



PERMIT
Under the Environmental Conservation Law (ECL)

Permittee and Facility Information

Permit Issued To:
SAWYER'S LANDING LLC
43 Central Ave
LANCASTER, NY 14086
(716) 912-0969

Facility:
MUIR WOODS DEVELOPMENT
1121 N French Rd
Amherst, NY 14228

CIMINELLI MUIR WOODS, LLC
50 Fountain Plz Ste 500
Buffalo, NY 14202
(716) 631-8000

Facility Location: in AMHERST in ERIE COUNTY

Facility Principal Reference Point: NYTM-E: 191.586 NYTM-N: 4770.823
Latitude: 43°01'38.9" Longitude: 78°47'07.2"

Authorized Activity: Construction of a new bike path, measuring approximately 830 linear feet in length and permanently impacting approximately 0.58-acres of the regulated 100' wide adjacent area of NYSDEC Freshwater Wetland TE-33. No direct impact to Freshwater Wetland TE-33 itself is authorized as part of this project. The project is located at the facility location listed above.

Permit Authorizations

Freshwater Wetlands - Under Article 24

Permit ID 9-1422-00398/00003

New Permit

Effective Date: 7/25/2024

Expiration Date: 7/24/2027

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: LISA M CZECHOWICZ, Regional Permit Administrator
Address: NYSDEC Region 9 Headquarters
700 Delaware Ave
Buffalo, NY 14209

Authorized Signature: _____

Lisa M. Czechowicz

Date 7 / 25 / 2024



Distribution List

NYSDEC Region 9 Division of Law Enforcement
Chuck Rosenburg, NYSDEC Region 9 Bureau of Ecosystem Health
Molly Bebak, NYSDEC Region 9 Division of Water
Town of Amherst
Jody M. Celeste, Earth Dimensions, Inc.
Ciminelli Muir Woods, LLC

Permit Components

NATURAL RESOURCE PERMIT CONDITIONS

GENERAL CONDITIONS, APPLY TO ALL AUTHORIZED PERMITS

NOTIFICATION OF OTHER PERMITTEE OBLIGATIONS

NATURAL RESOURCE PERMIT CONDITIONS - Apply to the Following Permits: FRESHWATER WETLANDS

- 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 various, including pages 1-3 of Joint Application Form (3 pgs), "Overall Site Plan" (1 pg), "Grading Plan - Recreation Trail" (1 pg), and "Monument and Tree Planting Plan" (1 pg), 6 pages DEC date-stamped 3/1/24 attached to this permit.
- 2. Conditions Prevail Over Plans** If any condition of this permit conflicts with the approved plans, the permit condition shall prevail over the plans.
- 3. Notice of Intent to Commence Work** The Permittee shall notify the Department 3 to 5 days prior to the commencement of work on the project by emailing DEP.R9@dec.ny.gov, at attention to Matthew Smith, Environmental Analyst I, and Charles Rosenburg, NYSDEC Region 9 Bureau of Ecosystem Health. The email needs to include the permit number, permittee name and the project start date.
- 4. Siltation Prevention Measures** Siltation prevention measures, such as silt fencing, sediment traps, settling basins and/or filter bags, as deemed necessary and appropriate for the situation, shall be installed and maintained during the project, to prevent movement of silt and turbid waters from the project site into NYS Freshwater Wetland TE-33, its associated 100' wide adjacent area, and/or any other watercourse, stream, water body or wetland.



5. Install Monuments The permittee shall install a minimum of nine (9) monuments along the edge of the bike path as shown in the final NYSDEC approved site plan. The monuments shall be 30-inch long 5/8-inch rebar and cap embedded flush and in the center of the top exposed surface of concrete in a minimum 4-inch diameter, 4.5-foot long section of PVC Schedule 40 drain pipe filled with concrete, extending vertically 1.5 - 2 feet above existing grade at each location. The caps shall say "Wetland Conservation Area, Do Not Disturb, Survey Marker."

6. Work Within Area Depicted on Plans No impacts to Freshwater Wetland TE-33 or its 100' wide adjacent area located outside of monuments are authorized by this permit. Other than impacts directly associated with work authorized by this permit, Freshwater Wetland TE-33 and its regulated 100'-wide adjacent area must be left in an undisturbed condition.

7. 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.

8. Invasive Species (Non-native Vegetation) To prevent the unintentional introduction or spread of invasive species, the permittee must ensure that all construction equipment be cleaned of mud, seeds, vegetation and other debris before entering any approved construction areas within the 100' wide regulated wetland adjacent area of NYS Freshwater Wetland TE-33.

9. Equipment Storage 100' from Wetland, Water Body All equipment and machinery shall be stored, refueled, and safely contained greater than 100 feet landward of the regulated wetland or water body at the end of each work day. This will serve to avoid the inadvertent leakage of deleterious substances into the regulated area.

10. Disposal of Material All excess construction materials shall be immediately removed from the project area upon project completion. Materials may be used at another permitted site, recycled, disposed of at a NYSDEC-approved landfill, or disposed of at an upland site, as appropriate for the material and in accordance with all local, state and federal regulations. Disposal in wetlands and/or regulated 100' wide wetland adjacent areas (including regulated areas of NYS Freshwater Wetland TE-33), other surface waters, or in 100-year floodplains is strictly prohibited.

11. Seed, Mulch Disturbed Areas All areas of soil disturbance resulting from this project must be seeded with an appropriate erosion control seed mix and mulched with straw or hydro-mulched immediately upon completion of the project.

12. Temporary Mulch, Final Seeding If seeding is impracticable due to the time of year, a temporary mulch shall be applied and final seeding shall be performed at the earliest opportunity when weather conditions favor germination and growth but not more than six months after project completion.

13. Establish Vegetative Cover The permittee must ensure the establishment of at least 90 percent vegetative cover across all project disturbed areas by the end of the first complete growing season after completion of construction.

14. Long-term Plant Survival The permittee must ensure a minimum of 85% survival of plantings by the end of five growing seasons. If this goal is not met, the permittee must re-evaluate the restoration project in order to determine how to meet the mitigation goal and submit plans to be approved to the NYSDEC Region 9 Bureau of Ecosystem Health via email at R9BEH@dec.ny.gov.



15. 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.

16. 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.

17. 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 lawfully 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.

18. 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.

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 9 Headquarters
700 Delaware Ave
Buffalo, NY14209

4. Submission of Renewal Application The permittee must submit a renewal application at least 30 days before permit expiration for the following permit authorizations: Freshwater Wetlands.

5. Permit Modifications, Suspensions and Revocations by the Department The Department reserves the right to exercise all available authority 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.