

New York State Department of Environmental Conservation
Division of Environmental Permits, Region 8
6274 East Avon-Lima Road, Avon, New York 14414-9519
Phone: (585) 226-5400 • FAX: (585) 226-2830
Website: www.dec.ny.gov



Facility: Denhaese Property
3400 Poplar Beach Rd
Town of Canandaigua, Ontario County

NYSDEC Permit # 8-3224-00474/00001

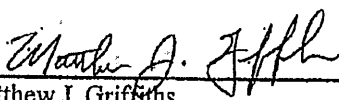
Important Notice to All Permittees

The NYS Department of Environmental Conservation (DEC) Article 15 Excavation & Fill permit you requested to install a new stone and mortar retaining wall approximately 6-12 inches above the Mean High Water (MHW) mark on Canandaigua Lake and toe stone along the face of the wall below MHW is enclosed. Please read it carefully and note the conditions that are included in it. The permit is valid for only those activities expressly authorized therein. Work beyond the scope of the permit and the approved project plans may be considered a violation of the law and be subject to appropriate enforcement action.

For many project involving work in and around streams, lakes and wetlands, the U.S. Army Corps of Engineers (USACE) may have regulatory authority in addition to this Department. On your joint application form you indicated that a copy of the application was sent the USACE. If you have not already done so, you should contact the Corps of Engineers to obtain any required federal authorizations prior to the commencement of work. The U.S. Army Corps of Engineers' Regulatory Branch in Buffalo can be reached at (716) 879-4330. Please also be advised this permit does not exempt you from obtaining any other necessary local approvals, such as a building permit.

Please note the expiration date of the permit. If you need additional time to complete your project, you must submit your request, in writing, prior to expiration of the permit. Provide an explanation of why additional time is needed and how much additional time you are requesting. Applications for the permit renewal must be made in advance of the expiration date. Please refer to the general conditions listed in the permit for specific instructions. The number(s) listed above pertain(s) to this permit and should be referenced on all correspondence related to this permit and any future applications for permits associated with this facility or project.

If you have any questions on the extent of the work authorized or your obligations under the permit, please feel free to contact me at (585) 226-5469 or matthew.griffiths@dec.ny.gov

 12/31/14
Matthew J. Griffiths
Division of Environmental Permits, Region 8
Telephone (585) 226-5469

C.C. Robert Fladd, Contractor (w/Permit)
Buffalo USACE, Regulatory Branch (w/Permit)
Town of Canandaigua, Code Enforcement

PERMIT

Under the Environmental Conservation Law (ECL)

Permittee and Facility Information

Permit Issued To:
RYAN DENHAESE
6415 LANDSTONE DR
CLARENCE CENTER, NY 14032

Facility:
DENHAESE PROPERTY
3400 POPLAR BEACH DR
CANANDAIGUA, NY

Facility Application Contact:
ROBERT J FLADD
FLADD'S CREATIVE STONE
4626 CLOVER RD
CANANDAIGUA, NY 14424
(585) 394-4290

Facility Location: in CANANDAIGUA in ONTARIO COUNTY
Facility Principal Reference Point: NYTM-E: 315.765 NYTM-N: 4748.199
Latitude: 42°51'51.0" Longitude: 77°15'19.1"

Project Location: Canandaigua Lake - East side

Authorized Activity:

Install 76.4 linear feet of new stone and mortar retaining wall approximately 6-12 inches above mean high water (MHW), except in one location to preserve an existing tree and install toe stone along & below MHW, in accordance with the plans referenced in Natural Resources Condition No. 1 of this permit.

Permit Authorizations

Excavation & Fill in Navigable Waters - Under Article 15, Title 5
Permit ID 8-3224-00474/00001

New Permit

Effective Date: 12/31/2014

Expiration Date: 12/31/2016

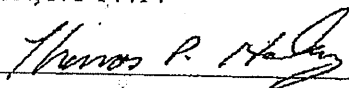
NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION
Facility DEC ID 8-3224-00474

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: THOMAS P HALEY, Deputy Regional Permit Administrator
Address: NYSDEC REGION 8 HEADQUARTERS,
6274 E AVON-LIMA RD
AVON, NY 14414

Authorized Signature:



Date 12/31/2014

Distribution List

ROBERT J FLADD
Habitat
US ARMY CORPS OF ENGINEERS - BUFFALO DISTRICT

Permit Components

NATURAL RESOURCE PERMIT CONDITIONS

GENERAL CONDITIONS, APPLY TO ALL AUTHORIZED PERMITS

NOTIFICATION OF OTHER PERMITTEE OBLIGATIONS

Permit Attachments

Construction Detail Drawings
Notice of Intent to Commence Work
Permit Sign

11/14/2014

NATURAL RESOURCE PERMIT CONDITIONS - Apply to the Following Permits: EXCAVATION & FILL IN NAVIGABLE WATERS

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 Robert Fladd, received by NYSDEC Region 8 DEP on November 14, 2014 (Attachment A).

2. **Notice of Intent to Commence Work** The permittee shall submit a Notice of Intent to Commence Work to Bureau of Habitat at least 48 hours in advance of the time of commencement and shall also notify him/her promptly in writing of the completion of work.
3. **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.
4. **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.
5. **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.
6. **Install and Maintain Erosion Controls** The erosion control measures specified in the referenced plans must be put in place before any disturbance of the ground occurs and is to be maintained in a functional condition over the life of construction and revegetation phase.
7. **No Interference With Navigation** There shall be no unreasonable interference with navigation by the work herein authorized.
8. **No Equipment in the Water** Heavy equipment operation in the water is prohibited. With backhoes and similar heavy equipment, the bucket may enter the water.
9. **Excavation for Bulkhead** Any material (sediment, gravel, etc.) excavated to facilitate placement/repair of the bulkhead shall be disposed of at a site above the reach of high water or behind the completed wall to prevent its entry into the water.
10. **No Turbidity from Dewatering** No turbid water resulting from dewatering operations (if necessary) shall be discharged directly to or allowed to enter the Lake. Such water shall be pumped to settling basins or to an upland vegetated area prior to any discharge to the Lake. All other necessary measures shall be implemented to prevent any visible increase in turbidity or sedimentation from the work site.
11. **Concrete Leachate** During construction, no wet or fresh concrete or leachate shall be allowed to escape into any wetlands or waters of New York State, nor shall washings from ready-mixed concrete trucks, mixers, or other devices be allowed to enter any wetland or waters. Only watertight or waterproof forms shall be used. Wet concrete shall not be poured to displace water within the forms.

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION
Facility DEC ID 8-3224-00474

12. Human or Archaeological Remains If any human remains or archaeological remains are encountered during excavation, the permittee must immediately cease, or cause to cease, all work in the area of the remains and notify

Regional Permit Administrator
NYSDEC REGION 8 HEADQUARTERS
6274 E AVON-LIMA RD
AVON, NY 14414

Work shall not resume until written permission to do so has been received from the Department.

13. Consolidation of Armor Stone Prohibited Armor stone may not be consolidated with concrete or by any other means.

14. Seed, Mulch Disturbed Areas If seeding is impracticable due to the time of year, a temporary mulch shall be applied within 5 days 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 and no later than the permit expiration date.

15. Seed, Mulch Disturbed Areas All areas of soil disturbance resulting from this project shall be seeded with an appropriate perennial grass, and mulched with straw immediately upon completion of the project, within two days of final grading, or by the expiration of the permit, whichever is first. Mulch shall be maintained until suitable vegetative cover is established to the department's satisfaction.

16. Disposal Locations All excavated materials, excess and waste materials, spoil, or debris from the project site shall be disposed of in accordance with the plans referenced by this permit. These materials must be disposed of in accordance with all local, state, and federal statutes, regulations, or ordinances.

17. 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.

18. 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.

19. 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 8 HEADQUARTERS
6274 E AVON-LIMA RD
AVON, NY 14414

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.

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;

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION
Facility DEC ID 8-3224-00474

RECEIVED NYSCEF: 07/2017

- 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.

95-20-1 (8/87)-9d

New York State
Department of Environmental Conservation

NOTICE

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 work approved and any Departmental conditions on it, contact the Regional Permit Administrator listed below. Please refer to the permit number shown when contacting the DEC.

Deputy
Regional Permit Administrator

Permit Number 8-3224-00174/00001

Expiration Date 12-31-16

Tom Haley
585.226.5393

NOTE: This notice is NOT a permit