



RHODE ISLAND  
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

235 Promenade Street, Providence, RI 02908-5767

TDD 401-222-4462

**CERTIFIED MAIL**

February 27, 2009

Rhode Island Resource Recovery Corporation  
Michael J. O'Connell, Executive Director  
c/o D'Ambra Construction, Inc.  
Attn: Michael V. D'Ambra  
800 Jefferson Boulevard  
Warwick, RI 02886

**PERMIT TO ALTER FRESHWATER WETLANDS**

Re: Application No. 08-0081 in reference to the location below:

Approximately 500 feet south of Shun Pike/Scituate Avenue, near Utility Pole Nos. 39 through 41 and approximately 700 feet south of its intersection with Austin's Way within the Lakeside Commerce Center Industrial Park, Assessor's Plat 31, Lots 61 and 11, Johnston, RI.

Dear Mssrs. O'Connell & D'Ambra:

The Department of Environmental Management's ("DEM") Freshwater Wetlands Program ("Program") has completed its review of your **Application to Alter a Freshwater Wetland** regarding the proposed new asphalt and concrete plant with associated office, parking areas, equipment, storage areas, drainage system, utilities, wetland replication areas and landscaping as described and detailed in the material and information submitted in support of your application and on site plans received by the DEM on December 17, 2008. These site plans describing the project were made available for public comment as part of the forty-five (45) day public notice period required in accordance with the Freshwater Wetlands Act (R.I. General Laws (R.I.G.L.) Section 2-1-18 et seq.) and the procedures set forth in Rule 10.00 of the Rules and Regulations Governing the Administration and Enforcement of the Freshwater Wetlands Act (Rules).

The Program did not receive any written comments relating to this application during the public notice period. Accordingly, a Public Hearing was not required.

Pursuant to the Program's review and evaluation of your application including all supporting information and material, as well as the record to date, the Program has determined that this project does not represent a random, unnecessary or undesirable alteration of freshwater wetlands. Therefore, this Program hereby issues this permit to alter freshwater wetlands **subject to all controlling Rules and the Terms and Conditions set forth herein.**

**Permit Terms and Conditions for Application No. 08-0081:**

1. This letter is the DEM's permit for this project under the R.I. Fresh Water Wetlands Act, Rhode Island General Laws (RIGL) Section 2-1-18 et seq.

2. This permit is specifically limited to the project, site alterations and limits of disturbance as detailed on the site plans submitted with your application and received by the DEM on December 17, 2008. A copy of the site plans stamped approved by the DEM is enclosed. Changes or revisions to the project, which would alter freshwater wetlands are not authorized without a permit from the DEM.
3. Where the terms and conditions of the permit conflict with the approved site plans, these terms and conditions shall be deemed to supersede the site plans.
4. You must notify this Program in writing immediately prior to the commencement of site alterations and upon completion of the project.
5. A copy of the stamped approved site plans and a copy of this permit must be kept at the site at all times during site preparation, construction, and final stabilization. Copies of this permit and the stamped approved plans must be made available for review by any DEM or Town representative upon request.
6. Within ten (10) days of the receipt of this permit, you must record this permit in the land evidence records of the Town of Johnston and supply this Program with written documentation obtained from the Town showing this permit was recorded.
7. The effective date of this permit is the date this letter was issued. This permit expires one (1) year from the effective date unless renewed pursuant to the Rules.
8. Any material utilized in this project must be clean and free of matter that could pollute any freshwater wetland.
9. Prior to commencement of site alterations, you shall erect or post a sign resistant to the weather and at least twelve (12) inches wide and eighteen (18) inches long, which boldly identifies the initials "DEM" and the application number of this permit. This sign must be maintained at the site in a conspicuous location until such time that the project is complete and the DEM issues a Notice of Completion of Work for the project.
10. Temporary erosion and sediment controls detailed or described on the approved site plans shall be properly installed at the site prior to or commensurate with site alterations. Such controls shall be properly maintained, replaced, supplemented, or modified as necessary throughout the life of this project to minimize soil erosion and to prevent sediment from being deposited in any wetlands not subject to disturbance under this permit.
11. Upon permanent stabilization of all disturbed soils, temporary erosion and/or sediment controls consisting of silt fence must be removed.
12. You are responsible for the proper installation, operation, maintenance and stability of any mitigative features, facilities, and systems of treatment and control which are installed or used in compliance with this permit to prevent harm to adjacent wetlands until such time that you document that this responsibility has been assumed by another person or organization.
13. You are obligated to install, utilize and follow all best management practices detailed or described on the approved site plans in the construction of the project to minimize or prevent adverse impacts to any adjacent freshwater wetlands and the functions and values provided by such wetlands.

14. Prior to the commencement of any concrete production and/or asphalt manufacturing on this site, the storm water discharges associated with the proposed concrete and asphalt manufacturing facility must be permitted under the Rhode Island Multi-Sector General Permit (MSGP) for industrial activities (See Section I.C.1.b. of the MSGP). A Notice of Intent, which must include a Storm Water Pollution Prevention Plan prepared in accordance to the requirements of Parts IV and VI of the MSGP, must be submitted **ninety (90)** days prior to the commencement of such discharge. You are advised to contact the DEM's RIPDES Program for further details of what procedural or structural stormwater BMP's may be required in addition to those authorized under this Freshwater Wetlands Permit prior to finalizing construction plans for this facility. Note that any changes in the design of your proposal to address RIPDES stormwater requirements for this industrial activities may require, at a minimum, approval of an Application for Permit Modification to this Program.
15. All plantings of shrubs, trees or other forms of vegetation as shown or detailed on the approved plans, or detailed in this permit, must be installed as soon as possible after completion of final grading; weather and season permitting. You must notify this Program in writing upon completion of the required plantings for a compliance inspection by a Program representative.
16. Buffer zone plantings of trees and/or shrubs proposed between the project and any adjacent freshwater wetland areas, except for necessary replacement, must be allowed to develop naturally without being subjected to mowing or manicuring.
17. Artificial lighting incorporated into the project must utilize deflectors to avoid illumination of any remaining wetland areas and any of the wetland replication areas.
18. An environmental consultant, experienced in site assessments and measures necessary to protect sensitive aquatic environments or sensitive ecosystems, must be employed to monitor this project in accordance with Condition No. 19 (see-below) and to ensure compliance with the terms and conditions of this permit. This Program must be notified in writing of the consultant chosen to comply.
19. All wetland replication areas must be monitored for a period of three years following the completion of construction and planting. A monitoring report detailing general hydrological observations (depth and frequency of flooding or frequency of saturated conditions, as appropriate) and documenting vegetational characteristics (species diversity, relative abundance, presence of invasives) must be provided to this Program by July 30 of each of the three reporting years.
20. You must provide written certification from a registered land surveyor or registered professional engineer that the stormwater drainage system including any and all basins, piping systems, catch basins, culverts, swales and any other stormwater management control features have been constructed/installed in accordance with the site plans approved by this permit. This written certification must be submitted to this Program within twenty (20) days of its request or upon completion of the project.

Pursuant to the provisions in Rule 7.09 and Rule 11.04, as applicable, any properly recorded and valid permit is automatically transferred to the new owner upon sale of the property.

**This Permit does not constitute your authorization from the U.S. Army Corps of Engineers ("Corps") under Section 404 of the Clean Water Act for the work proposed.** This Program understands that your proposed project is being permitted separately under an Individual Permit application with the Corps.

You are required to comply with the terms and conditions of this permit and to carry out this project in compliance with the Rules at all times. Failure to do so may result in an enforcement action against you by the DEM and/or subject you to the enforcement provisions of the Army Corps of Engineer's regulations.

In permitting the proposed alterations, the Program assumes no responsibility for damages resulting from faulty design or construction. This permit does not remove your obligation to obtain any local, state, or federal approvals or permits required by ordinance or law and does not relieve you from any duties owed to adjacent landowners with specific reference to any changes in drainage.

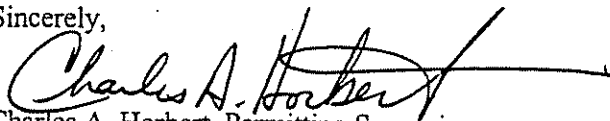
If you are aggrieved by this decision, you may, within thirty (30) days of the receipt of this letter, request an adjudicatory hearing in writing. This request must be sent directly to the DEM Administrative Adjudication Division ("AAD"), 235 Promenade Street, Providence, RI 02908. A copy of the request should also be forwarded to this Program and to the Office of Legal Services, at the same address. Your written request for an adjudicatory hearing must be timely filed and should conform to the requirements of Rule 7.00(b) of the "Administrative Rules of Practice and Procedure for the Department of Environmental Management Administrative Adjudication Division for Environmental Matters", (AAD Rules). AAD Rule 7.00(b) provides:

"The request for hearing shall state clearly and concisely the specific issues which are in dispute and the facts in support thereof, the relief sought if any, the license or permit sought or involved and any additional information required by applicable statues and regulations."

The written request must be accompanied by an adjudicatory hearing fee of two thousand dollars (\$2,000.00); in the form of a certified bank check or money order made payable to the Rhode Island General Treasurer; however, in the event that the cost of the hearing exceeds the fee paid, the Program through the AAD will require an additional fee which the applicant must submit prior to the DEM's issuance of any final decision regarding this application. The adjudicatory hearing will be held before a Hearing Officer from the AAD. Such hearing will be held in compliance with the AAD Rules, Chapter 42-35-1 et seq. of the R.I.G.L., and other governing laws, rules, and regulations adopted by the DEM. Please note that you have the right to be represented by legal counsel in any proceeding, which may be held in this matter.

If you have any questions regarding this matter, you may contact me or Nancy Freeman of my staff at this office (telephone: 401-222-6820).

Sincerely,



Charles A. Horbert, Permitting Supervisor  
Office of Water Resources  
Freshwater Wetlands Program  
CAH/NLF/nlf

Enclosure: Approved Site Plans

xc: Russell Chateauf, P.E., Chief of Groundwater and Wetlands Protection  
David Kerins, Acting Chief, Administrative Adjudication Division  
Terry Walsh, Water Quality Certification Program  
Eric Beck, P.E., DEM RIPDES Program  
Michael Elliott, U.S. Army Corps of Engineers, New England District  
Bernard J. Nascenzi, Johnston Building Official  
Scott P. Rabideau, Natural Resource Services, Inc.  
Bruce G. Hagerman, P.E., Crossman Engineering, Inc.