

From: McLearen, Douglas C  
Sent: Monday, January 07, 2008 5:05 PM  
To: 'tmckenna@keatingnet.com'; Boyer, James N NAP; Cutler, Jean  
Cc: Shaffer, Mark (PHMC); Reynolds, Samuel L NAP; McLearen, Douglas C;  
jfmusil@urbanengineers.com  
Subject: RE: SugarHouse

It is the opinion of the State Historic Preservation Office that there should be no ground-disturbing activities on the site other than those related to archaeology until the 106 process is over. We are still in consultation.

Douglas C. McLearen  
Pennsylvania Historical & Museum Commission Bureau for Historic Preservation  
Commonwealth Keystone Building, 2nd Floor 400 North Street Harrisburg,  
Pennsylvania 17120-0093

Phone: (717) 772-0925  
Fax (717) 772-0920

dmclearen@state.pa.us



Northern Liberties Neighbors Association

January 9, 2008

Terrence J. McKenna, P.E.  
The Keating Group  
1600 Arch Street, Suite 300  
Philadelphia, PA 19103

Dear Mr. McKenna,

I respectfully request that you cease all earthmoving activity on the SugarHouse site until the meeting between yourself, the Consulting Parties, the Pennsylvania Historical and Museum Commission and the Army Corps of Engineers scheduled for the 18th of January can take place.

I was informed by officials at the PHMC that no approval for the grading activity was granted, nor were they aware that permits were issued.

Given that Michael Nutter has publicly called for a review of the permit issuance it would be responsible for all activity under the permit to cease until the review is complete.

Sincerely,

Hilary Regan  
Consulting Party Contact  
Northern Liberties Neighbors Association  
733 N. 2<sup>nd</sup> Street  
Philadelphia, PA 19123



PO Box 544 \* 18 EAST COMMERCE STREET \* BRIDGETON, NJ 08302  
PHONE: 856-455-6910 FAX: 856-455-5338  
www.nanticoke-lenape.org www.nanticoke-lenape.info

Tribal Council  
Mark Gould, Chairman  
Lewis Pierce, Co-Chairman  
Urie Ridgeway, Secretary  
Roberta Flores, Treasurer  
Patricia Rosello  
John Norwood  
Tina Pierce Fragoso  
Christy Pierce  
Orwig Pierce

January 8, 2008

Dear Ms. Hillary Regan:

The Nanticoke Lenni-Lenape Tribal Council has reviewed the information regarding the destruction of artifacts at the "SugarHouse" site. Our tribal government is dedicated to the preservation of sites of historic significance. It appears that the current development at this location will destroy items of importance to our people. The remains and artifacts of our ancestors are routinely disturbed and disrespected throughout the region. This letter is to indicate our concern that this will also be the case at the site in question and to verify that we are in support of a more full review of the site.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark Gould", is written over a light-colored rectangular background.

Chief Mark Gould  
Tribal Chairman

**BUILDING PERMIT**

This permit may be revoked if the information has been misrepresented or not provided.

City of Philadelphia  
Department of Licenses and Inspections  
1401 John F. Kennedy Blvd.  
Philadelphia, PA 19102

Permit Number: 124758

Fee:  
\$3,485.00

Date Issued:  
01/04/08

Location of work: 01001 N DELAWARE AVE PHILADELPHIA, PA 19123-4303  
(AKA PIERS 41 N THROUGH 48 NORTH); SUGARHOUSE

District: Central District

Phone Number: 215-685-3786

**Owner:**

HSP GAMING, L.P.  
1080 N. DELAWARE AVE  
PHILADELPHIA, PA 19125  
(267)232-2000 x

**Licensed Contractor:**

KEATING BUILDING CORPORATION  
1600 ARCH ST  
PHILADELPHIA, PA 19103-2003  
(610)668-4100 x

**Area:**

696960 S.F.

**Estimated Cost:**

\$4,800,000.00

Plan Examiner: ROBERT MURRAY

Certificate of Occupancy (C.O.) is not part of

**If no Licensed Contractor is named, the Owner assumes all responsibility for compliance with the Code.**

**Occupancy:**

n/a

**Description of work authorized by this permit:**

**ROUGH GRADING/SITE WORK PERMIT ONLY.** Excavation/grading of the site (uplands only) to support the construction of Phase I improvements, as noted in the attached earthwork package of plans. Work shall include, but not be limited to, excavation, removal of existing surface and subsurface features, and installation of erosion and sedimentation controls, pursuant to the approved DEP E&S plans. Work shall not commence in the remaining areas of archeological concern until clearance is obtained from the PHMC and USACE.

**ROUGH GRADING/SITE WORK PERMIT ONLY.** Excavation/grading of the site (uplands only) to support the construction of Phase I improvem

**INSPECTIONS**

The owner or contractor is required to notify the District Office listed above prior to starting any work, and at least 24 hours in advance of the required inspections. Failure to notify the District will result in the issuance of a \$75 ticket by the Department. Inspections will not be made unless the Department-Approved plans are on the job.

The Department is authorized by the Code to Charge a \$50 reinspection fee if:

1. The inspection reveals that the work is not constructed in accordance with the Code;
2. The work is not ready for inspection; or

**THIS PERMIT REQUIRES THE FOLLOWING INSPECTIONS:  
INITIAL/SITE - PREFINAL/WALLBOARD - FINAL**

Separate permits are required for plumbing, electrical, fire suppression, and for the use of streets and sidewalks, including shelter platforms, scaffolding, dumpsters, closures, etc.

**Limitation:** This permit shall become invalid if the authorized work is not commenced within six (6) months of the date of issuance or if the work is suspended or abandoned for a period of six (6) months after commencing work. Permits may be revoked as per Section A-302.9 of the Administrative Code. This permit shall expire five (5) years from the date of issuance.

**PA ONE CALL SYSTEM** is required to be notified by PA Act 38 of 1991, three (3) working days prior to disturbing the earth with any type of powered equipment. Also, this permit does not constitute approval from any State or Federal agency, if required.

Where a Certificate of Occupancy (C.O.) is required, such buildings and spaces shall not be occupied until Final Inspection is made and the Certificate is issued by the Department.

All provisions of the Code and other City Ordinances must be complied with, whether specified herein or not.

**Tax Exemption (Abatement):** Information and applications as to the eligibility for real estate exemption (abatement) for new construction or improvements may be obtained by contacting the Board of Revision of Taxes, Suite 800, 34 S. 11th St., Phila., PA 19107. All applications must be filed with the Board within sixty (60) days from the date the permit was issued. Board of Revision of Taxes Phone Number: 215.686.9270

**POST A TRUE COPY OF THIS PERMIT IN A CONSPICUOUS LOCATION ON THE PREMISES**

FAILURE TO POST THIS PERMIT WILL RESULT IN THE ISSUANCE BY THE DEPARTMENT OF A \$75 TICKET  
FOR ALL NEW CONSTRUCTION, ADDITIONS, AND WHERE A CERTIFICATE OF OCCUPANCY IS REQUIRED, THE ASSOCIATED



City of Philadelphia Department of Licenses and Inspections

PLAN REVIEW FORM

Plan Number:

1	2	4	7	5	8
---	---	---	---	---	---

1001 N. Delaware Ave – Sugarhouse Casino  
 Address number    Ext.    Dir. (N. E. S. W.)    Street name    Designation (Ave. Blvd. St)

**Plan Review Notations (These are requirements of the permit. They are integral to the approved plan.)**

These plans have not been reviewed for compliance with the federal requirements of the Fair Housing Amendments Act of 1988 and the American with Disabilities Act of 1990. Please be advised that the responsible party of ownership of this property may be liable for certain provisions and/or regulations included with the above noted federal legislation. See Sections 1007, 3409, and Chapter 11 of the Philadelphia Building Code and the ICC/ANSI A117.1-98 standard for accessibility requirements.

This approval covers only the work shown on the attached plans and does not relieve the architect and/or engineer from the responsibility for total compliance with the Philadelphia Building, Fire, and Housing Codes. Install a fire extinguisher on each floor under construction, alteration, or demolition. (Except single family dwellings)

These plans have not been reviewed for conformance with the Electrical and Plumbing Codes. Separate submissions of plans are required when applications are made for electrical and plumbing permits. These applications are required to be submitted by the licensed individuals in those trades at the Mechanical Services Unit located at the S.W. corner of the MSB Concourse.

**CALL DISTRICT OFFICE PRIOR TO COMMENCING WORK. (Phone Number is listed on Building Permit)**

This is for a rough grading/site work permit only.

**ROUGH GRADING/SITE WORK PERMIT ONLY.**  
Excavation/grading of the site (uplands only) to support the construction of Phase I improvements, as noted in the attached earthwork package of plans. Work shall include, but not be limited to, excavation, removal of existing surface and subsurface features, and installation of erosion and sedimentation controls, pursuant to the approved DEP E&S plans. Work shall not commence in the remaining areas of archeological concern until clearance is obtained from the PHMC and USACE.

DEP approval obtained on NPDES permit.

Separate permits required for foundation permit and new construction permit.

Total number of sheets: 18

  
Plans Examiner's Signature

Approval Date: 1/4/08

Number of sheets larger than 8½" X 14": 18

Department of Licenses & Inspections

1401 JFK Blvd  
Philadelphia, PA 19102

Receipt

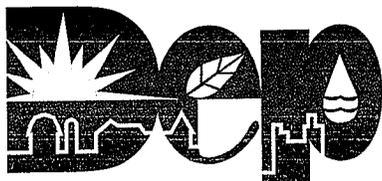
Report Date 01/04/2008 03:36 PM

Submitted By

Page 1

Trn # 458935 Trn Date 01/04/2008 15:35 Template Type BLDG A/P # 124758  
Customer HSP GAMING, L.P.  
Address 1080 N. DELAWARE AVE  
SUITE 800  
PHILADELPHIA PA 19125 U.S.A. Cash Payment  
Check # 000032 3537.00

Fees Item	Dest Budget #	Amount	Fee/Amount Due
SCANNING CHARGE FEE	7169	48.00	48.00
SITE PERMIT FEE	3601	3485.00	3485.00
STATE SURCHARGE	0418	4.00	4.00
<b>Total Amount</b>		3537.00	3537.00
<b>Amount Paid</b>		3537.00	
<b>Total Amount Due</b>		0.00	



## Pennsylvania Department of Environmental Protection

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2 East Main Street  
Norristown, PA 19401

January 4, 2008

Phone: 484-250-5970

Fax: 484-250-5971

### Southeast Regional Office

Mr. Gregory A. Carlin  
Chief Executive Officer  
HSP Gaming, LP  
1600 Arch Street, Suite 300  
Philadelphia, PA 19103

Re: NPDES Discharge for Stormwater Construction  
Activities  
Sugarhouse Casino  
No. PAI015107004  
City of Philadelphia  
Philadelphia County

Dear Mr. Carlin:

Enclosed is the above referenced permit which authorizes the discharge of stormwater from the construction activity described in the final erosion and sedimentation control plan and the permit application. The plan must be fully implemented and available at the construction site.

Please be advised your permit contains special conditions related to other Department of Environmental Protection (Department) approvals needed prior to conducting earth disturbance activities. Your attention is directed to Special Condition Nos. 1, 2, and 3. Approval of the enclosed permit in no way guarantees the future approval of other Department permits required for the proposed project should you choose to begin earthmoving at the site. You are also cautioned not to disturb areas that may be subject to historic investigation by the Pennsylvania Historic and Museum Commission or the federal "Section 106" historic investigation being undertaken pursuant to the permit application pending before the U.S. Army Corps of Engineers.

Please read carefully Parts A, B, and C of the permit which detail the terms and conditions of this authorization. Conservation District's staff and/or representatives of the Department may inspect this earthmoving activity to determine compliance with applicable permit requirements, Chapters 92, 101, and 102 Rules and Regulations and the Clean Streams Law.

Permit requirements and federal regulations at 40 C.F.R. Section 122.21(b) require "when a facility or activity is owned by one person but is operated by another person, it is the operator's duty to obtain a permit." Please be advised that once a contractor has been selected for the project, the permit must either be transferred to the contractor or the contractor must be made a co-permittee. The enclosed form must be used to add a co-permittee.



Mr. Gregory A. Carlin

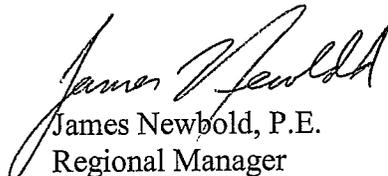
- 2 -

Enclosed is a Notice of Termination form to complete and file when construction activities have ceased and final stabilization has been achieved.

This authorization does not relieve the applicant from applying for and obtaining any and all additional permits or authorizations from local, state, or federal agencies for the construction activity.

If you have any questions, please contact Mr. John Kennedy, Assistant Regional Director, at 484-250-5940.

Sincerely,

  
James Newbold, P.E.  
Regional Manager  
Watershed Management

Enclosures    Permit  
                  Notice of Appeal Rights  
                  Transferee/Co-Permittee Application  
                  Notice of Termination

cc:    Mr. Mckenna, Keating Consulting, LLC  
      Mr. Musel - Urban Engineers, Inc.  
      Ms. Marjoram, Stormwater Management Section  
      Mr. Kennedy  
      Ms. Sharp, Permits and Technical Section  
      City of Philadelphia  
      Re 30 (AR08WQM)004-5

**COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
BUREAU OF WATERSHED MANAGEMENT**

**APPROVAL OF COVERAGE UNDER  
THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) INDIVIDUAL  
PERMIT FOR STORMWATER DISCHARGES ASSOCIATED WITH CONSTRUCTION ACTIVITIES**

NPDES PERMIT NO.: PAI015107004 PRIMARY FACILITY ID: 696498  
 AUTHORIZATION NO.: 697006 SUBFACILITY ID: 954978  
 APS NO.: 6226634

SITE/PROJECT NAME AND ADDRESS	PERMITTEE NAME AND ADDRESS
NAME: <u>Sugarhouse Casino</u>	NAME: <u>HPS Gaming, LP</u>
SITE ID: <u>691276</u>	CLIENT ID: <u>259303</u>
ADDRESS: <u>941-1025 North Delaware Avenue</u> <u>Philadelphia, PA 19123</u>	ADDRESS: <u>1600 Arch Street</u> <u>Suite 300</u> <u>Philadelphia, PA 19103</u>
MUNICIPALITY: <u>City of Philadelphia</u>	
COUNTY: <u>Philadelphia</u>	

In compliance with the provisions of the Clean Water Act, 33 U.S.C. Section 1251 et seq. (the "Act") and Pennsylvania's Clean Streams Law, as amended, 35 P.S. Section 691.1 et seq., the Department of Environmental Protection (Department) hereby approves the discharge of stormwater to the following surface water(s) Delaware River.

from a:  1-acre to less than 5-acre project with a point source (or)  5-acre or larger project

subject to all effluent limitations, monitoring and reporting requirements and other terms, conditions, criteria, and special requirements for the discharge of stormwater from sources composed entirely of stormwater associated, in whole or in part, with construction activity, as defined in this permit, to surface waters of the Commonwealth, including municipal separate storm sewers and non-municipal separate storm sewer.

**SPECIAL CONDITION(s)**

1. Earth disturbance associated with the construction of building foundations for structures containing sewerage facilities may not commence until Act 537 Sewage Facilities Planning approval has been granted.
2. Earth disturbance associated with construction of sanitary sewers may not commence until a Water Quality Management permit is issued covering the activity.

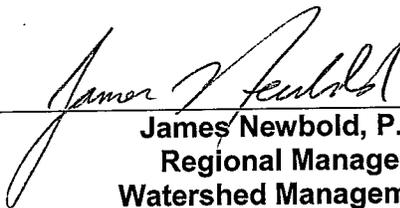
3. Earth disturbance within any open waters or riverward of the bulkhead line may not commence until Water Obstruction and Encroachment Permit No. E51-224 has been issued and the related federal authorization is approved by the U.S. Army Corps of Engineers.

APPROVAL TO DISCHARGE IN ACCORDANCE WITH THE TERMS AND CONDITIONS HEREIN MAY COMMENCE ON THE DATE OF THE APPROVAL OF COVERAGE, AND IS VAILD FOR A PERIOD OF FIVE YEARS WHEN CONDUCTED PURSUANT TO SUCH TERMS AND CONDITIONS. COVERAGE MAY BE EXTENDED BY THE DEPARTMENT IF A TIMELY ADMINISTRATIVELY COMPLETE AND ACCEPTABLE PERMIT RENEWAL IS SUBMITTED TO THE DEPARTMENT AT LEAST 180 DAYS PRIOR TO DATE OF COVERAGE TERMINATION, UNLESS PERMISSION FOR SUBMISSION AT A LATER DATE HAS BEEN GRANTED BY THE DEPARTMENT. THE PERMIT MAY BE TERMINATED PRIOR TO THE EXPIRATION DATE UPON NOTICE TO AND APPROVAL BY THE DEPARTMENT. NO CONDITION OF THIS PERMIT SHALL RELEASE THE PERMITTEE OR CO-PERMITTEE FROM ANY RESPONSIBILITY OR REQUIREMENT UNDER PENNSYLVANIA, OR FEDERAL ENVIRONMENTAL STATUTES AND REGULATIONS, OR LOCAL ORDINANCES.

APPROVAL DATE: January 4, 2008

EXPIRATION DATE: January 4, 2013

AUTHORIZED BY:

  
\_\_\_\_\_  
James Newbold, P.E.  
Regional Manager  
Watershed Management

Re 30 (AR08)004-5a

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PART A

**EFFLUENT LIMITATIONS, MONITORING, REPORTING AND  
RECORD KEEPING REQUIREMENTS AND PROHIBITIONS**

**1. EFFLUENT LIMITATIONS**

**a. Best Management Practices (BMPs)**

Effluent limitations are established in this permit as Erosion and Sediment Control (E&S) Plans, Preparedness, Prevention, and Contingency (PPC) Plans, and other stormwater Best Management Practices (BMPs) which restrict the quantity and rate of accelerated erosion and the resulting sediment discharge to the Commonwealth. When necessary, specific narrative numeric effluent limits, are set forth in Appendix A, or other special conditions have been incorporated to assure that existing and designated uses of water of the Commonwealth will be maintained and protected from degradation.

**b. Applicable Effluent Limitations**

All stormwater discharges associated with construction activities must comply with applicable effluent limitations established in 25 Pa. Code Chapters 91-97, 102 and 105.

**c. Water Quality Based Effluent Limitations**

Water quality based effluent limitations shall be imposed under applicable state and federal law when necessary to ensure that the water quality standards of the receiving water are attained. Discharges of stormwater associated with a construction activity shall not result in a violation of the water quality standards.

**d. Discharges**

All discharges authorized by this NPDES permit shall be consistent with the terms and conditions of the permit.

**2. MONITORING AND REPORTING**

**a. Visual Inspections**

The permittee and co-permittee must ensure that visual site inspections are conducted on at least a weekly basis, and after each measurable precipitation event to ascertain that the E&S BMPs are operational and effective in preventing pollution to the waters of the Commonwealth. Site inspection must be conducted by qualified personnel, trained and experienced in erosion and sediment control. An NPDES Stormwater Construction Permit Inspection Log or other written report of each inspection shall be kept, and include:

- (1) The date, time, project information, weather conditions and the name of the person conducting the inspection.
- (2) A summary of site conditions, BMP's, corrective actions taken and compliance.

In the event the permittee or co-permittee is required to monitor stormwater discharge outfalls regulated under this permit, all monitoring data shall be reported in accordance with Part A.2.e. of this permit.

The Department and authorized County Conservation District, reserve the right to enter onto the site to conduct monitoring or require monitoring where necessary in appropriate circumstances such as where a danger of water pollution is present, or water pollution is suspected to be occurring from a construction activity subject to this permit. The permittee or co-permittee shall commence such monitoring upon notification from the Department or authorized County Conservation District.

Samples and measurements taken as required herein shall be representative of the volume and nature of the monitored discharge.

**b. Non-compliance Reporting**

Where E&S BMP's are found to be inoperative or ineffective during an inspection, or any other time, the permittee and co-permittee shall immediately contact the Department or authorized County Conservation District, by phone or personal contact, followed by the submission of a written report within 5 days of the initial contact. Non-compliance reports shall include the following information:

- (1) Any condition on the project site which may endanger public health, safety, or the environment, or involve incidents which cause or threaten pollution.
- (2) The period of non-compliance, including exact dates and times and/or anticipated time when the activity will return to compliance.

- (3) Steps being taken to reduce, eliminate, and prevent recurrence of the non-compliance.
- (4) The date or schedule of dates, and identifying remedies for correcting non-compliance conditions.

**c. Supplemental Monitoring**

The Department, and the authorized County Conservation District reserve the right to require additional monitoring where a danger of water pollution is present, or water pollution is suspected to be occurring from a construction activity subject to this permit. The permittee or co-permittee shall commence monitoring upon notification from the Department, or the authorized County Conservation District.

**d. Test Procedures**

Unless otherwise specified in this permit, the test procedures for the analysis of pollutants shall be those contained in 40 C.F.R. Part 136, alternate test procedures approved pursuant to that part, or other alternate procedures approved by the Department.

**e. Recording of Results**

For each measurement or sample taken pursuant to the requirements of this permit, the permittee or co-permittee shall record the following information:

- (1) The exact place, date and time of sampling or measurements.
- (2) The person(s) who performed the sampling or measurements.
- (3) The dates the analyses were performed.
- (4) The person(s) who performed the analyses.
- (5) The analytical techniques or methods used.
- (6) The results of such analyses.

**f. Availability of Reports.**

Except for data determined to be confidential under §607 of the Clean Streams Law, all reports and other information prepared in accordance with the terms of this permit shall be available for public inspection at the appropriate Department Regional Office or authorized County Conservation District.

**3. PROHIBITIONS**

If a toxic effluent standard or prohibition (including any schedule of compliance specified in such effluent standard or prohibition) is established under §307(a) of the Federal Clean Water Act (CWA) for a toxic pollutant which is present in the permittee's or co-permittee's discharge, and such standard or prohibition is more stringent than any limitation upon such pollutant in the NPDES permit, the Department shall revise or modify the permit in accordance with the toxic effluent standard or prohibition and so notify the permittee or co-permittee. In the absence of a departmental action to modify or to revoke and reissue this permit, the toxic effluent standard or prohibition established under §307(a) of the CWA is considered to be effective and enforceable against the permittee or co-permittee.

**4. RECORD KEEPING**

**a. Retention of Records**

The permittee or co-permittee shall retain records of all monitoring activities and results including all calibration and maintenance records, copies of all reports required by the permit, and records of all data used to complete the application for this permit, for a period of three years from the date of the termination of coverage under this permit. This period may be extended by request of the Department, or an authorized County Conservation District.

**b. Reporting of Monitoring Results**

In the event monitoring of outfalls is conducted, monitoring results shall be summarized on a Discharge Monitoring Report Form (DMR) and submitted to the Department on an annual basis, postmarked no later than January 31st of each year following the monitoring. If the construction activity is terminated (see condition 4 in the permit cover sheet) prior to the 31st of that year, the DMR should be submitted no later than one month following the date of the termination. (DMR forms can be obtained from the appropriate regional office of the Department). A signed copy of the DMR form and all other reports required herein, shall be submitted to the Department's regional offices that authorized this permit.

**5. DISCHARGES CONSISTENT WITH TERMS AND CONDITIONS OF THE PERMIT**

All discharges authorized by this NPDES permit shall be consistent with the terms and conditions of this permit.

PART B

STANDARD CONDITIONS

1. MANAGEMENT REQUIREMENTS

a. Permit Modification, Termination, or Revocation and Reissuance

- (1) This permit may be modified, suspended, revoked and reissued, or terminated during its term for any of the causes specified in 25 Pa. Code Chapters 91, 92, 93, 95, 96, 97, 102 or 105 including but not limited to, the following.
  - (a) Violation of any terms or conditions of the permit.
  - (b) Obtaining a permit by misrepresentation or failure to discuss fully all relevant facts.
  - (c) A change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge.
- (2) The filing of a request by the permittee or co-permittee for a permit or coverage modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated non-compliance, does not stay any permit condition.
- (3) Permit modification or revocation will be conducted according to 25 Pa. Code Chapters 92 or 102.

b. Duty to Provide Information

- (1) The permittee or co-permittee shall furnish to the Department, or the authorized County Conservation District within 30 days of the date of request, any information that the Department or authorized County Conservation District may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit or coverage approved under this permit, or to determine compliance with this permit.
- (2) The permittee or co-permittee shall furnish, upon request, to the Department, or the authorized County Conservation District, copies of records required by this permit.
- (3) When the permittee or co-permittee becomes aware that they failed to submit any relevant facts or submitted incorrect information in the permit application, GIF, PPC Plan, E&S Plan, PCSM Plan or in any other report to the Department, or the authorized County Conservation District, the permittee or co-permittee shall promptly submit or correct such facts or information.
- (4) The permittee or co-permittee shall give seven calendar days advance notice to the Department, or the authorized County Conservation District, of any planned physical alterations or additions to the permitted facility which could, in any way, substantially affect the quality and/or quantity of stormwater discharged from the activity.

c. Signatory Requirements

Documents required, submitted, or maintained under this permit shall be signed in accordance with the following:

- (1) Applications, Transferee/Co-permittee Form, and Notices of Termination.
  - (a) Corporations: (1) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or (2) the manager of one or more manufacturing, production or operating facilities, if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
  - (b) Partnerships or sole proprietorships: a general partner or the proprietor, respectively.
  - (c) Municipalities, State, Federal, or other public agencies: either a principal executive officer or ranking elected official; (1) the chief executive officer of the agency, or (2) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrators of EPA).

- (2) All reports, plans, documents, and other information required by the permit or requested by the Department, or the authorized County Conservation District, shall be signed by the permittee or co-permittee, or by a duly authorized representative of the permittee or co-permittee.
- (3) If there is a change in the duly authorized representative of the permittee or co-permittee, respectively, the permittee or co-permittee shall notify the Department, or an authorized County Conservation District within 30 days of the change.

**d. Transfer of Ownership or Control**

- (1) This permit is not transferable to any person except after notice to the Department, or authorized County Conservation District.
  - (a) In the event of any pending change in control or ownership of facilities from which the authorized discharges emanate, the permittee or co-permittee shall notify the Department, or the authorized County Conservation District, using the form entitled "Transferee/Co-permittee Application" for a General or Individual NPDES Permit for Stormwater Discharges Associated with Construction Activities (Transfer/Co-permittee Application) of such pending change at least 30 days prior to the change in ownership or control.
  - (b) The Transferee/Co-permittee Application form shall be accompanied by a written agreement between the existing permittee and the new owner or operator stating that the existing permittee shall be liable for violations of the permit up to and until the date of coverage transfer and that the new owner or operator shall be jointly and individually liable for permit violations under the permit from that date on.
  - (c) After receipt of the required documentation, the Department, or the authorized County Conservation District, shall notify the existing permittee and the new owner or controller of its decision concerning approval of the transfer. Such requests shall be deemed approved unless the Department, or the authorized County Conservation District, notifies the applicant otherwise within 30 days.
- (2) For purposes of this permit, operators shall include general contractors. If, prior to construction activities, the owner is the permittee and an operator/general contractor is later identified to become a co-permittee, the owner shall:
  - (a) Notify the Department, or the authorized County Conservation District, by submitting an administratively complete and acceptable Transferee/Co-permittee Application form.
  - (b) After receipt of the documentation described in (a) above, the permit will be considered modified by the Department. For purposes of this permit, this modification is considered to be a minor permit modification.
  - (c) Monitoring reports and any other information requested under this permit should reflect all changes to the permittee and the co-permittee name.

**e. Removed Substances**

Solids, sediments and other pollutants removed in the course of treatment or control of stormwater shall be disposed in accordance with federal and state law and regulations in order to prevent any pollutant in such materials from adversely affecting the environment.

**f. BMP Implementation and Maintenance**

The permittee and co-permittee shall at all times properly implement all BMPs which are installed or used by the permittee or co-permittee as efficiently as possible to achieve compliance with the conditions of this permit and with the E&S Plan, PPC Plan and PCSM Plan. Proper implementation and maintenance includes, but is not limited to, effective performance, based on designed BMP capabilities, adequate staffing and training, and adequate laboratory controls and appropriate quality assurance procedures. Proper operation and maintenance requires the implementation of additional or alternative and at all times operate and maintain BMP's, including PPC Plans, E&S Plans, and any other stormwater pollution prevention and management measures.

**g. Reduction Loss, or Failure of BMPs**

Upon reduction, loss or failure of any BMP, immediate action to restore, repair or replace the BMP or provide an alternative BMP, the permittee or co-permittee shall be taken to ensure that there are no pollution discharges to the waters of the Commonwealth. This requirement is applicable in situations where the BMP is rendered ineffective, whether the cause or source of the reduction, loss or failure is within or beyond the control of the permittee or co-permittee.

**h. Adverse Impact**

The permittee and co-permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit, which has a reasonable likelihood of adversely affecting human health, safety, or the environment.

**i. Reduction, Loss, or Failure of the BMPs**

Upon reduction, loss or failure of the BMPs, the permittee and co-permittee shall take immediate action to restore the BMPs or provide an alternative method of treatment.

**j. Termination of Coverage**

When all stormwater discharges associated with construction activity that are authorized by this permit are eliminated, the permittee or co-permittee of the facility must submit a Notice of Termination (NOT) form that is signed in accordance with Part B.1.c. (Signatory Requirements) of this permit. All NOTs certifying discharge termination are to be sent to the Department, or the authorized County Conservation District.

**2. RESPONSIBILITIES**

**a. Duty to Comply**

The permittee and co-permittee must comply with all terms and conditions of this general permit. Any permit non-compliance constitutes a violation of the Pennsylvania Clean Streams Law and the federal Clean Water Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit or permit renewal.

**b. Penalties for Violations of Permit Conditions, Falsification of Report or Other Document**

Any person who violates a permit condition, fails to take corrective action to abate violations or falsifies reports or other documents subjects that person to administrative, civil, and/or criminal penalties or other appropriate action pursuant to under Section 602 and 605 of the Clean Streams Law, 35 P.S. Sections 691.602 and 691.605, and under the Clean Water Act as specified in 40 C.F.R. Sections 122.41(a)(2) and (3), which are incorporated by reference.

**c. Need to Halt or Reduce Activity Not a Defense**

The permittee or co-permittee may not use as a defense in an enforcement action that it would have been necessary to halt or reduce the permitted activity to maintain compliance with the conditions of this permit.

**d. Property Rights**

This permit does not convey any property rights of any sort, nor any exclusive privileges, nor does it authorize any injury to private property nor any invasion of personal rights, nor any infringement of Federal, State or local laws or regulations.

**e. Severability**

The provisions of this permit are severable, and if any provision of this permit, or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this permit shall not be affected thereby.

**f. Other Laws**

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee or co-permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable Pennsylvania law or regulation under authority preserved by Section 510 of the Clean Water Act, 33 U.S.C. §1361, or under Section 311 of the Clean Water Act 33 U.S.C. §1321.

**g. Right of Entry**

Pursuant to Sections 5(b) and 305 of the Pennsylvania Clean Streams Law (35 P.S. §§691.5(b) and 691.305) and 25 Pa. Code Chapter 92, and §1917-A of the Administrative Code, the permittee or co-permittee shall allow the head of the Department, the EPA Regional Administrator, and/or an authorized representative of the Department, EPA, County Conservation District or, in the case of a facility which discharges to a municipal separate storm sewer, an authorized representative of the municipal operator or the separate storm sewer receiving the discharge, upon the presentation of credentials and other documents, as may be required by law, to:

- (1) Enter upon the premises where a regulated facility or activity is located or conducted or where records must be kept under the conditions of this permit.
- (2) At any reasonable time, have access to and copy any records that must be kept under the terms and conditions of this permit; inspect any facilities or equipment (including monitoring and control equipment) and sample any substances or discharge at any location.

### 3. DEFINITIONS

**Authorized County Conservation District** - For purposes of this permit, shall generally mean the local County Conservation District that has entered into a delegation agreement with the Department to administer and enforce the NPDES Permit for Stormwater Discharges Associated with Construction Activities Program. The Department retains program administration and enforcement if the local County Conservation District is not delegated.

**Best Management Practices (BMPs)** - Activities, facilities, measures, or procedures used to protect, maintain, reclaim and restore the quality of waters, and existing and designated uses within this Commonwealth. BMPs include PPC Plans, E&S Plans, PCSM Plans, Stormwater Management Act Plans and other treatment requirements, operating procedures, and practices to control project site runoff, spillage or leaks, and other drainage from the construction activity.

**Co-Permittee** - A discharger of stormwater associated with construction activity who is jointly and individually responsible for compliance with all conditions of a permit and applicable laws with another entity for discharges to surface waters of the Commonwealth from their construction activity. Each co-permittee shall only be responsible for stormwater discharges from activities owned and/or operated by such co-permittee.

**Department** - The Department of Environmental Protection (DEP) of the Commonwealth.

**Director** - The Director of the Bureau of Watershed Management, or any authorized employee thereof.

**Erosion and Sediment Control Plan (E&S Plan)** - A site-specific plan that meets the requirements of Title 25, Chapter 102 and minimizes accelerated erosion and sedimentation.

**Municipality** - Any county, city, borough, town, township, school district, institution or any authority created by one or more of the foregoing.

**Operator** - The person with oversight responsibility of earth disturbance activity on a project site for a portion thereof who has the ability to make modifications to the Erosion and Sediment Control Plan or site specifications; or day-to-day operational control over earth disturbance activity on a project site or a portion thereof to ensure compliance with the Erosion and Sediment Control Plan.

**Owner** - A person who holds legal title to the land subject to construction activity. This term also includes the person(s) who held legal title to the land subject to construction activity at the time such activity was commenced on a site.

**Person** - Any operator, natural person, partnership, association, corporation, or any agency, instrumentality or entity of Federal or State Government. Whenever used in any clause prescribing and imposing a penalty, or imposing a fine or imprisonment or both, the term "person" shall not exclude the members of an association and the directors, officers, or agents of a corporation.

**Preparedness, Prevention and Contingency Plan (PPC Plan)** - A written plan that identifies an emergency response program, material and waste inventory, spill and leak prevention and response, inspection program, housekeeping program, security and external factors, developed and implemented at the construction site to control potential discharges of pollutants other than sediment into waters of the Commonwealth. Potential pollutants at construction activities can include, but are not limited to pesticides, fertilizers, lime, petrochemicals, construction-related chemicals and solvents, wastewater, wash water, core drilling wastewater, cement, sanitary wastes or hazardous wastes.

**Post Construction Stormwater Management Plan (PCSM Plan)** - A site specific plan identifying BMPs to manage stormwater runoff after construction activities have ended and the project site permanently stabilized to protect and maintain existing and designated uses. The PCSM Plan must contain a written narrative, including calculations or measurements, and justifications for each BMP. The BMPs should be designed to maximize infiltration technologies, minimize point source discharges to surface waters, preserve the integrity of stream channels, and protect the physical, biological and chemical qualities of the receiving water.

**Runoff Coefficient** - The fraction of total rainfall that will appear at the conveyance as runoff.

**Stabilization** – the proper placing, grading, constructing, reinforcing, lining, and covering of soil, rock or earth to insure its resistance to erosion, sliding or other movement.

**Stormwater** – Stormwater runoff, snow melt runoff, and surface runoff and drainage.

**Stormwater Associated with Construction Activity** – The discharge into waters of the Commonwealth, municipal separate storm sewers, or non-municipal separate storm sewers from any conveyance which is used for collecting and conveying stormwater and which is related to construction activities. Construction activities include clearing, grading, and excavation activities of 1 acre or greater including those activities of less than one acre of total land area that are part of a larger common plan of development or sales. The term does not include stormwater discharges from silvicultural, agricultural, or road maintenance activities.

**Surface Waters of the Commonwealth** – Any and all rivers, streams, creeks, rivulets, impoundments, ditches, water courses, storm sewers, lakes, dammed water, ponds, springs, wetlands and all other bodies or channels of conveyance of surface water, or parts thereof, whether natural or artificial, within or on the boundaries of this Commonwealth.

**Wetlands** – Areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, including swamps, marshes, bogs and similar areas.

## PART C

## OTHER CONDITIONS

**1. PROHIBITION OF NON-STORMWATER DISCHARGES**

All discharges covered by this permit shall be composed entirely of stormwater, unless discharges of material other than stormwater are in compliance with another NPDES discharge permit (other than this permit) issued for the discharge. Discharge of sewage or industrial waste (other than sediment under this permit) to an erosion and sediment control BMP is not permitted.

The permittee or co-permittee may not discharge floating materials, oil, grease, scum, foam, sheen and substances which produce odor, taste, turbidity, or settle to form deposits in concentrations or amounts sufficient to be, or create a danger of being, inimical to the water uses to be protected or to human, animal, plant or aquatic life.

**2. EROSION AND SEDIMENT CONTROL PLANS**

- a. An E&S Plan, must be prepared, developed, and implemented for each activity covered by this permit in accordance with the Department's Chapter 102 Rules and Regulations, and Department guidance. Each E&S plan must be submitted to the Department or authorized County Conservation District. The BMPs shall be designed to minimize the potential for accelerated erosion and sedimentation in order to protect, maintain, reclaim and restore water quality and existing and designated uses. Various BMPs and their design standards are listed in the Erosion and Sediment Pollution Control Program Manual (#363-2134-008). The manual is available from the Department or Authorized County Conservation District, or can be downloaded from the Department website [www.dep.state.pa.us](http://www.dep.state.pa.us). E&S Plans, BMPs, and revisions thereto, which meet the requirements of 25 Pa. Code Chapter 102 are conditions of this permit and incorporated by reference.
- b. E&S Plans required under this permit are considered reports that shall be available to the public under Section 607 of the Clean Streams Law, and 25 Pa. Code, Chapter 92 of the Department's regulations. The owner or operator of a facility with stormwater discharges covered by this permit shall make E&S Plans available to the public upon request. E&S Plans must be made available at the site of the construction activity at all times.
- c. The staging of earth disturbance activities and maintenance requirements contained in the E&S Plan must be followed.

**3. RECYCLING AND DISPOSAL OF BUILDING MATERIALS AND WASTES**

All building materials and wastes must be removed from the site and recycled or disposed in accordance with the Department's Solid Waste Management Regulations at 25 Pa. Code §260.1 *et seq.*, §271.1 *et seq.*, and §287.1 *et seq.* No building material or wastes or unused building materials shall be burned, buried, dumped, or discharged at the site.

**4. PREPAREDNESS, PREVENTION AND CONTINGENCY PLANS**

If the potential exists for causing accidental pollution of air, land, or water, or for causing endangerment of public health and safety through accidental release of toxic, hazardous, or other polluting materials, the permittee or co-permittee must develop a Preparedness, Prevention, and Contingency (PPC) Plan. The PPC Plan shall be developed in accordance with Department regulations. The PPC Plan shall identify areas which may include, but are not limited to, waste management areas, raw material storage areas, temporary and permanent spoils storage areas, maintenance areas, and any other areas that may have the potential to cause non-compliance with the terms and conditions of this permit due to the storage, handling, or disposal of any toxic or hazardous substances such as oil, gasoline, pesticides, herbicides, solvents, etc. BMPs shall be developed and implemented for each identified area. The PPC Plan shall be maintained on site at all times and shall be made available for review at the Department's or authorized County Conservation District's request.

**5. POST CONSTRUCTION STORMWATER MANAGEMENT PLANS**

A PCSM Plan that identifies the BMPs to be installed to manage and treat the stormwater discharge to protect water quality after construction must be prepared and implemented. Such BMPs should be designed to maximize groundwater infiltration, to protect the structural integrity of the stream, and to protect and maintain existing and designated uses. In addition, some counties have adopted Act 167 Stormwater Management Plans that incorporate measures to protect and maintain existing uses and protect and maintain water quality to maintain those existing uses. In areas where plans exist and are supported by local ordinances, the applicant must design the PCSM Plan in accordance with these ordinances. Permittees and co-permittees are responsible for proper installation of the PCSM Plan BMPs prior to the submission of the notice of termination to this permit.

**6. PRE-CONSTRUCTION CONFERENCES**

The permittee or co-permittee shall contact the Department or an authorized County Conservation District at least seven days before construction is to begin to determine if a pre-construction conference is required. The permittee, co-permittee and others undertaking the earth disturbance activity must attend a pre-construction conference if requested by the Department or an authorized County Conservation District.

**7. SPOIL OR BORROW AREA**

An E&S Plan shall be submitted to the Department or an authorized County Conservation District for review and approval for all spoil and borrow areas, regardless of their location. All spoil and borrow areas shall be subject to the requirements contained in this permit.

**8. PHASED PROJECTS**

Prior to the commencement of earth disturbance activities for subsequent phases of the project, the permittee or co-permittee shall submit an E&S Plan and PCSM Plan, for each subsequent phase of the project for review and authorization by the Department or authorized County Conservation District.

Coverage under this permit is only granted for those phases or portions of a project for which an E&S Plan and PCSM Plan, and PPC Plan has been submitted to, reviewed and authorized by the Department or an authorized County Conservation District.

**9. CLARIFICATION ASSISTANCE**

The permittee or co-permittee shall contact the Department or an authorized County Conservation District for clarification of any requirements contained in this document, E&S Plan, PCSM Plan, PPC Plan, or other documents related to this permit.

**10. WETLAND PROTECTION**

If hydric soils or other site conditions indicate that wetlands are present, a wetland determination must be conducted in accordance with Department procedures. All wetlands must be identified on the E&S Plan and PCSM Plan.

## APPENDIX A

The following numeric effluent limits or other special conditions are incorporated as terms and conditions with this permit authorization.

## **NOTICE OF APPEAL RIGHTS:**

Any person aggrieved by this action may appeal, pursuant to Section 4 of the Environmental Hearing Board Act, 35 P.S. Section 7514, and the Administrative Agency Law, 2 Pa.C.S. Chapter 5A, to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P.O. Box 8457, Harrisburg, PA 17105-8457, 717-787-3483. TDD users may contact the Board through the Pennsylvania Relay Service, 800-654-5984. Appeals must be filed with the Environmental Hearing Board within 30 days of receipt of written notice of this action unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in braille or on audiotape from the Secretary to the Board at 717-787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decisional law.

IF YOU WANT TO CHALLENGE THIS ACTION, YOUR APPEAL MUST REACH THE BOARD WITHIN 30 DAYS. YOU DO NOT NEED A LAWYER TO FILE AN APPEAL WITH THE BOARD.

IMPORTANT LEGAL RIGHTS ARE AT STAKE, HOWEVER, SO YOU SHOULD SHOW THIS DOCUMENT TO A LAWYER AT ONCE. IF YOU CANNOT AFFORD A LAWYER, YOU MAY QUALIFY FOR FREE PRO BONO REPRESENTATION. CALL THE SECRETARY TO THE BOARD (717-787-3483) FOR MORE INFORMATION.