

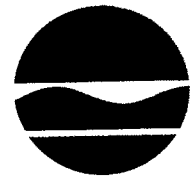
New York State Department of Environmental Conservation

Division of Environmental Permits, Region 9

270 Michigan Avenue, Buffalo, New York, 14203-2915

Phone: (716) 851-7165 · Fax: (716) 851-7168

Website: www.dec.ny.gov



Alexander B. Grannis
Commissioner

October 6, 2009

Mr. Thomas Lewis, District Manager
Waste Management of New York, L.L.C.
10860 Olean Road
Chaffee, New York 14030-9799

Dear Mr. Lewis:

**FRESHWATER WETLANDS PERMIT
TRANSMITTAL LETTER
CHAFFEE FACILITY BORROW AREAS
DEC NO. 9-1462-00001/00027**

Enclosed is your permit which was issued in accordance with applicable provisions of the Environmental Conservation Law. The permit is valid for only that project, activity or operation expressly authorized. If modifications are desired after permit issuance, you must submit the proposed revisions and receive written approval from the Permit Administrator prior to initiating any change. If the Department determines that the modification represents a material change in the scope of the authorized project, activity, operation or permit conditions, you will be required to submit a new application for permit.

Please review all permit conditions carefully. You are requested to provide a copy of the permit to the project contractor, facility operator, and other persons directly responsible for permit implementation.

If you have any questions regarding the administrative processing of this permit or request for modification, please contact this office at the above address.

Respectfully,

David S. Denk
Deputy Regional Permit Administrator

Enclosure

cc: Capt. David Bennett, NYSDEC Division of Law Enforcement (via e-mail)
Ms. Anne Oyer, NYSDEC Division of Fish, Wildlife and Marine Resources
Mr. Mark Hans, NYSDEC Division of Solid and Hazardous Materials
Mr. Andrew Nichols, McMahon and Mann

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

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| DEC PERMIT NUMBER 9-1462-00001/00027 |
| FACILITY/PROGRAM NUMBER(S) |



PERMIT
Under the Environmental
Conservation Law

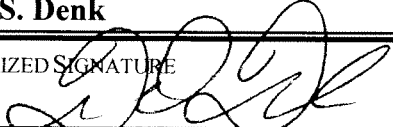
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| EXPIRATION DATE December 31, 2019 |
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NEW

TYPE OF PERMIT: Article 24: Freshwater Wetlands and 6 NYCRR Part 608: Water Quality Certification

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|--|-------------------------|---|---|
| PERMIT ISSUED TO Waste Management of New York, L.L.C. | | TELEPHONE NUMBER (716) 496-5000 | |
| ADDRESS OF PERMITTEE 10860 Olean Road, Chaffee, New York 14030-9799 | | | |
| CONTACT PERSON FOR PERMITTED WORK Thomas Lewis | | TELEPHONE NUMBER (716) 496-5000 | |
| NAME AND ADDRESS OF PROJECT/FACILITY Chaffee Landfill, 10860 Olean Road, Chaffee, New York 14030-9799 | | | |
| LOCATION OF PROJECT/FACILITY Southwest of the intersection of Hand Road and NYS Route 16, south of the existing landfill. | | | |
| COUNTY Erie | TOWN Sardinia | REGULATED SITE RESOURCE Freshwater Wetland SD-1 | NYTM COORDINATES E 213.043 N 4719.799 |
| DESCRIPTION OF AUTHORIZED ACTIVITY Construction of two emergency spillway structures in the regulated 100 foot adjacent area of Freshwater Wetland SD-1, approximately 1300 square feet. | | | |

By acceptance of this permit, the permittee agrees that the permit is contingent upon strict compliance with NYS Environmental Conservation Law (ECL), all applicable regulations, the specified General Conditions (pages 2 and 3) and all Special Conditions contained herein.

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|---|---|-------------|--|
| DEPUTY REGIONAL PERMIT ADMINISTRATOR David S. Denk | DIVISION OF ENVIRONMENTAL PERMITS, 270 MICHIGAN AVENUE, BUFFALO, NY 14203-2999, (716) 851-7165 | | |
| AUTHORIZED SIGNATURE  | DATE OF ISSUANCE October 6, 2009 | PAGE 1 OF 3 | |

GENERAL CONDITIONS



Inspections

1. The permitted site or facility, including relevant records, is subject to inspection at reasonable hours and intervals by authorized staff of the NYS Department of Environmental Conservation (the Department) to determine whether the permittee is complying with this permit and the ECL. Such staff may order the work suspended pursuant to ECL 71-0301 and SAPA 401(3). **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. Failure to produce a copy of the permit upon request by Department staff is a violation of this permit.**

Permit Changes and Renewals

2. 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. The Department reserves the right to modify, suspend or revoke this permit when:
 - a) the scope of the permitted activity is exceeded or a violation of any condition of the permit or provisions of the ECL and pertinent regulations is found;
 - b) the permit was obtained by misrepresentation or failure to disclose relevant facts;
 - c) new material information is discovered; or
 - d) environmental conditions, relevant technology, or applicable law or regulation have materially changed since the permit was issued.
4. The permittee must submit a separate written request/application to the Department for renewal, modification or transfer of this permit. Such request/application must include any forms or supplemental information the Department requires. Any renewal, modification or transfer granted by the Department must be in writing.
5. The permittee must submit a renewal request/application at least 30 days before the expiration date of this permit.

Other Legal Obligations of Permittee

6. The permittee expressly agrees to indemnify and hold harmless the Department of Environmental Conservation of the State of New York, its representatives, employees, agents and assigns for all claims, suits, actions, damages and costs of every name and description, arising out of or resulting from the permittee's undertaking of activities or operation and maintenance of the facility or facilities authorized by the permit in compliance or non-compliance with the terms and conditions of the permit.
7. The permittee shall require its independent contractors, employees, agents and assigns to comply with this permit, including all special conditions, and such persons shall be subject to the same sanctions for violation of the Environmental Conservation Law as those prescribed for the permittee.
8. If the Department deems it necessary, the applicant shall, without expense to the State, and to such extent and in such time and manner as the Department may require, remove all or any portion of the structure, fill or work and restore the site to its former condition. No claim shall be made against the State because of any such removal or alteration.
9. That if future operations by the State require an alteration in the position of the structure, fill or work herein authorized or if, in the opinion of the Department, it shall cause unreasonable obstruction to navigation, flood flows or endanger the health, safety or welfare of the people of the State or cause loss of destruction of the natural resources of the State, the owner may be ordered by the Department to remove or alter the structure, fill or work without expense to the State and to such extent and in such time and manner as the Department may require, remove all or any portion of the completed/uncompleted structure, fill or work and restore the site to its former condition. No claim shall be made against the State because of any such removal or alteration.
10. The State shall in no case be liable for any damage or injury to the structure, fill or work herein authorized which may be caused by or result from future operations undertaken by the State for improvement of navigation, or for other purposes, and no claim or right to compensation shall accrue from any such damage.
11. 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.
12. 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.

GENERAL CONDITIONS

13. Granting of this permit does not relieve the permittee of the responsibility of obtaining any other permission, consent or approval from the U.S. Army Corps of Engineers, U.S. Coast Guard, State Office of General Services or local government which may be required.
14. Any dredged or excavated material shall be removed evenly, without leaving large refuse piles, ridges or deep holes across any wetland and the bed, banks or floodplain of any watercourse or water body.
15. All necessary precautions shall be taken to preclude contamination of any wetland, watercourse or water body by suspended solids, sediments, fuels, solvents, lubricants, epoxy coatings, paints, concrete, leachate or any other project related environmentally deleterious materials.
16. There shall be no significant interference with navigation by the work herein authorized.
17. The Department hereby certifies that the subject project will not contravene effluent limitations or other limitations or standards under Section 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.

SPECIAL CONDITIONS

1. All work authorized under this permit shall be performed in strict accordance with the Borrow Area Use Plan dated March 2009 prepared by McMahon & Mann Consulting Engineers, P.C., letter dated July 2, 2009 from McMahon & Mann Consulting Engineers, P.C. (Andrew J. Nichols, P.E./Michael J. Mann, P.E.) to NYSDEC (David Denk) regarding comments and responses for the Borrow Area Use Plan and Figures 1 -7, last revised 7/02/09.
2. Disturbance to the 100 foot wide regulated adjacent area of Freshwater Wetland SD-1 shall be limited to the construction of the emergency spillway structures as specified in the plans referenced in Special Condition No. 1 of this permit. The placement of fill, trees, brush and construction debris within any portion of the wetland or its regulated adjacent area, except as described above is strictly prohibited.
3. Prior to the commencement of construction of each borrow areas, a construction fence shall be erected along the boundary of the 100 foot regulated adjacent area of Freshwater Wetland SD-1 in the vicinity of the borrow area to prevent unauthorized disturbance to the wetland. Each fence shall remain in place until excavation is completed and the area is stabilized.
4. Construction equipment must be cleaned/washed prior to being brought to the work site so that the introduction of seeds, roots, etc. from previous work sites are not introduced in the project area. This condition is intended to prevent the introduction of invasive non-native species to the project site.
5. During clearing for the mitigation area and the landfill expansion, non-merchantable tree and brush debris must be salvaged for use as firewood, disposed of at an approved landfill site, buried under two feet of soil, or chipped to provide a mulch for erosion control. Open burning of trees and brush as a disposal method is strictly prohibited.
6. Future construction, development or alteration within Freshwater Wetlands SD-1 and AR-11 and the regulated 100-foot wide adjacent areas of these wetlands (not authorized herein) must receive prior written approval by this Department.
7. The Department, in its sole discretion, may waive the requirements for timely submission of renewal applications (General Condition Number 5) when deemed appropriate by the Regional Permit Administrator.

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cc: Captain David Bennett, NYSDEC Division of Law Enforcement (via email)
Ms. Anne Oyer, NYSDEC Division of Fish, Wildlife and Marine Resources
Mr. Mark Hans, NYSDEC Division of Solid and Hazardous Materials
Mr. Andrew Nichols, McMahon and Mann Consulting Engineers