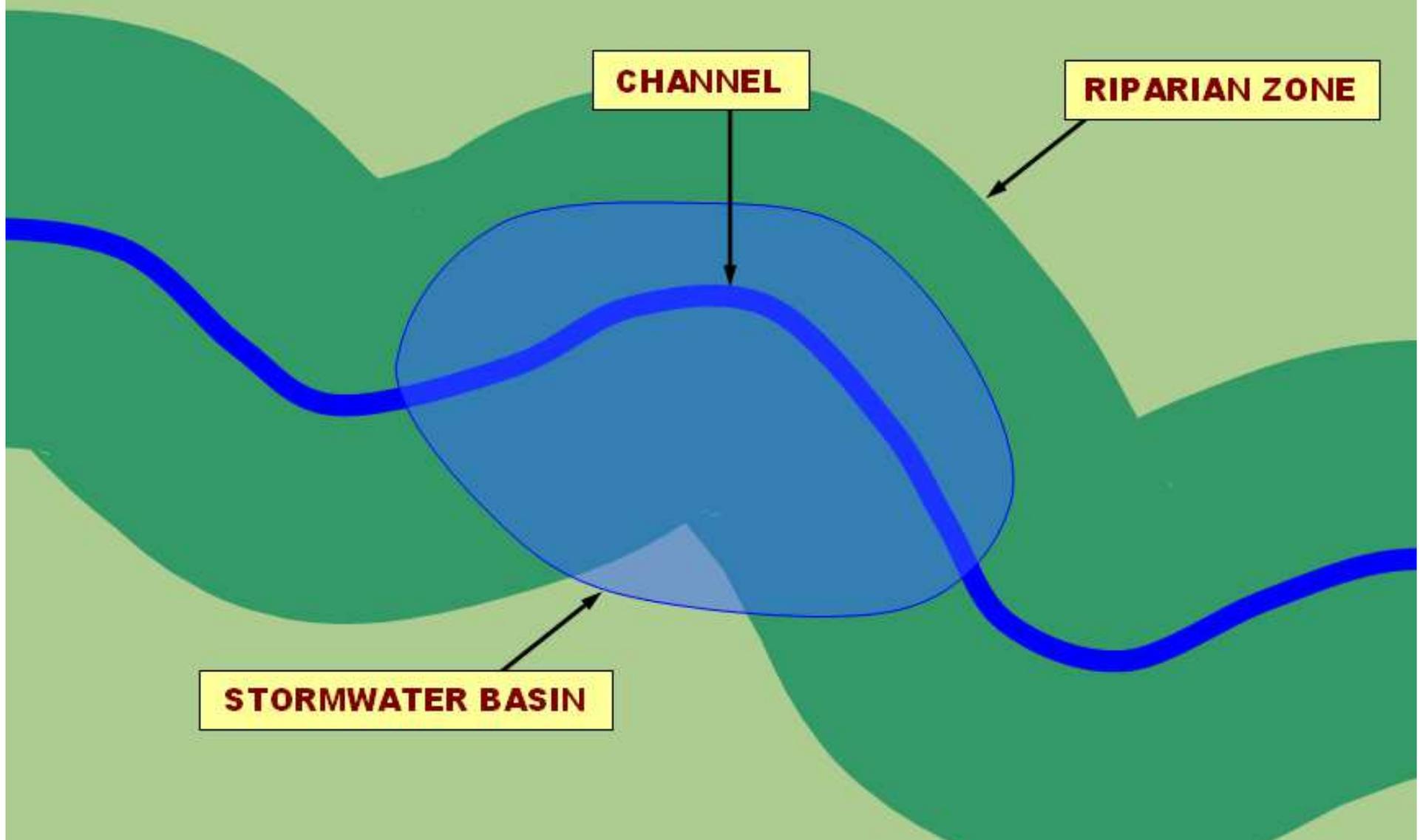
The riparian zone will also end at road crossings as follows:



If a stormwater basin was constructed along a stream, the riparian zone is projected from the original top of bank:



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300-ft Riparian Zone

- **300 ft along:** Category One waters and upstream tributaries within the same HUC-14 watershed
- Category One waters are listed in the Department's **Surface Water Quality Standards at N.J.A.C. 7:9B**
<http://www.nj.gov/dep/wms/bwqsa/swqs.htm> Available on
- GeoWeb (NJDEP's Interactive mapping tool)
<http://www.nj.gov/dep/gis/geoweb splash.htm>

SEE N.J.A.C. 7:13-4.1

300-ft Riparian Zone

- **Important:** The 300-ft riparian zone is not exactly the same as the Special Water Resource Protection Area

300-ft Riparian Zone vs SWRPA

- **Difference #1:** The **SWRPA** applies only to waters that are shown on a USGS quad or County Soil Survey
- The **riparian zone** applies to regulated waters regardless of any mapping

SEE N.J.A.C. 7:13-4.1 & N.J.A.C. 7:8-5.5(h)

300-ft Riparian Zone vs SWRPA

- **Difference #2:** The **SWRPA** applies only to projects that are major developments (under N.J.A.C. 7:8)
- The **riparian zone** applies to regulated waters regardless of the size of the project

SEE N.J.A.C. 7:13-4.1 & N.J.A.C. 7:8-5.5(h)

300-ft Riparian Zone vs SWRPA

- **Difference #3:** Location Based vs Activity Based
- The inner half of the **SWRPA** may not be developed; the outer half may be developed if previously disturbed
- The **riparian zone** does not have an inner or outer half; it may be disturbed for certain activities, if justified

SEE N.J.A.C. 7:13-4.1 & N.J.A.C. 7:8-5.5(h)

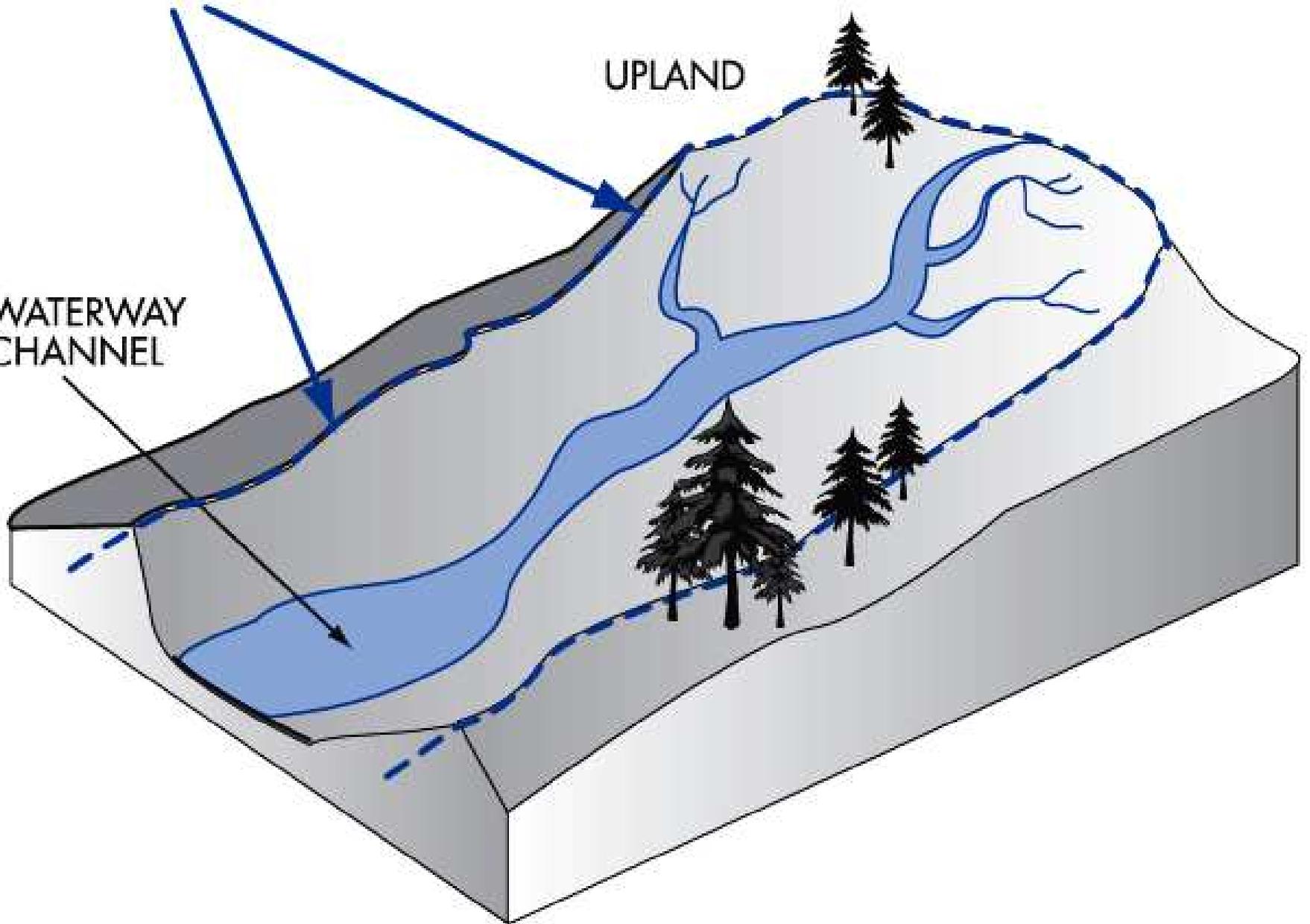
WHAT IS A HUC-14 WATERSHED?

- Watershed area defined by USGS
- 14-digit **Hydrologic Unit Code**
- NJ's watersheds boundaries are mapped and numbered
- Available on GeoWeb (NJDEP's Interactive mapping tool) (**Subwatersheds HUC14**)
- Statewide map at:
www.state.nj.us/dep/watershedmgt/hucmap.htm

WATERSHED BOUNDARY

UPLAND

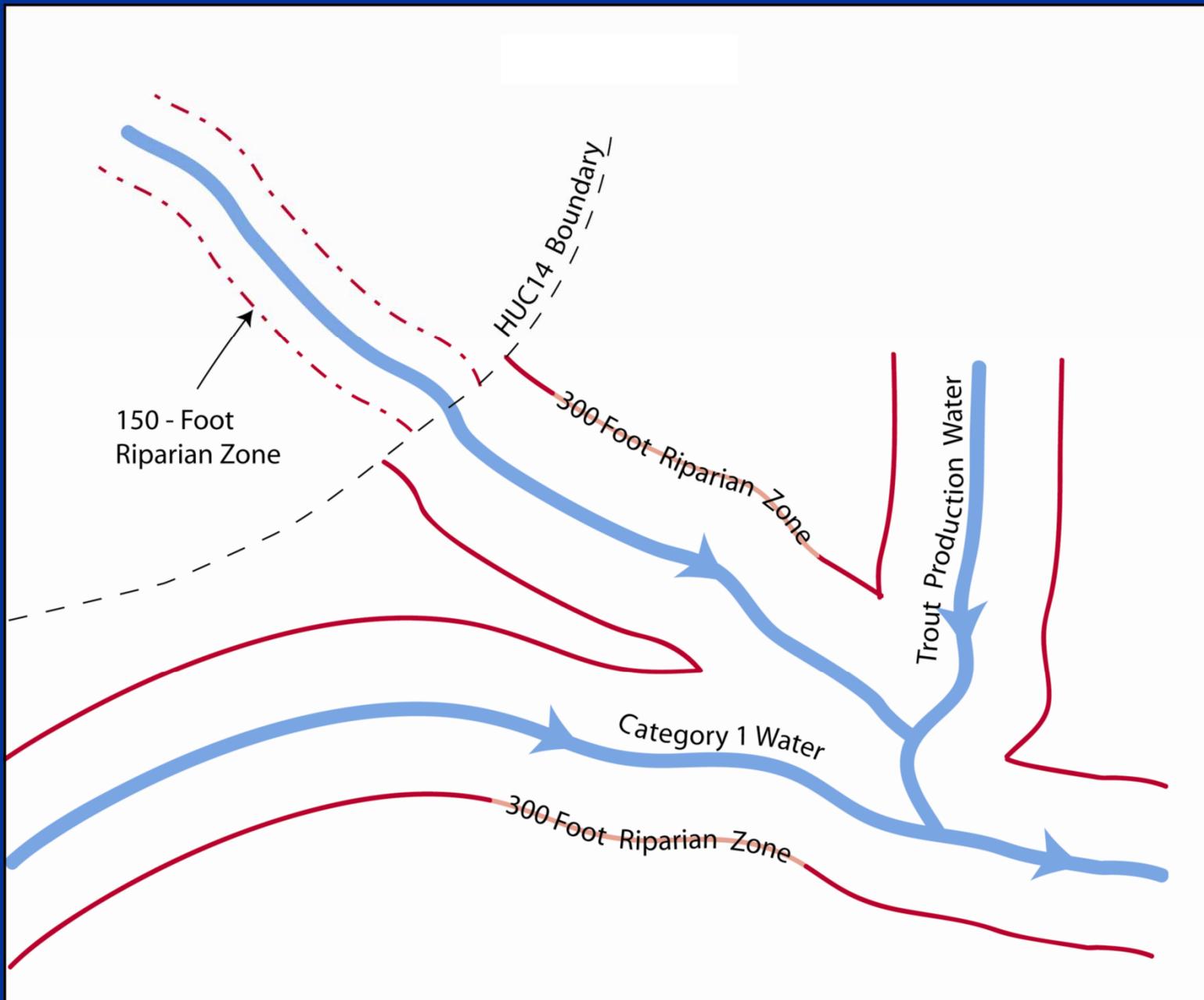
WATERWAY CHANNEL



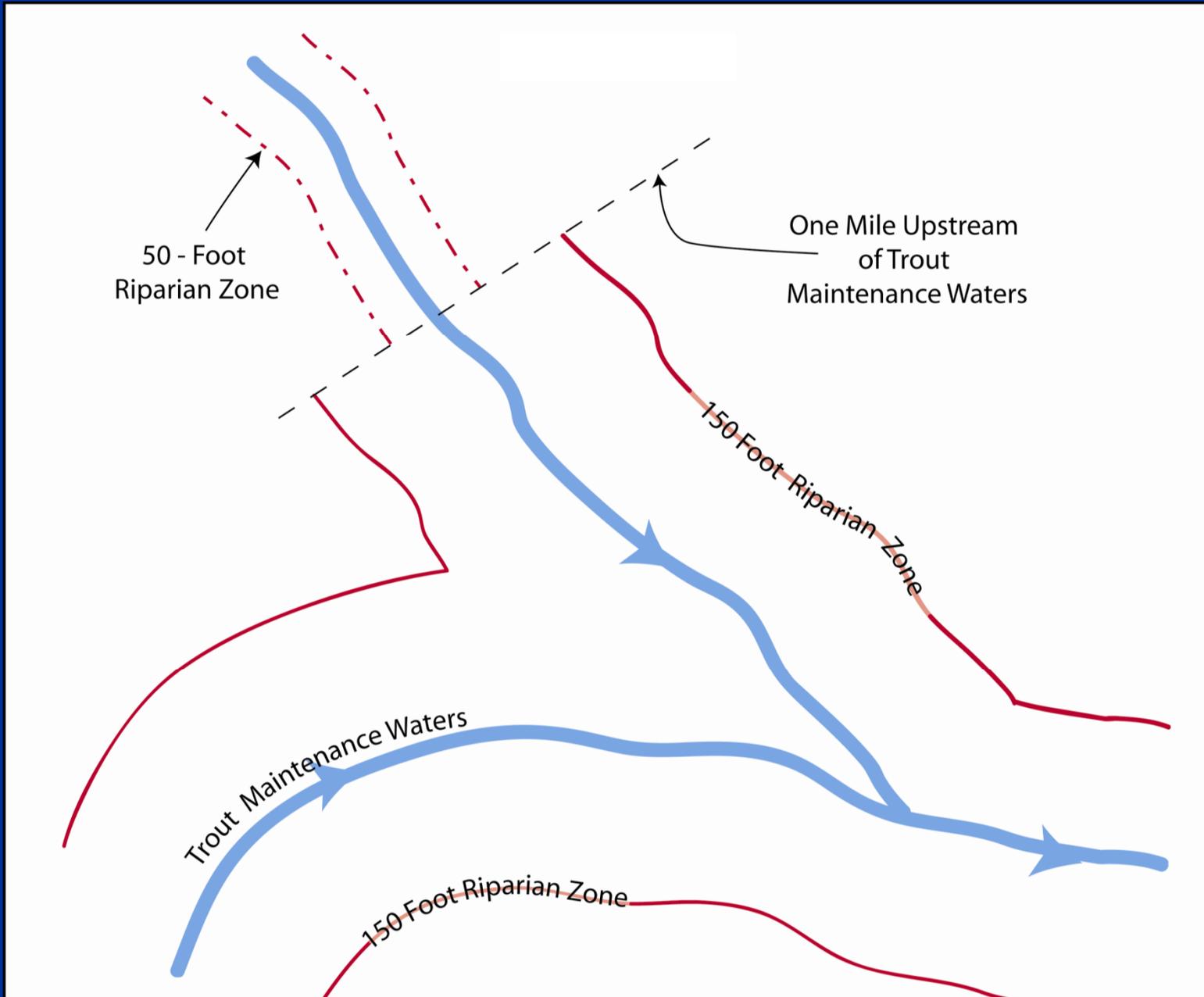
150-ft Riparian Zone

1. Trout production waters and all tributaries
2. Trout maintenance waters and all tributaries within one mile
3. Waters that flow through an area that contains documented T&E habitat (if plant/animal is critically dependent on the regulated water for survival) and all tributaries within one mile
4. Waters that flow through an area that contains acid producing soils

TROUT PRODUCTION - 150-ft RIPARIAN ZONE



TROUT MAINTENANCE - 150-ft RIPARIAN ZONE



Threatened or Endangered Species

- The 150-foot riparian zone also applies to any segment of a regulated water flowing through an area that contains documented habitat for a threatened or endangered species of plant or animal, which is critically dependent on the regulated water for survival, and all upstream tributaries within one mile.

Threatened or Endangered Species

Landscape Maps

- Available from the Department's Division of Fish and Wildlife, Endangered and Nongame Species Program at:

<http://www.nj.gov/dep/fgw/ensphome.htm>

- Or can be viewed through GeoWeb at

<http://www.nj.gov/dep/gis/geoweb splash.htm>

Threatened or Endangered Species

For further information on the occurrence and mapping
of threatened or endangered plant species habitat

contact:

Natural Heritage Data Request Form
The New Jersey Natural Heritage Program
DEP - Office of Natural Lands Management

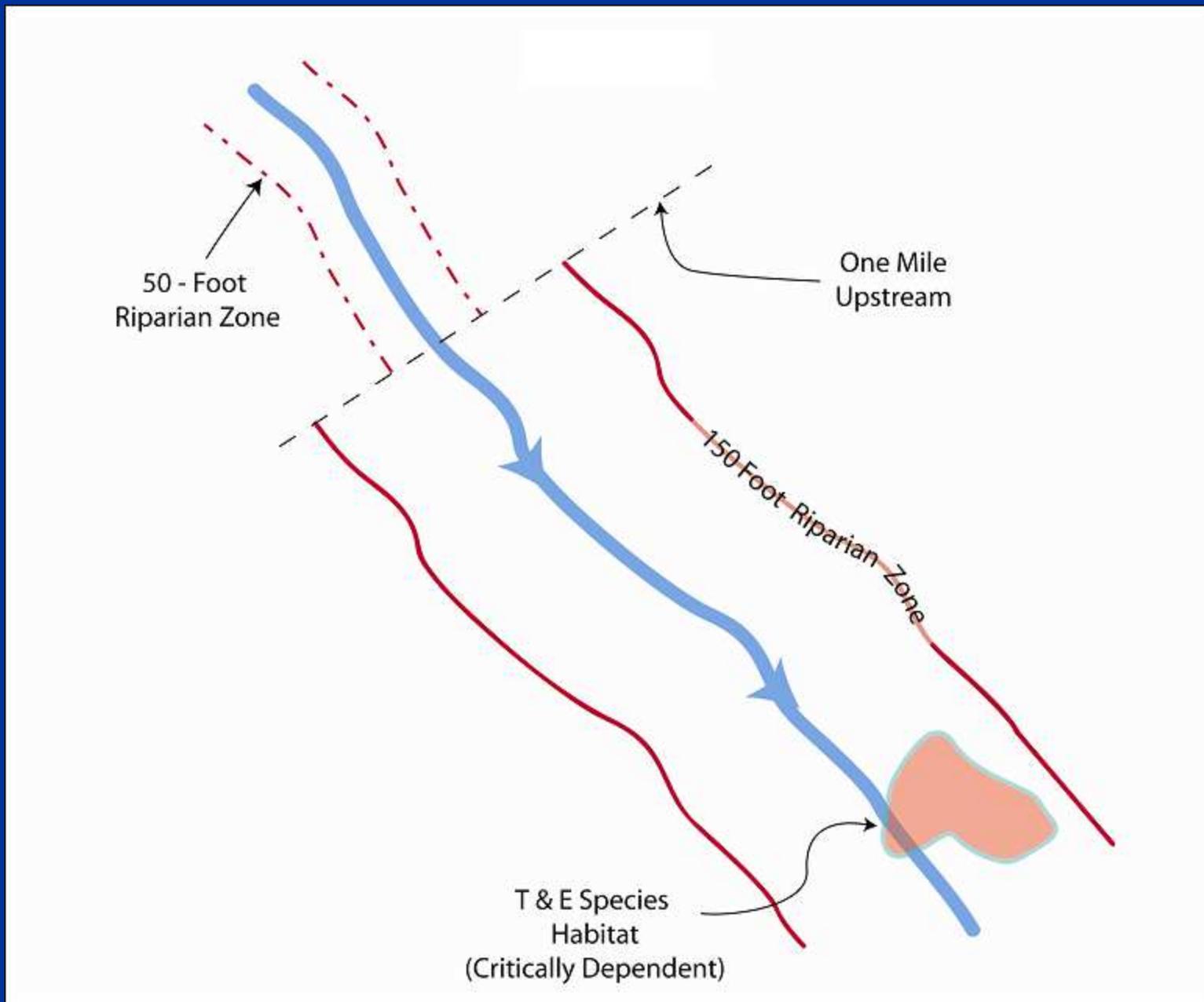
Mail Code 501-04

P.O. Box 420

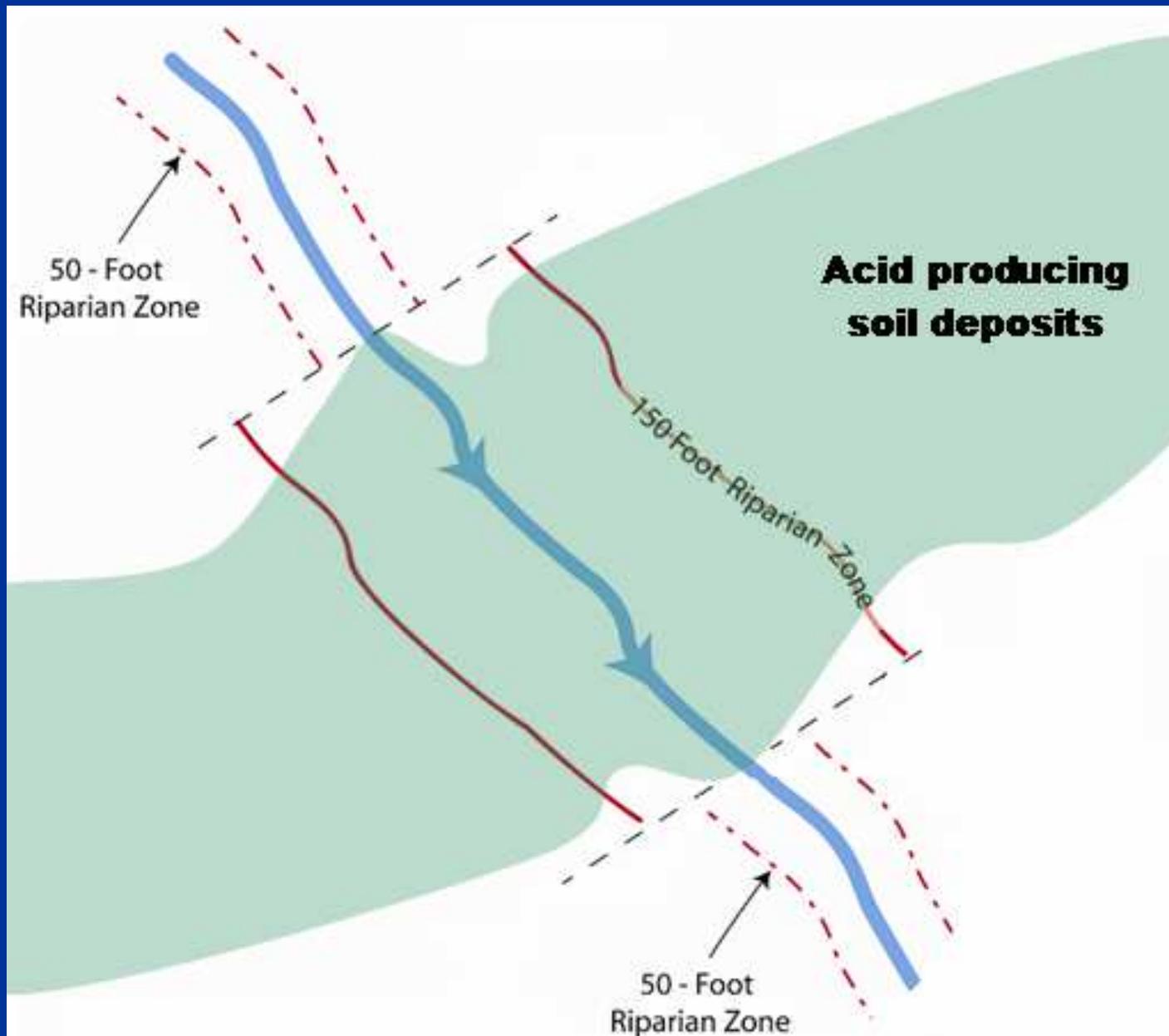
Trenton, NJ 08625-0404

NOTE - NHP Letter required for a FHA submission

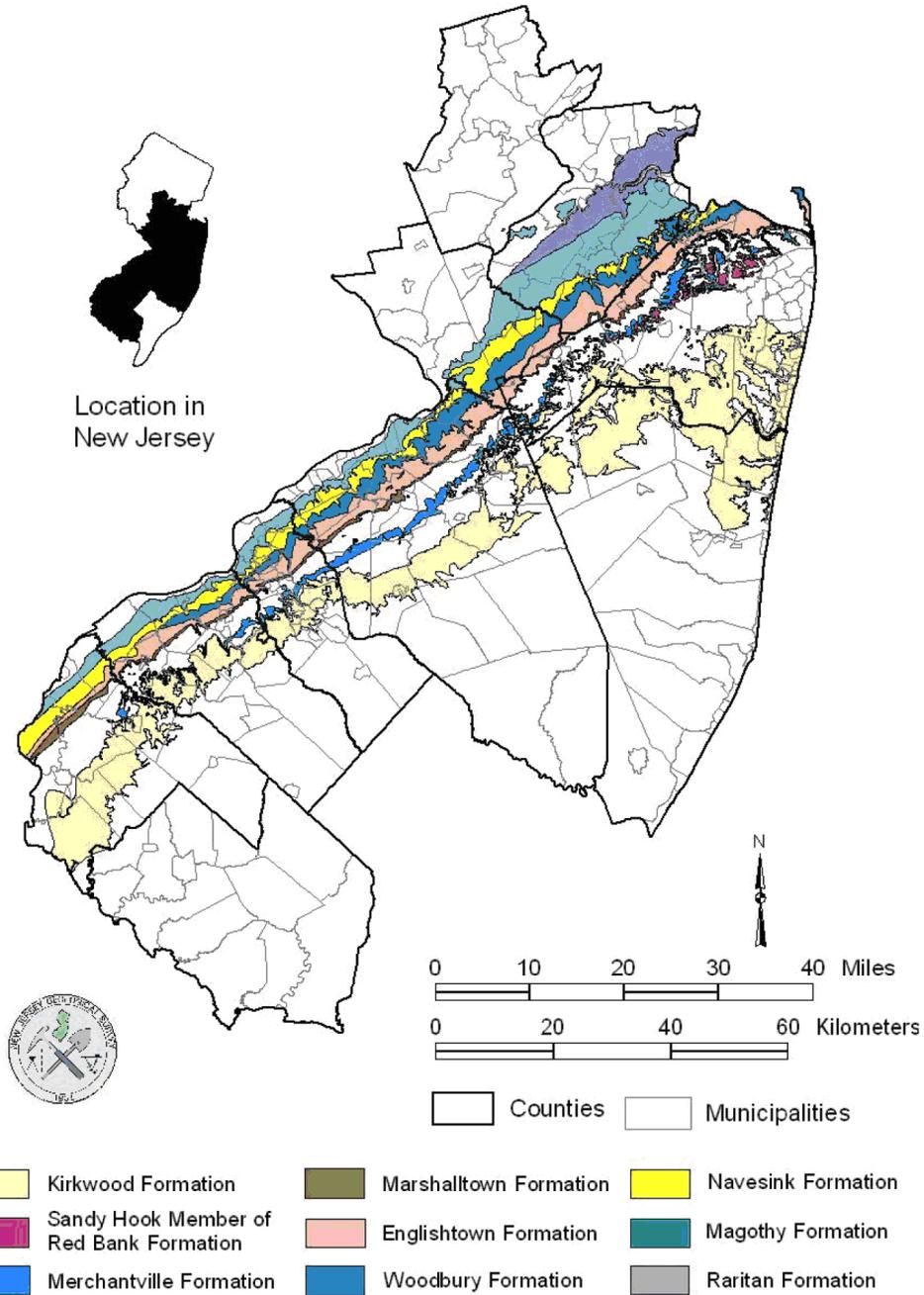
T&E SPECIES - 150-ft RIPARIAN ZONE



ACID SOILS - 150-ft RIPARIAN ZONE



Coastal Plain Formations of New Jersey Associated with Acid-Producing Soils



50-ft Riparian Zone

- Along all other waters
- Most common riparian zone width, especially in urbanized areas (except where acid producing soils exist)

Riparian Zone Disturbance

What if you want to
conduct regulated
activities in the riparian
zone?



Riparian Zone Disturbance

N.J.A.C. 7:13-7.2

■ Permits-By-Rule

- For specific activities, where in general no vegetation will be disturbed
- Some require notification
- An Applicability Determination may be applied for to obtain a written determination that an activity meets a permit-by-rule.

Permits-By-Rule

N.J.A.C. 7:13-7.2(a)2 Any construction activity

Constructing in a disturbed riparian zone or at or below grade in a
FHA provided.

- If in a FHA all work is at or below grade (ie. bike path, driveway, lawn, trail, garden, sidewalk)
- **No disturbance within 25 feet top of bank**
- Not a Major Development
- No vegetation is cleared, cut, or removed in a RZ, except where previously developed or disturbed (ie. maintained lawn, garden, or abandoned parking area)
- All vegetated area temporarily disturbed with the RZ are replanted with indigenous, non-native species

Riparian Zone Disturbance

N.J.A.C. 7:13-10.2

- The rules are designed to preserve all existing riparian zone vegetation
- All vegetation counts (trees, grass, shrubs, weeds, etc.)



Riparian Zone Disturbance

N.J.A.C. 7:13-10.2

Rules do not prohibit construction, but:

- All proposed disturbance must be avoided, justified, and fully minimized
- and
- Each activity has limits on disturbance

Riparian Zone Disturbance

N.J.A.C. 7:13-10.2

Disturbance within 25 feet of the top of bank is generally prohibited, except for unavoidable situations. For example:

- Road crossings are often justified
- Bank stabilization may be necessary
- Parking lots are unlikely justified



Riparian Zone Disturbance

N.J.A.C. 7:13-10.2(d)

- **All work must meet 3 basic criteria:**

1. The basic purpose of the project cannot be accomplished onsite without disturbing vegetation in the riparian zone.

Riparian Zone Disturbance

N.J.A.C. 7:13-10.2(d)

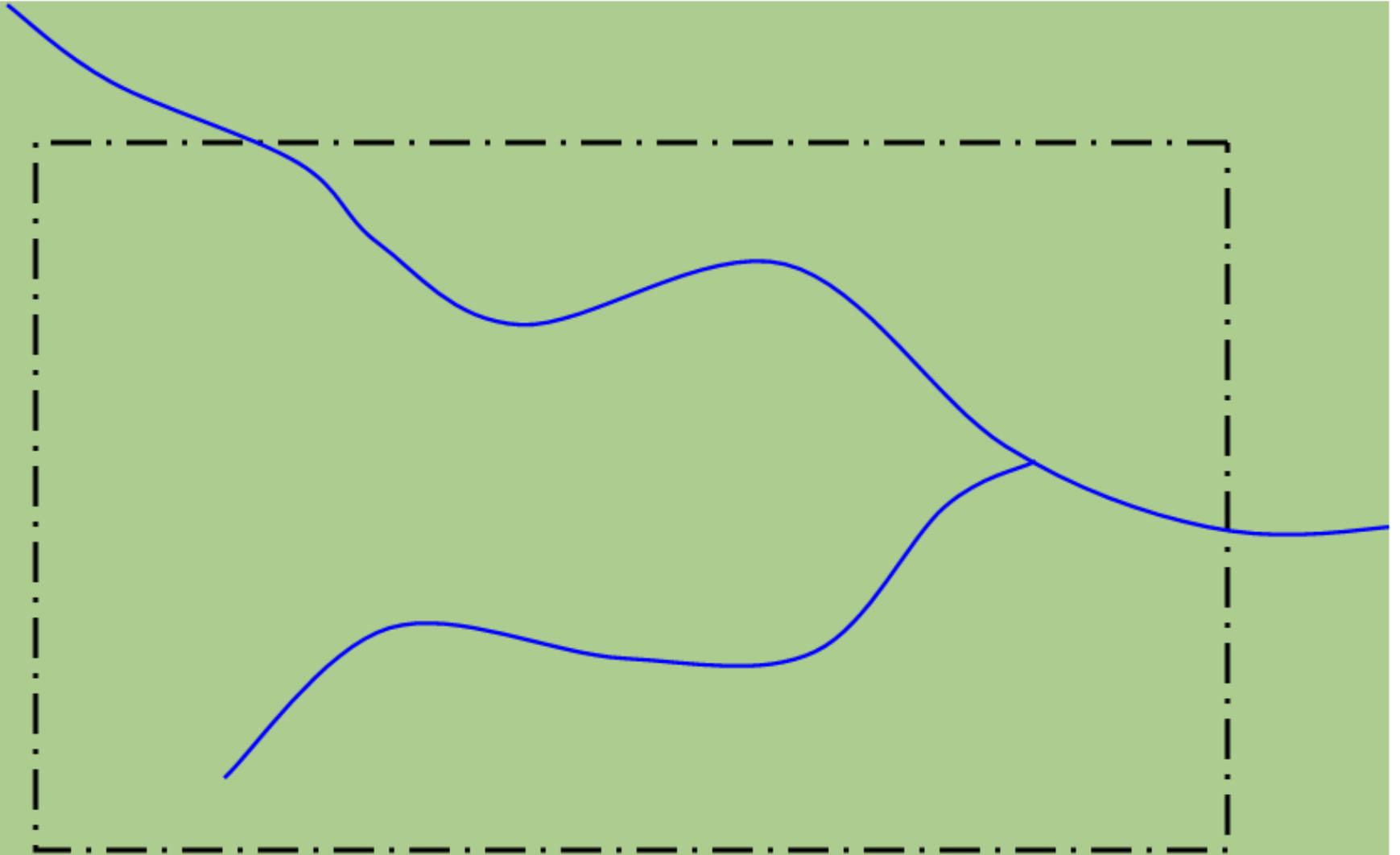
2. Disturbance to the riparian zone is eliminated where possible; where not possible to eliminate, disturbance is minimized through methods including relocating the project, reducing the size or scope of the project and/or situating the project in portions of the riparian zone where previous development or disturbance has occurred;

Riparian Zone Disturbance

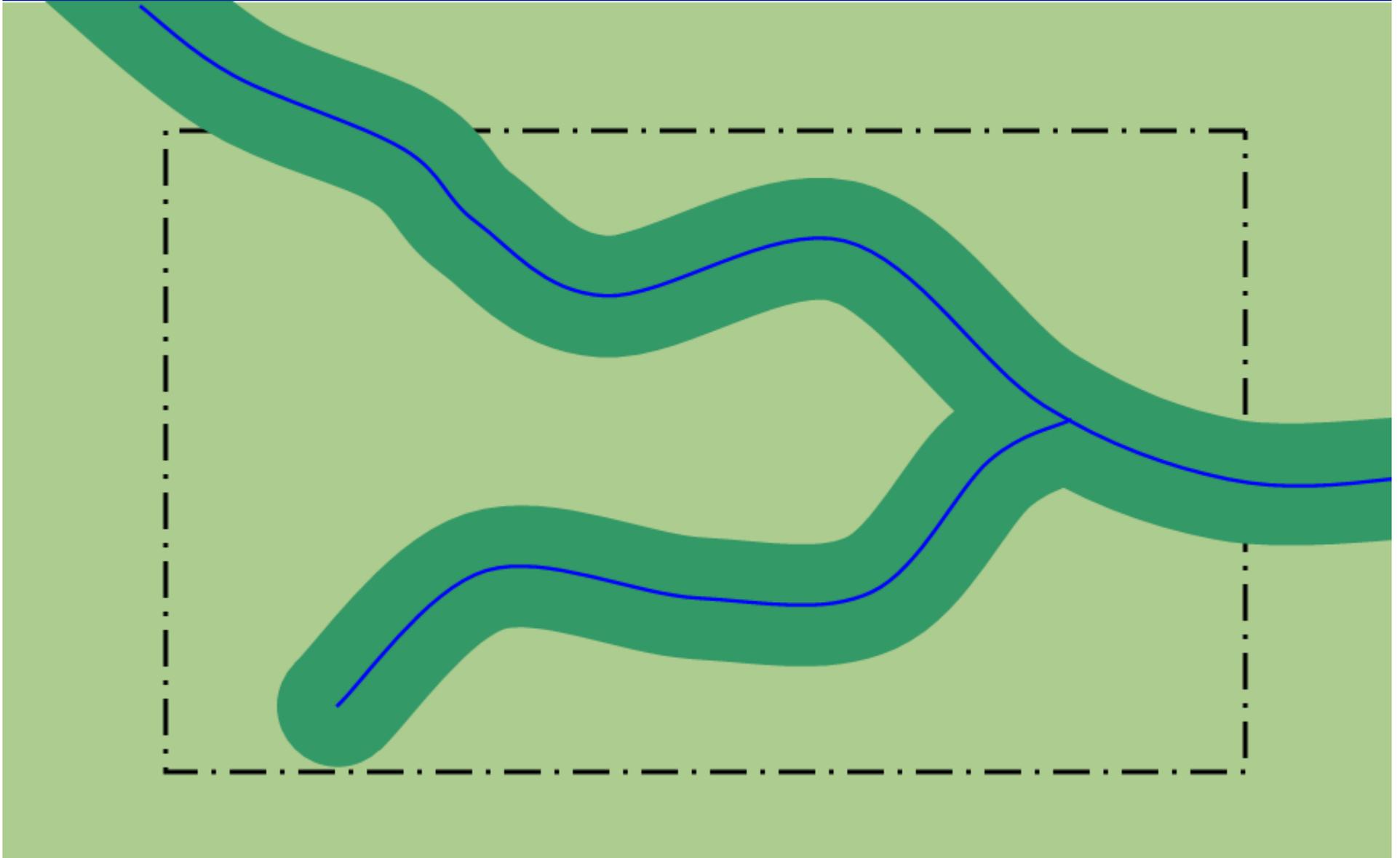
N.J.A.C. 7:13-10.2(d)

3. All temporarily cleared, cut or removed vegetation within a riparian zone is replanted with indigenous, non-invasive vegetation upon completion of the project.

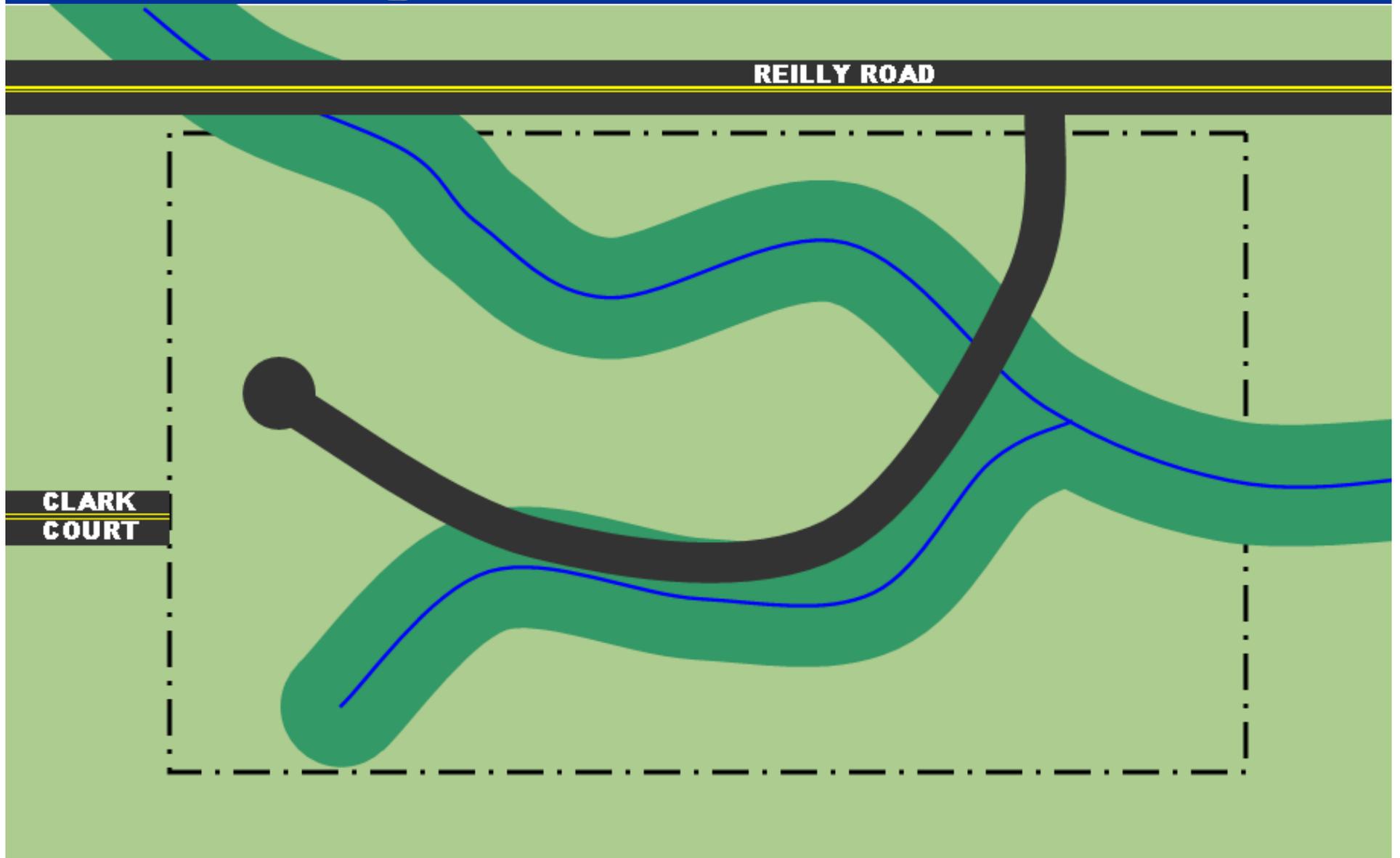
Example



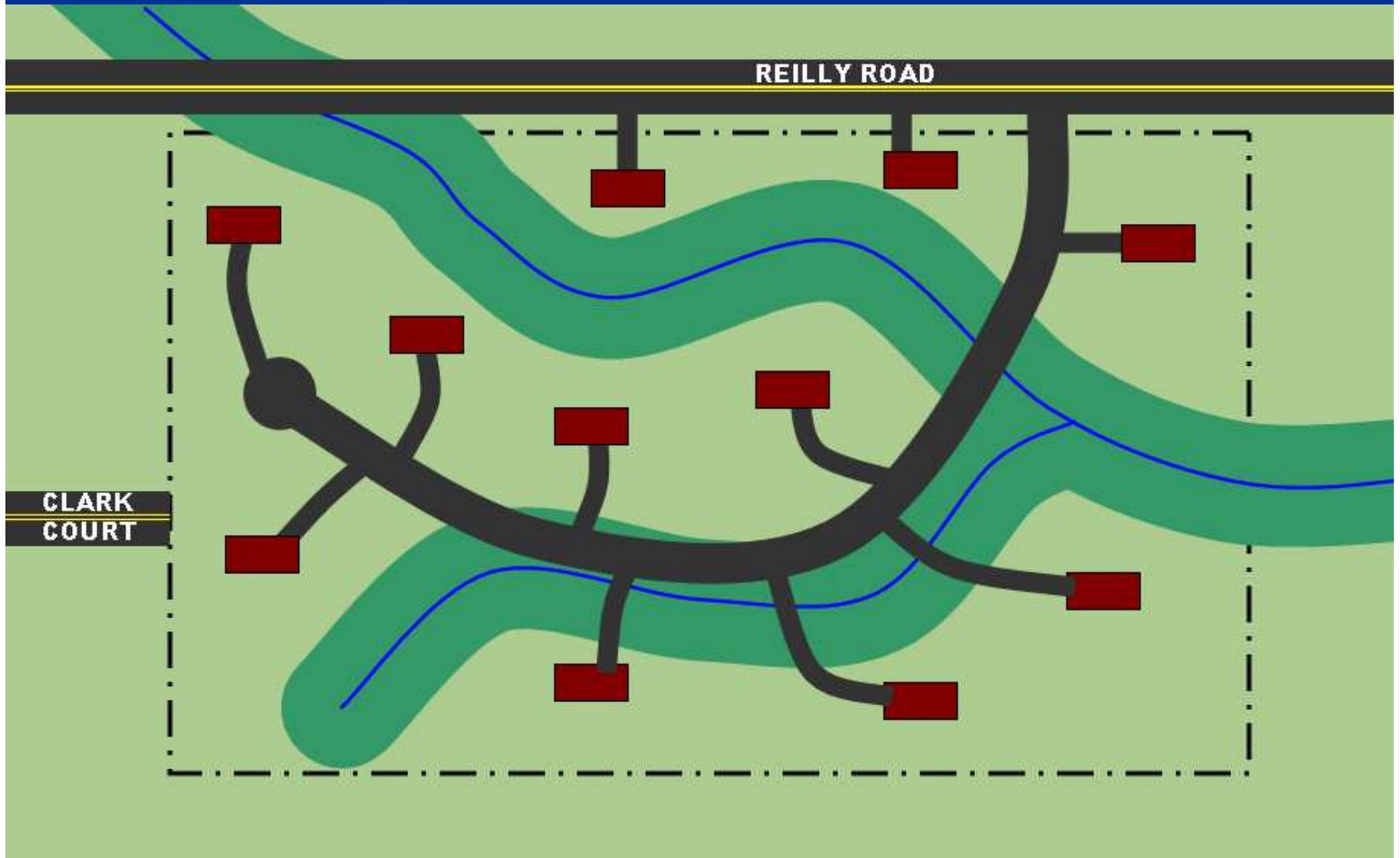
Example



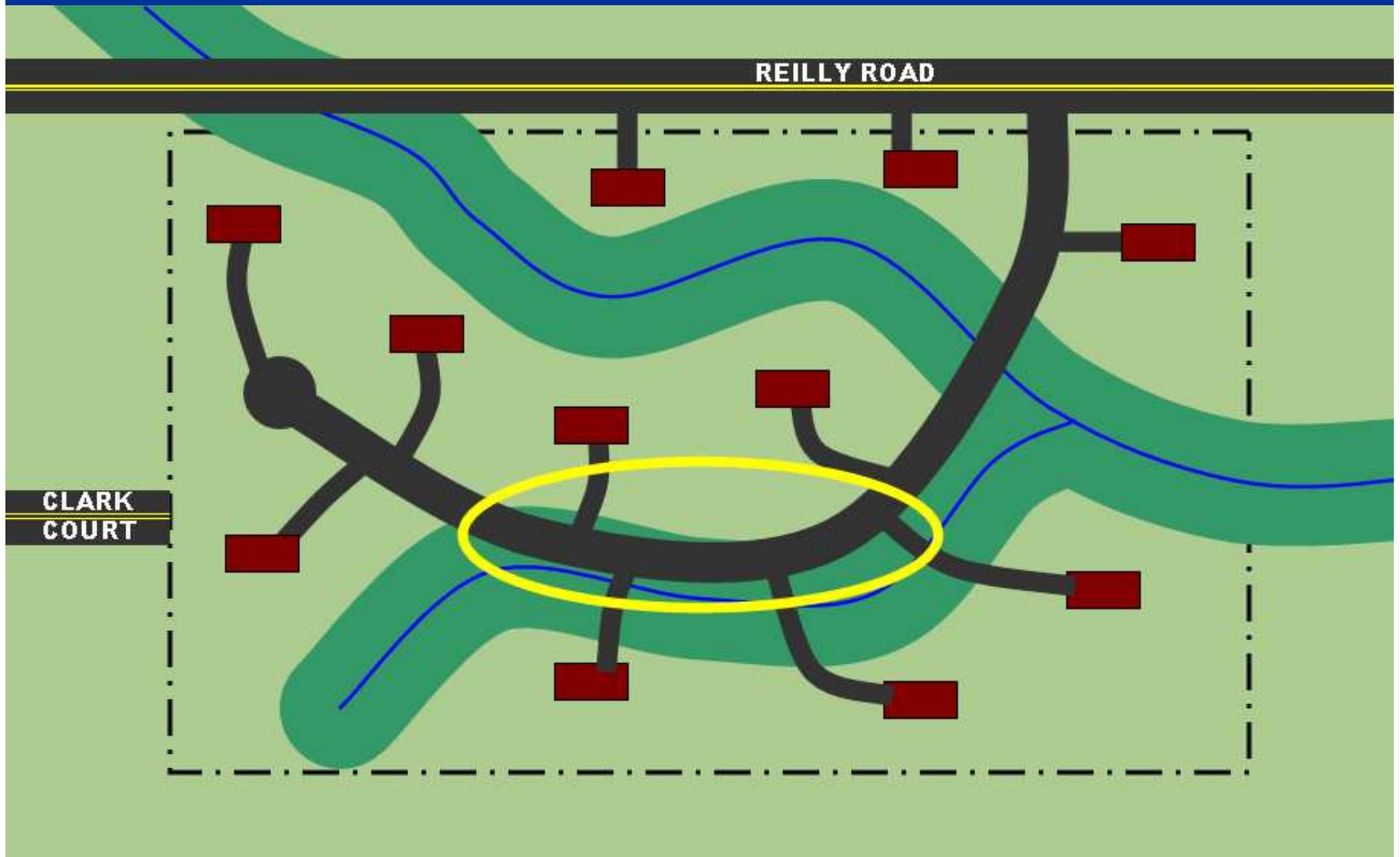
Example



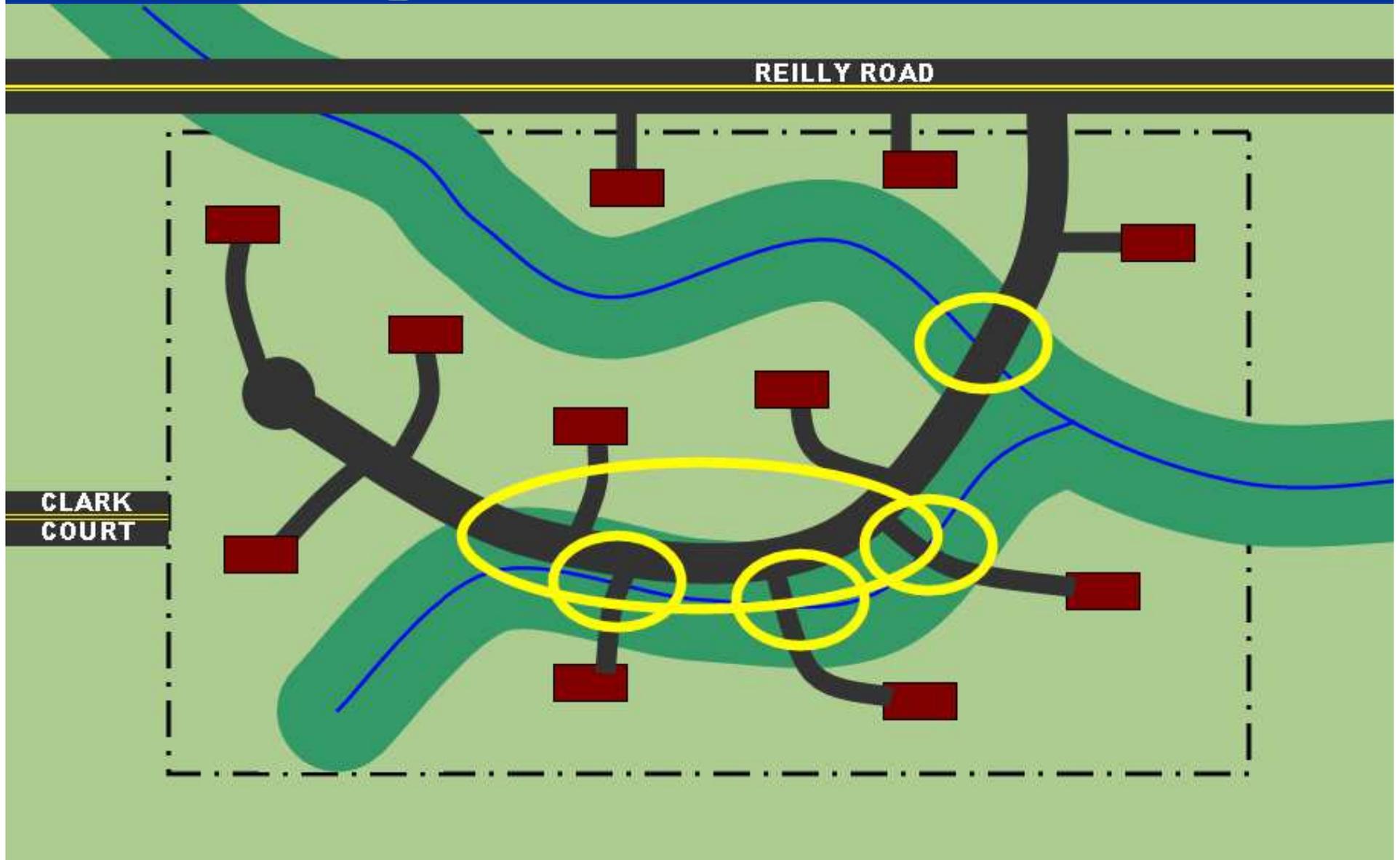
Example



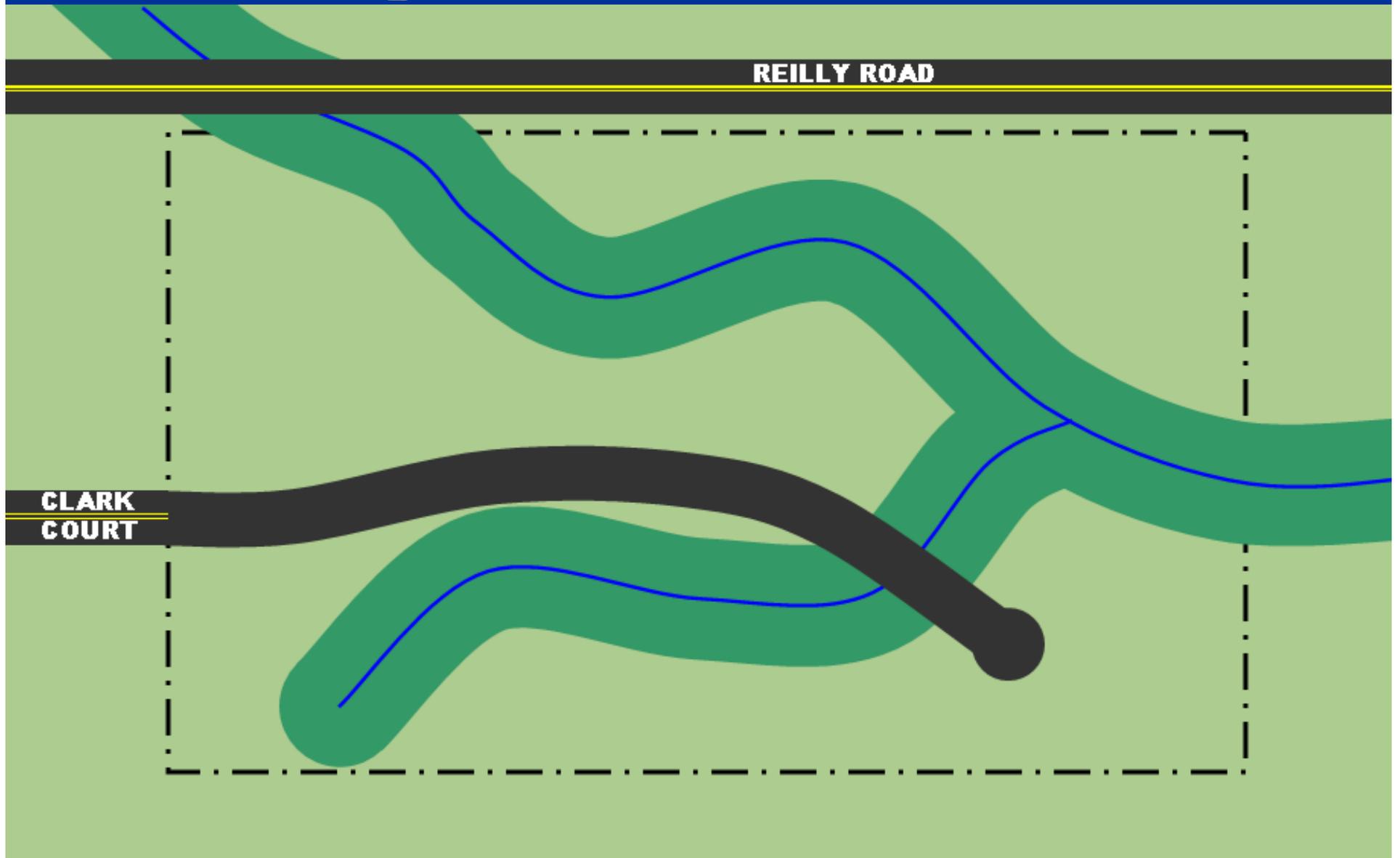
Example



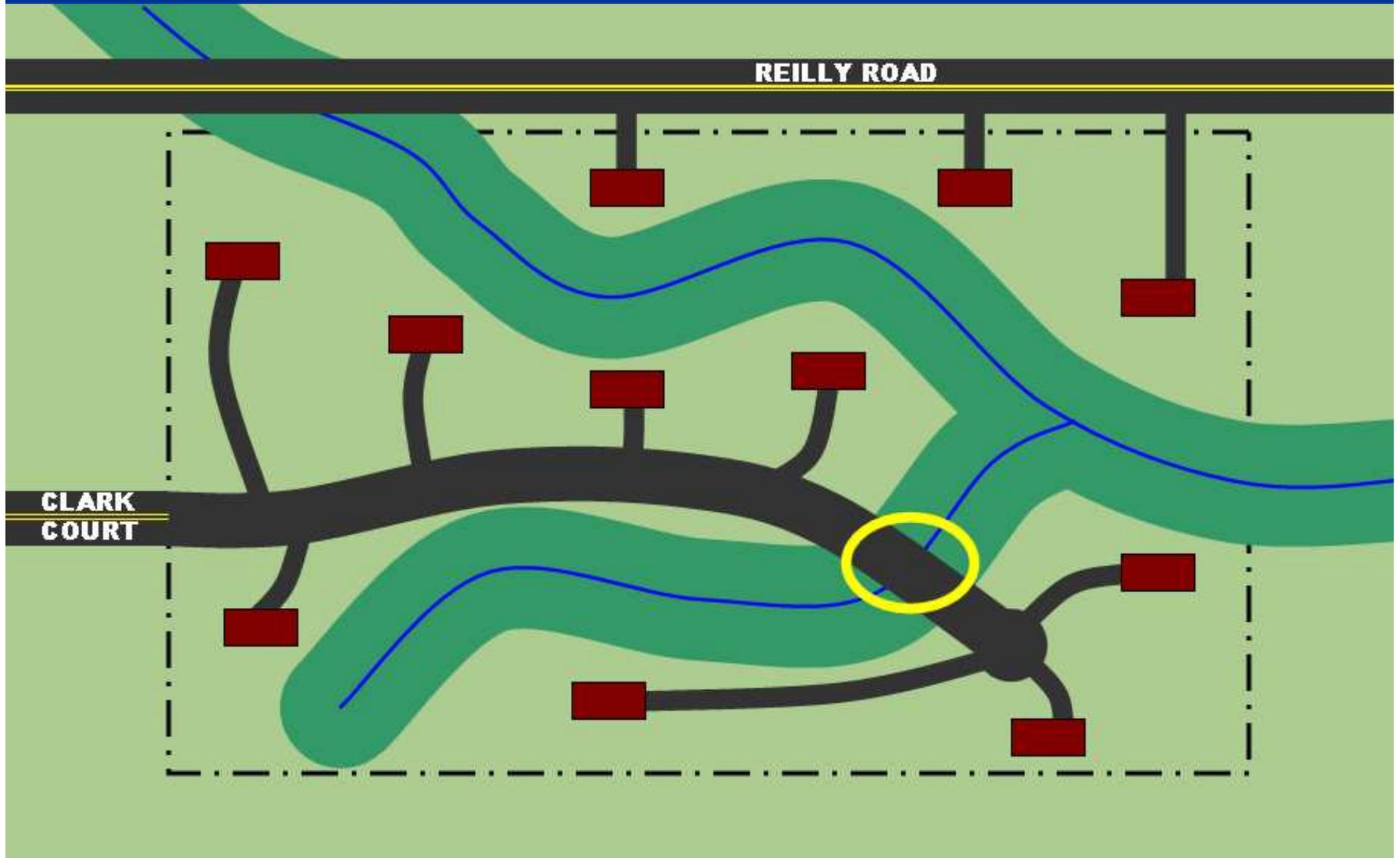
Example: not minimized



Example



Example: minimized



Riparian Zone Disturbance

In addition to the basic requirements at N.J.A.C. 7:13-10.2(d):

- Maximum riparian zone disturbance set at Table C
- Additional criteria must be met for each specific activity under 10.2(e) through (r)

Table C

N.J.A.C. 7:13-10.2(d)

- Shows maximum disturbance for various activities
- If activity is not listed, you need a hardship exception

Proposed Regulated Activity	See Paragraph Below for Further Detail	Maximum Area of Vegetation Disturbance Based on the Width of the Riparian Zone			
		50-foot Riparian Zone	150-foot Riparian Zone	300-foot Riparian Zone	
• Railroad or public roadway					
New	Crossing a water	(e)	5,000 ft ²	15,000 ft ²	30,000 ft ²
	Not crossing a water		2,000 ft ²	6,000 ft ²	12,000 ft ²
Reconstructed	Crossing a water	(f)	2,500 ft ²	7,500 ft ²	15,000 ft ²
	Not crossing a water		1,000 ft ²	3,000 ft ²	6,000 ft ²
• Private roadway that serves as a driveway to one private residence					
New	Crossing a water	(g)	1,500 ft ²	4,500 ft ²	9,000 ft ²
	Not crossing a water		600 ft ²	1,800 ft ²	3,600 ft ²
Reconstructed	Crossing a water	(h)	750 ft ²	2,250 ft ²	4,500 ft ²
	Not crossing a water		300 ft ²	900 ft ²	1,800 ft ²
• All other private roadways					
New	Crossing a water	(g)	3,000 ft ²	9,000 ft ²	18,000 ft ²
	Not crossing a water		1,200 ft ²	3,600 ft ²	7,200 ft ²
Reconstructed	Crossing a water	(h)	1,500 ft ²	4,500 ft ²	9,000 ft ²
	Not crossing a water		600 ft ²	1,800 ft ²	3,600 ft ²
• Bank stabilization or channel restoration					
Accomplished with vegetation alone		(i)	No limit if disturbance is justified		
Other permanent disturbance			2,000 ft ²	2,000 ft ²	2,000 ft ²
Other temporary disturbance			1,000 ft ²	3,000 ft ²	6,000 ft ²
• Stormwater discharge (including pipe and conduit outlet protection)					
Permanent disturbance		(j)	1,000 ft ²	1,000 ft ²	1,000 ft ²
Temporary disturbance			1,000 ft ²	3,000 ft ²	6,000 ft ²
• Utility line (temporary disturbance only)					
Crossing a water		(k)	2,000 ft ²	6,000 ft ²	12,000 ft ²
Not crossing a water		(l)	800 ft ²	2,400 ft ²	4,800 ft ²
• Other projects					
Private residence		(m)	2,500 ft ²	5,000 ft ²	5,000 ft ²
Addition, garage, barn or shed		(n)	1,000 ft ²	2,000 ft ²	2,000 ft ²
Flood control project		(o)	3,000 ft ²	9,000 ft ²	18,000 ft ²
Public accessway or public access area		(p)	No limit if disturbance is justified		
Water dependent development		(q)	No limit if disturbance is justified		
All other regulated activities		(r)	1,000 ft ²	3,000 ft ²	6,000 ft ²

Table C

Includes disturbance for:

- Roadways (e) - (h)
- Bank Stabilization (i)
- Stormwater discharges (j)
- Utility lines (k) - (l)
- A private residence or appurtenant structure (m) - (n)
- Flood control projects (o)
- Tidal developments (p) - (q)
- “Other” minor activities (r)

• Private roadway that serves as a driveway to one private residence

New	Crossing a water	(g)	1,500 ft ²	4,500 ft ²	9,000 ft ²
	Not crossing a water		600 ft ²	1,800 ft ²	3,600 ft ²
Reconstructed	Crossing a water	(h)	750 ft ²	2,250 ft ²	4,500 ft ²
	Not crossing a water		300 ft ²	900 ft ²	1,800 ft ²

• All other private roadways

New	Crossing a water	(g)	3,000 ft ²	9,000 ft ²	18,000 ft ²
	Not crossing a water		1,200 ft ²	3,600 ft ²	7,200 ft ²
Reconstructed	Crossing a water	(h)	1,500 ft ²	4,500 ft ²	9,000 ft ²
	Not crossing a water		600 ft ²	1,800 ft ²	3,600 ft ²

• Utility line (temporary disturbance only)

Crossing a water	(k)	2,000 ft ²	6,000 ft ²	12,000 ft ²
Not crossing a water	(l)	800 ft ²	2,400 ft ²	4,800 ft ²

• Other projects

Private residence	(m)	2,500 ft ²	5,000 ft ²	5,000 ft ²
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Example: Private roadway (driveway)

N.J.A.C. 7:13-10.2(g)

Table C

MAXIMUM ALLOWABLE DISTURBANCE TO RIPARIAN ZONE VEGETATION

Proposed Regulated Activity		See Paragraph Below for Further Detail	Maximum Area of Vegetation Disturbance Based on the Width of the Riparian Zone		
			50-foot Riparian Zone	150-foot Riparian Zone	300-foot Riparian Zone
• Railroad or public roadway					
New	Crossing a water	(e)	5,000 ft ²	15,000 ft ²	30,000 ft ²
	Not crossing a water		2,000 ft ²	6,000 ft ²	12,000 ft ²
Reconstructed	Crossing a water	(f)	2,500 ft ²	7,500 ft ²	15,000 ft ²
	Not crossing a water		1,000 ft ²	3,000 ft ²	6,000 ft ²
• Private roadway that serves as a driveway to one private residence					
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	Not crossing a water		300 ft ²	900 ft ²	1,800 ft ²

Example: Private roadway (driveway)

N.J.A.C. 7:13-10.2(g)

Table C

MAXIMUM ALLOWABLE DISTURBANCE TO RIPARIAN ZONE VEGETATION

Proposed Regulated Activity		See Paragraph Below for Further Detail	Maximum Area of Vegetation Disturbance Based on the Width of the Riparian Zone		
			50-foot Riparian Zone	150-foot Riparian Zone	300-foot Riparian Zone
• Railroad or public roadway					
New	Crossing a water	(e)	5,000 ft ²	15,000 ft ²	30,000 ft ²
	Not crossing a water		2,000 ft ²	6,000 ft ²	12,000 ft ²
Reconstructed	Crossing a water	(f)	2,500 ft ²	7,500 ft ²	15,000 ft ²
	Not crossing a water		1,000 ft ²	3,000 ft ²	6,000 ft ²
• Private roadway that serves as a driveway to one private residence					
New	Crossing a water	(g)	1,500 ft ²	4,500 ft ²	9,000 ft ²
	Not crossing a water		600 ft ²	1,800 ft ²	3,600 ft ²
Reconstructed	Crossing a water	(h)	750 ft ²	2,250 ft ²	4,500 ft ²
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Reconstructed	Crossing a water	(h)	750 ft ²	2,250 ft ²	4,500 ft ²
	Not crossing a water		300 ft ²	900 ft ²	1,800 ft ²

Example (continued):

N.J.A.C. 7:13-10.2(g)

(g) The Department shall issue an individual permit for the construction of a new private roadway, which results in clearing, cutting and/or removing vegetation in a riparian zone, only if the following requirements are satisfied:

Example (continued):

N.J.A.C. 7:13-10.2(g)

1. The total area of vegetation cleared, cut and/or removed within the riparian zone does not exceed the limits set forth in Table C above;
2. The width of the roadway is minimized;

Example (continued):

N.J.A.C. 7:13-10.2(g)

3. Any crossing of a regulated water is designed and constructed as nearly perpendicular to the channel as possible;
4. The roadway accesses a lot that did not receive preliminary or final subdivision approval after October 6, 2006;

Example (continued):

N.J.A.C. 7:13-10.2(g)

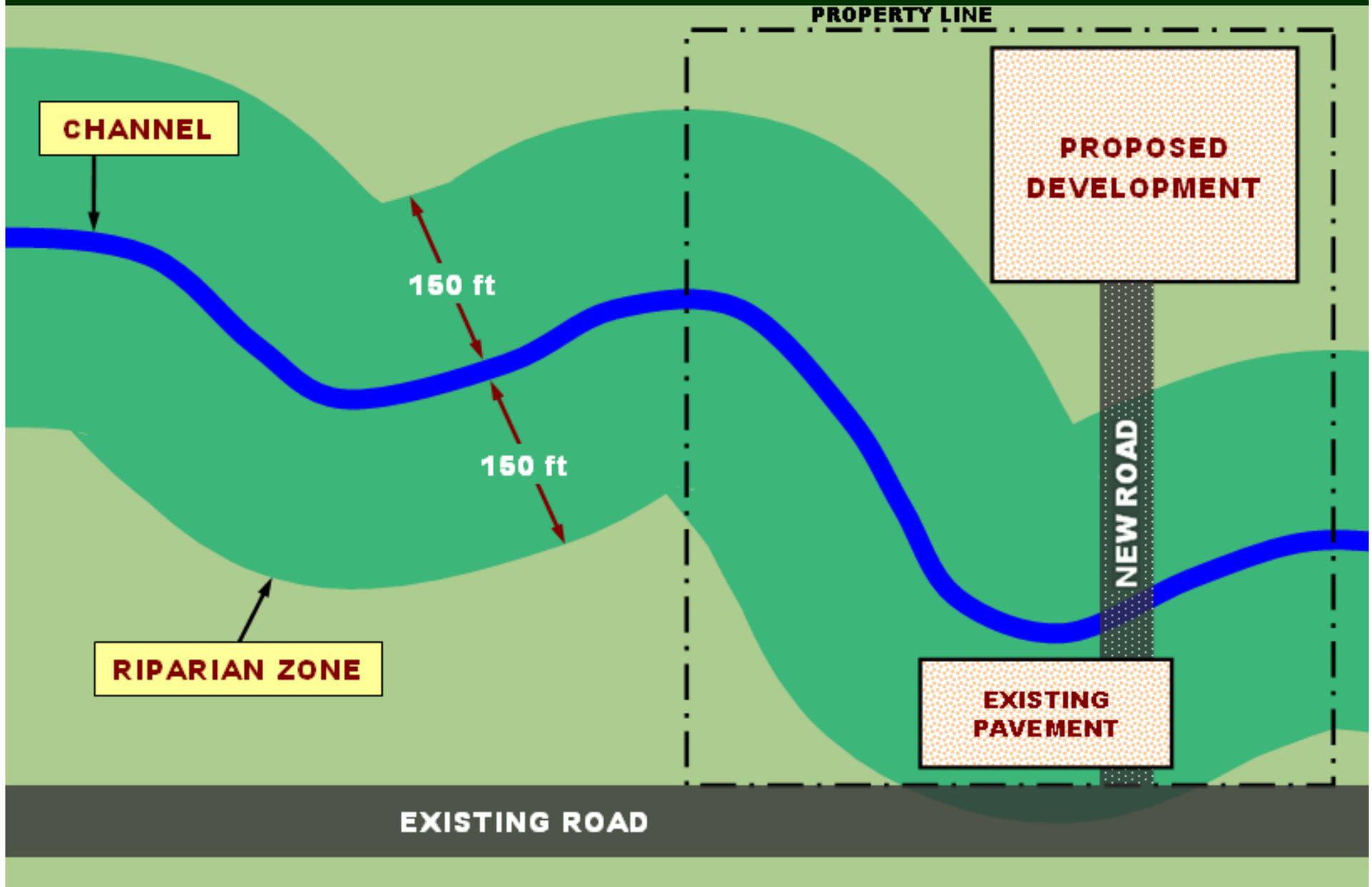
5. If the roadway does not cross a regulated water, but impacts a 150-foot or 300-foot riparian zone, the applicant demonstrates that there is no other means of constructing a roadway to access the developable area onsite, which would reduce or eliminate the impact to the riparian zone

Areas Devoid of Vegetation

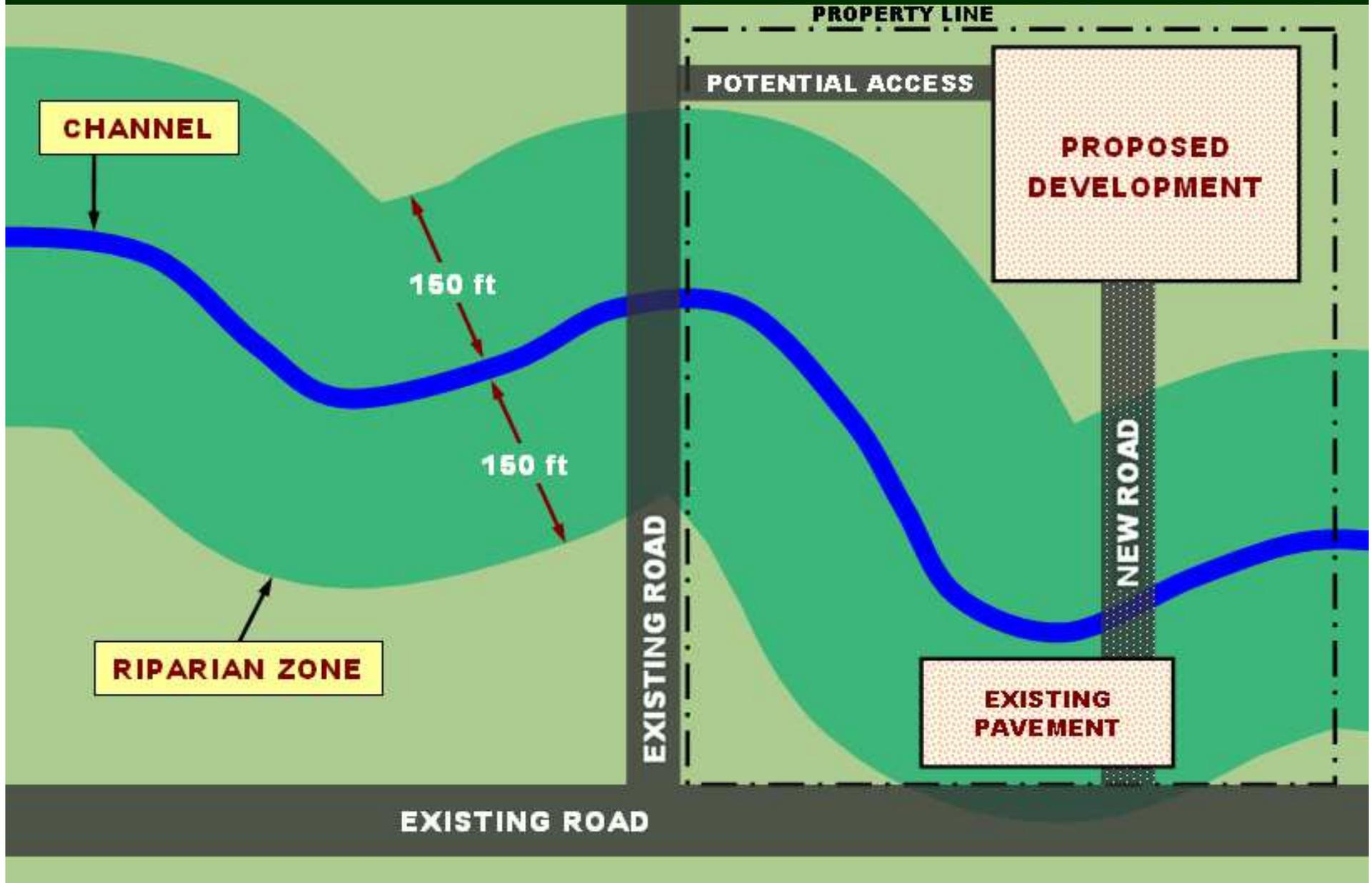
N.J.A.C. 7:13-10.2

- All disturbed vegetation counts (trees, grass, shrubs, weeds, etc.) under Table C
- But, if you disturb an area within the riparian zone, which has **no vegetation** due to previous lawful development, do not count it under Table C
 - For example, work within paved roads and parking areas does not count toward Table C

Example: New road on existing pavement in the riparian zone does not count toward Table C



But: In this example, there may be another entrance to the site that would not disturb the riparian zone



Riparian Zone Disturbance

- Table C disturbances cannot be swapped!

Table C
MAXIMUM ALLOWABLE DISTURBANCE TO RIPARIAN ZONE VEGETATION

Proposed Regulated Activity		See Paragraph Below for Further Detail	Maximum Area of Vegetation Disturbance Based on the Width of the Riparian Zone		
			50-foot Riparian Zone	150-foot Riparian Zone	300-foot Riparian Zone
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Reconstructed	Crossing a water	(f)	2,500 ft ²	7,500 ft ²	15,000 ft ²
	Not crossing a water		1,000 ft ²	3,000 ft ²	6,000 ft ²
• Private roadway that serves as a driveway to one private residence					
New	Crossing a water	(g)	1,500 ft ²	4,500 ft ²	9,000 ft ²
	Not crossing a water		600 ft ²	1,800 ft ²	3,600 ft ²
• Other projects					
Private residence		(m)	2,500 ft ²	5,000 ft ²	5,000 ft ²

Riparian Zone Disturbance

- If the driveway only disturbs 1000 SF, you cannot “credit” the unused 500 SF towards the house.
- The house would still be allowed a maximum of 2500 SF, if justified.

Remember:

- Just because an activity meets the limits of Table C, it does not automatically mean that you'll get a permit for it: **you must prove that the disturbance is minimized, justified, and unavoidable (N.J.A.C. 7:13-10.2(d))**

Temporary Disturbance

N.J.A.C. 7:13-10.2

- Temporary disturbance to lawn and garden areas **does not** count toward thresholds in Table C, provided all vegetation is restored.
- For example:
 - Reconstructing a septic system in a lawn
 - Relocating structures (trails, sheds, footbridges) in a park or golf course
 - Placing new pavement in grass, then ripping up an equal area of pavement and replanting the area with grass

Exceeding Table C

N.J.A.C. 7:13-10.2(d)

- A **hardship exception** is needed if you want to exceed the riparian zone limits of Table C, except for the following projects (in certain cases):
 - Improvements to an existing public roadway or railroad – 10.2(f)
 - Bank stabilization and channel restoration projects – 10.2(i)
 - Flood control projects – 10.2(o)

2:1 Compensation

N.J.A.C. 7:13-10.2(t)

- Is also required for any project under 10.2(r):
 - N.J.A.C. 7:13-10.2(r) allows riparian zone disturbance for **any** regulated activity **not listed** in Table C

BUT:

- 2:1 compensation is required for **all proposed** riparian zone disturbance
- And, you cannot exceed the limits for 10.2(r) without a hardship exception

2:1 Compensation

N.J.A.C. 7:13-10.2(t)

- Can be accomplished in two ways:
 - **Removing** lawfully existing structures and/or impervious surfaces in the riparian zone, and replanting the area with vegetation, or
 - **Planting** new trees in the riparian zone in an area that is substantially devoid of trees at the time of application because the trees were removed due to previous, lawful development

Redevelopment

N.J.A.C. 7:13-10.2(v)

- Redevelopment of lawfully non-vegetated areas is not hindered, except that it should be pulled back at least 25 feet from bank where possible

Fisheries Resources

N.J.A.C. 7:13-10.5

- Requirements in or along a water with a fishery resource. Includes tributaries that drain to a fisheries resource and includes both work in the channel and the Riparian Zone.
 - Timing restrictions are met
 - Unset or raw concrete does not contact the water
 - No logs or boulders providing habitat are removed
 - Low-flow conditions are maintained.

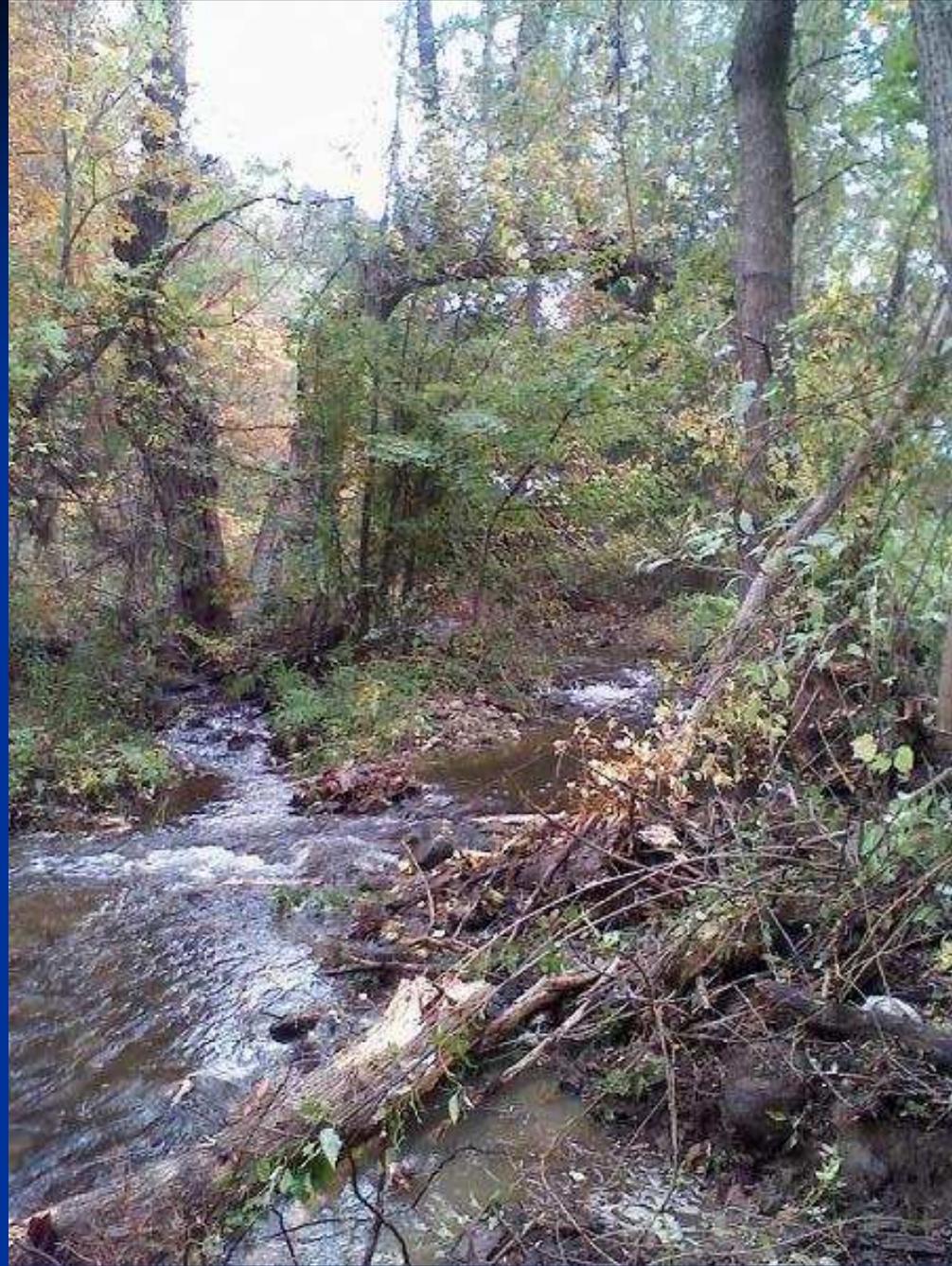
Table E
RESTRICTED TIME PERIODS FOR WATERS WITH FISHERY RESOURCES

Water and classification	Time period (inclusive) during which activities are prohibited
1. Trout Waters	
<ul style="list-style-type: none"> • All trout production waters except rainbow trout 	September 15 through March 15
<ul style="list-style-type: none"> • Rainbow trout production waters 	February 1 through April 30
<ul style="list-style-type: none"> • Trout stocked waters • Trout maintenance waters • Any water located within 1 mile upstream of a trout stocked or a trout maintenance water 	March 15 through June 15
2. Non-Trout Waters	
<ul style="list-style-type: none"> • Waters that support general game fish 	May 1 through June 30
<ul style="list-style-type: none"> • Waters that support pickerel 	Ice out through April 30
<ul style="list-style-type: none"> • Waters that support walleye 	March 1 through May 30
3. Anadromous Waters	
<ul style="list-style-type: none"> • All unimpeded tidal waters open to the Atlantic Ocean or any coastal bay • All waters identified as anadromous migratory pathways 	April 1 through June 30
<ul style="list-style-type: none"> • Delaware River upstream of U.S. Route 202 	April 1 through June 30 and September 1 through November 30
<ul style="list-style-type: none"> • Delaware River between U.S. Route 202 and Interstate 276 (Pennsylvania Turnpike Bridge) 	March 1 through June 30
<ul style="list-style-type: none"> • Delaware River between Interstate 276 (Pennsylvania Turnpike Bridge) and Interstate 295 (Delaware Memorial Bridge) • Tidal portions of Raccoon, Rancocas Creek, Crosswicks Creeks and Cooper River 	March 1 through June 30 and September 1 through November 30
<ul style="list-style-type: none"> • All unimpeded tidal waters open to the Delaware River downstream of Interstate 295 (Delaware Memorial Bridge) • Tidal portions of the Maurice River, Cohansey River and Salem River 	March 1 through June 30 and October 1 through November 30

Threatened and Endangered Species

N.J.A.C. 7:13-10.6

- GeoWeb rank 3, 4, or 5 and Natural Heritage Priority Database provided in the NHP letter
- NJDEP will only issue an FHA-IP if the activity will not adversely affect T & E or documented habitat.
- A T & E survey for plants or habitat assessment for animals may be required per NJAC 7:13-15.5(c)
- Timing restrictions depending on species













Questions?

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