

New York State Department of Environmental Conservation

Division of Environmental Permits, Region 2

47-40 21ST Street, Long Island City, NY 11101-5407

Phone: (718) 482-4997 • FAX: (718) 482-4975

Website: www.dec.state.ny.us



Alexander B. Grannis
Commissioner

October 10, 2008

Rebecca Darr
NYC Economic Development Corp.
110 William Street
New York, New York 10038-3901

Re: Permit No. 2-6004-00576/00007
City of New York Parks & Recreation
Bronx Terminal Market Waterfront Park Redevelopment
Bronx, New York
6NYCRR Part 608 - Water Quality Certification
ECL Article 15 - Protection of Waters
ECL Article 25 - Tidal Wetlands
NOTICE OF PERMIT ISSUANCE

Dear Mr. Darr:

Enclosed is your permit. Please read it carefully. Compliance with all permit conditions is required.

Please note that Natural Resource Permit Condition 3 requires submission of the attached "Notice of Intent to Commence Work" at least 5 days prior to beginning work authorized by this permit.

Technical questions concerning the permit should be directed to George Stadnik in the NYSDEC Bureau of Marine Resources at 718 482-6464. Administrative questions should be directed to Tammy Greco in the NYSDEC Division of Environmental Permits at 718 482-4997.

Sincerely,

A handwritten signature in blue ink, appearing to read "Harold J. Dickey".

Harold J. Dickey
Deputy Regional Permit Administrator

cc: City of New York Parks & Recreation
NYSDEC Marine Resources
NYSDEC Law Enforcement



PERMIT
Under the Environmental Conservation Law (ECL)

Permittee and Facility Information

Permit Issued To:
NYC DEPT OF PARKS & RECREATION
830 5TH AVE
NEW YORK, NY 10021-7001

Facility:
NYC DPR - 6978 MAJOR DEEGAN EXPWY
6978 MAJOR DEEGAN EXPWY
BRONX, NY 10451

Facility Location: in BRONX COUNTY **Village:** Bronx

Facility Principal Reference Point: NYTM-E: 590.065 NYTM-N: 4519.843
Latitude: 41°49'28.8" Longitude: 74°55'54.9"

Project Location: East 150th St to Harlem River to Exterior St to Major Deegan Expressway

Authorized Activity: Construction of the Bronx Terminal Waterfront Park including redevelopment of Piers 1 through 4 of the original Bronx Terminal Market. The park will include open space, waterfront esplanade, tennis courts, picnic areas, and the rehabilitation of the original Terminal Market Building J for park uses. Work under NYSDEC jurisdiction includes extensive shoreline structure repair, restoration and replacement.

Permit Authorizations

Tidal Wetlands - Under Article 25

Permit ID 2-6004-00576/00007

New Permit Effective Date: 10/10/2008 Expiration Date: 12/31/2010

Excavation & Fill in Navigable Waters - Under Article 15, Title 5

Permit ID 2-6004-00576/00008

New Permit Effective Date: 10/10/2008 Expiration Date: 12/31/2010

Water Quality Certification - Under Section 401 - Clean Water Act

Permit ID 2-6004-00576/00009

New Permit Effective Date: 10/10/2008 Expiration Date: 12/31/2010

NYSDEC Approval

By acceptance of this permit, the permittee agrees that the permit is contingent upon strict compliance with the ECL, all applicable regulations, and all conditions included as part of this permit.

Permit Administrator: JOHN F CRYAN, Regional Permit Administrator
Address: NYSDEC REGION 2 HEADQUARTERS
47-40 21ST ST
LONG ISLAND CITY, NY 11101 -5407

Authorized Signature: Date 10/10/08



Permit Components

NATURAL RESOURCE PERMIT CONDITIONS

WATER QUALITY CERTIFICATION SPECIFIC CONDITION

GENERAL CONDITIONS, APPLY TO ALL AUTHORIZED PERMITS

NOTIFICATION OF OTHER PERMITTEE OBLIGATIONS

NATURAL RESOURCE PERMIT CONDITIONS - Apply to the Following Permits: TIDAL WETLANDS; EXCAVATION & FILL IN NAVIGABLE WATERS; WATER QUALITY CERTIFICATION

1. Conformance With Plans All activities authorized by this permit must be in strict conformance with the approved plans submitted by the applicant or applicant's agent as part of the permit application. Such approved plans were prepared by City of New York Parks & Recreation.

2. Conformance with Plans - Addenda In addition to plans referenced in the Condition titled "Conformance with Plans," the activities authorized by this permit must be in strict conformance with the following approved plans and/or submissions made as part of the permit application:

a. Plans prepared for City of New York Parks and Recreation, titled 'Yankee Stadium City Work Bronx Terminal Market Waterfront Redevelopment', sheets 1-11, 13, 16, 17, 21, 23-47 of 47, dated February 7, 2008, received by NYSDEC on February 26, 2008.

b. Plans prepared for City of New York Parks and Recreation, titled 'Yankee Stadium City Work Bronx Terminal Market Waterfront Redevelopment', sheets 12, 14, 15, 18, 19, 20, 20A, and 22 of 47, revised date 6/5/08, received by NYSDEC on June 9, 2008.

c. Letter and attachments from William Parry of H2M, to Mr. Daniel Cole, Re: Cap Configuration Update Bronx Terminal Market Waterfront Park Project Update, dated September 16, 2008.

d. Plans prepared by H2M Group titled 'Figure 1 Capping System Layout', dated 9/16/2006, received by NYSDEC on September 19, 2008.

e. Plans prepared by H2M Group titled 'Figure 2 - Revised 9/8/2008, Typical Capping System Cross-Sections', revised date 9/8/2008, received by NYSDEC on September 19, 2008.

f. Plans prepared by H2M Group titled 'Figure 11 - Revised 9/16/2008, Typical Capping system Cross-Sections', revised date 9/16/2008, received by NYSDEC on September 19, 2008.

3. Notice of Intent to Commence Work At least five (5) days prior to the start of work. Permittee must complete and submit the attached "Notice of Intent to Commence Work" form to the NYSDEC Bureau of Marine Resources, 47-40 21st Street, Long Island City, New York 11101 (Attention: George Stadnik).

4. Plan Revisions Within 30 days of permit issuance, Permittee must revise Section 2.2, Page 2, last



paragraph/sentence to incorporate/include statement made in correspondence dated 6/5/08 by Joshua Laird, Assistant Commissioner, City of New York Parks & Recreation. Copies of the revision must be provided to the: NYSDEC Marine Resources Program Manager and NYSDEC Regional Permit Administrator.

5. Post Permit Sign The permit sign enclosed with this permit shall be posted in a conspicuous location on the worksite and adequately protected from the weather.

6. Erosion Controls Upon commencement of regulated activities Permittee must install a row of staked hay bales or approvable erosion control devices as per project plans referenced in Natural resource Permit Condition 1. Erosion controls must remain in place until project is completed and all disturbed areas stabilized with vegetation.

7. Best Management Practices Best management practices must be employed to prevent the loss of construction materials, debris and sediments from entering the wetlands or waterways. Such practices may include, but are not limited to construction fencing, staked hay bales, silt fencing, floating platforms, netting, containment booms.

8. Concrete / Leachate Discharges Prohibited During construction, concrete or leachate must not escape or be discharged, nor will washings from transit mix trucks, mixers, or other devices enter tidal wetlands and or protected buffer areas.

9. Precautions Against Contamination of Waters All necessary precautions shall be taken to preclude contamination of any wetland or waterway by suspended solids, sediments, fuels, solvents, lubricants, epoxy coatings, paints, concrete, leachate or any other environmentally deleterious materials associated with the project.

10. Excavation for Bulkhead/Structure Prior to any construction or removal of bulkheads and other shoreline stabilization structures all backfill shall be excavated landward of the structure and retained so as not to enter the waterway, tidal wetland or protected buffer area.

11. Complete Construction Before Backfilling Construction of all peripheral riprap berms, cofferdams, rock revetment, gabions, bulkheads, etc., shall be completed prior to placement of any fill material behind such structures.

12. Grade and Stabilize Slope of Tidal Wetland The existing bank shall be graded and shaped to receive the revetment or other shoreline stabilization structure so that the final toe of slope extends no further seaward or closer to the tidal wetlands than the existing toe of slope.

13. Clean Fill Material Only All fill material must consist of "clean" sand, gravel, or soil. The use of material such as asphalt, slag, fly-ash, broken concrete, or demolition debris is strictly prohibited.

14. Contain Stockpile and Disturbed Areas All disturbed areas where soil will be temporarily exposed or stockpiled for longer than one week shall be contained by a continuous line of staked hay bales/silt curtain (or other department-approved method) placed on the seaward side between the fill and wetland or protected buffer area. Tarps are authorized to supplement these approved methods.

15. Disturbance To Vegetated Wetlands Prohibited There will be no disturbance to vegetated tidal wetlands or tidal wetlands adjacent area protected buffer areas as a result of the permitted activity.

16. No Construction Debris in Wetland or Adjacent Area Any debris or excess material from



construction of this project shall be completely removed from the adjacent area (upland) and removed to an approved upland area for disposal. No debris is permitted in wetlands and/or protected buffer areas.

17. Debris Removal Should any demolition or construction debris fall into the waterway or enter the tidal wetlands, it must be removed immediately.

18. Debris Disposal All demolition and construction debris must be properly disposed of at a licensed facility.

19. Disposal of Excavated Materials Excavated sediments must be placed directly into the approved disposal site or conveyance vehicle. The sidecasting (double dipping) or temporary storage of excavated material is prohibited.

20. Storage of Construction Equipment & Materials The storage of construction equipment and materials must be confined as per project plans referenced in Natural Resource Permit Condition 2.

21. No Equipment below Apparent MHW Equipment operation below apparent high water is strictly prohibited.

22. Dredging Prohibited This permit does not authorize any dredging.

23. No Runoff Over or Through Bulkhead or into Wetland There must be no discharge of runoff or other effluent over or through any bulkhead or shoreline stabilization structure or into any tidal wetland or protected buffer area except for locations indicated on project plans referenced in Natural Resource Permit Condition 1.

24. Stabilize Disturbed Areas All areas of soil disturbance resulting from this project shall be stabilized immediately following project completion or prior to permit expiration, whichever comes first. The approved methodologies are as follows:

- a. Stabilization of the entire disturbed area with appropriate vegetation (grasses, etc.).
- b. Stabilized as per specifications identified on approved plans.
- c. Temporarily stabilized with straw mulch or jute matting or other similar natural fiber matting within 1 week of final grading. Temporary stabilization shall be maintained until a mature vegetative cover is established.

25. Survival of Plantings Permittee must plant tidal wetlands adjacent area as per approved project plans referenced in natural Resource Permit Condition 2. Permittee must ensure a minimum of 85% survival of plantings by the end of five growing seasons. If this goal is not met, Permittee must re-evaluate the restoration project in order to determine how to meet the mitigation goal and submit plans for approval to: NYSDEC Bureau of Marine Habitat Protection, 47-40 21st Street, Long Island City, NY 11101.

26. Wood Preservatives A. Pressure treated wood used for construction of in-water structures must have been treated with a preservative and must have undergone a treatment process approved (stamped or otherwise marked as certified) by the American Wood Preservative Association.

B. Wood treated with Pentachlorophenol (PCP) must not be used in wetlands or surface waters.



C1. [Existing Marinas]

Wood treated with creosote may only be used until January 1, 2010.

Any unused creosote treated wood must be disposed of in accordance with section 27-2505 of the Environmental Conservation Law at a specially authorized facility. The burning of creosote treated wood is strictly prohibited.

C2. [New Marinas]

The use of creosote treated wood is prohibited both in the water and in the upland areas.

D. Chromated Copper Arsenate (CCA) pressure treated wood must be clean and free of CCA surface deposits. Wood with surface deposits must be washed for at least 5 minutes under running water prior to use. (Note the following condition for the handling of wash water.)

E. Any wood debris such as sawdust or wash water must not enter any water body, including wetlands, or protected buffer areas.

27. Minimize Adverse Impacts to Wetlands, Wildlife, Water All work must be performed in a manner which minimizes adverse impacts to wetlands, wildlife, water quality and natural resources.

28. No Interference With Navigation There shall be no unreasonable interference with navigation by the work herein authorized.

29. Prior Approval of Changes If the Permittee desires to make any changes in construction techniques, species to be planted, the site plan, any mitigation plan, scheduling or staging of construction, or any other aspect of this project, the Permittee shall submit a written request to the Regional Permit Administrator to make such proposed changes and shall not make such changes unless authorized in writing by the Department.

30. Failure to Meet Permit Conditions Failure of the permittee to meet all the conditions of this permit is a violation of this permit and grounds for an order to immediately cease the permitted activity at the project site.

31. State May Require Site Restoration If upon the expiration or revocation of this permit, the project hereby authorized has not been completed, the applicant shall, without expense to the State, and to such extent and in such time and manner as the Department of Environmental Conservation may require, remove all or any portion of the uncompleted structure or fill and restore the site to its former condition. No claim shall be made against the State of New York on account of any such removal or alteration.

32. State May Order Removal or Alteration of Work If future operations by the State of New York require an alteration in the position of the structure or work herein authorized, or if, in the opinion of the Department of Environmental Conservation it shall cause unreasonable obstruction to the free navigation of said waters or flood flows or endanger the health, safety or welfare of the people of the State, or cause loss or destruction of the natural resources of the State, the owner may be ordered by the Department to remove or alter the structural work, obstructions, or hazards caused thereby without expense to the State, and if, upon the expiration or revocation of this permit, the structure, fill, excavation, or other modification of the watercourse hereby authorized shall not be completed, the owners, shall, without expense to the State, and to such extent and in such time and manner as the Department of Environmental Conservation may require, remove all or any portion of the uncompleted structure or fill



and restore to its former condition the navigable and flood capacity of the watercourse. No claim shall be made against the State of New York on account of any such removal or alteration.

33. State Not Liable for Damage The State of New York shall in no case be liable for any damage or injury to the structure or work herein authorized which may be caused by or result from future operations undertaken by the State for the conservation or improvement of navigation, or for other purposes, and no claim or right to compensation shall accrue from any such damage.

WATER QUALITY CERTIFICATION SPECIFIC CONDITIONS

1. Water Quality Certification The NYS Department of Environmental Conservation hereby certifies that the subject project will not contravene effluent limitations or other limitations or standards under Sections 301, 302, 303, 306 and 307 of the Clean Water Act of 1977 (PL 95-217) provided that all of the conditions listed herein are met.

GENERAL CONDITIONS - Apply to ALL Authorized Permits:

1. Facility Inspection by The Department The permitted site or facility, including relevant records, is subject to inspection at reasonable hours and intervals by an authorized representative of the Department of Environmental Conservation (the Department) to determine whether the permittee is complying with this permit and the ECL. Such representative may order the work suspended pursuant to ECL 71- 0301 and SAPA 401(3).

The permittee shall provide a person to accompany the Department's representative during an inspection to the permit area when requested by the Department.

A copy of this permit, including all referenced maps, drawings and special conditions, must be available for inspection by the Department at all times at the project site or facility. Failure to produce a copy of the permit upon request by a Department representative is a violation of this permit.

2. Relationship of this Permit to Other Department Orders and Determinations Unless expressly provided for by the Department, issuance of this permit does not modify, supersede or rescind any order or determination previously issued by the Department or any of the terms, conditions or requirements contained in such order or determination.

3. Applications For Permit Renewals, Modifications or Transfers The permittee must submit a separate written application to the Department for permit renewal, modification or transfer of this permit. Such application must include any forms or supplemental information the Department requires. Any renewal, modification or transfer granted by the Department must be in writing. Submission of applications for permit renewal, modification or transfer are to be submitted to:

Regional Permit Administrator
NYSDEC REGION 2 HEADQUARTERS
47-40 21ST ST
LONG ISLAND CITY, NY11101 -5407

4. Submission of Renewal Application The permittee must submit a renewal application at least 30 days before permit expiration for the following permit authorizations: Excavation & Fill in Navigable



Waters, Tidal Wetlands, Water Quality Certification.

5. Permit Modifications, Suspensions and Revocations by the Department The Department reserves the right to modify, suspend or revoke this permit. The grounds for modification, suspension or revocation include:

- a. materially false or inaccurate statements in the permit application or supporting papers;
- b. failure by the permittee to comply with any terms or conditions of the permit;
- c. exceeding the scope of the project as described in the permit application;
- d. newly discovered material information or a material change in environmental conditions, relevant technology or applicable law or regulations since the issuance of the existing permit;
- e. noncompliance with previously issued permit conditions, orders of the commissioner, any provisions of the Environmental Conservation Law or regulations of the Department related to the permitted activity.

6. Permit Transfer Permits are transferrable unless specifically prohibited by statute, regulation or another permit condition. Applications for permit transfer should be submitted prior to actual transfer of ownership.

NOTIFICATION OF OTHER PERMITTEE OBLIGATIONS

Item A: Permittee Accepts Legal Responsibility and Agrees to Indemnification

The permittee, excepting state or federal agencies, expressly agrees to indemnify and hold harmless the Department of Environmental Conservation of the State of New York, its representatives, employees, and agents ("DEC") for all claims, suits, actions, and damages, to the extent attributable to the permittee's acts or omissions in connection with the permittee's undertaking of activities in connection with, or operation and maintenance of, the facility or facilities authorized by the permit whether in compliance or not in compliance with the terms and conditions of the permit. This indemnification does not extend to any claims, suits, actions, or damages to the extent attributable to DEC's own negligent or intentional acts or omissions, or to any claims, suits, or actions naming the DEC and arising under Article 78 of the New York Civil Practice Laws and Rules or any citizen suit or civil rights provision under federal or state laws.

Item B: Permittee's Contractors to Comply with Permit

The permittee is responsible for informing its independent contractors, employees, agents and assigns of their responsibility to comply with this permit, including all special conditions while acting as the permittee's agent with respect to the permitted activities, and such persons shall be subject to the same sanctions for violations of the Environmental Conservation Law as those prescribed for the permittee.

Item C: Permittee Responsible for Obtaining Other Required Permits

The permittee is responsible for obtaining any other permits, approvals, lands, easements and rights-of-way that may be required to carry out the activities that are authorized by this permit.

Item D: No Right to Trespass or Interfere with Riparian Rights



This permit does not convey to the permittee any right to trespass upon the lands or interfere with the riparian rights of others in order to perform the permitted work nor does it authorize the impairment of any rights, title, or interest in real or personal property held or vested in a person not a party to the permit.

NOTICE OF INTENT TO COMMENCE WORK

Date: _____

**NYSDEC Marine Resources
Attn. George Stadnik
N.Y.S.D.E.C Region 2 Office
47-40 21st Street
Long Island City, N.Y. 11101**

**Re: NYSDEC Permit No. 2-6004-00576/00007
NYC Parks - Bronx Terminal Market
Bronx, New York**

Dear Mr. Stadnik:

In accordance with Natural Resource Condition 3 of the referenced permit, I hereby serve notice to commence work on _____, 200_____.

This is also to certify that, having read this entire permit, I am fully aware of and understand the general and natural resource conditions therein, and agree to comply with all such conditions further understand that prior to undertaking any modification to the subject work, I must seek and receive written approval of the NYSDEC Regional Permit Administrator.

Signature of Permittee

Signature of Contractor

Name of Permittee (please print)

Name of Contractor (please print)

Street Address of Contractor

City, State, & Zip Code of Contractor

Telephone Number of Contractor

WARNING

The permittee and his contractor (if any) are required to follow all permit conditions. Violations of the permit may lead to legal action, including the imposition of substantial monetary fines and corrective work.

cc: Environmental Permits

New York State
Department of Environmental Conservation



The Department of Environmental Conservation (DEC) has issued permit(s) pursuant to the Environmental Conservation Law for work being conducted at this site. For further information regarding the nature and extent of the approved work and any Department conditions applied to the approval, contact the Regional Permit Administrator listed below. Please refer to the permit number shown when contacting the DEC.

2-6004-00576/00007

Regional Permit Administrator

Permit Number _____
12/31/2010

Expiration Date _____

John F. Cryan
47-40 21st Street
LIC, NY 11101
(718) 482-4997

NOTE: This notice is NOT a permit