

# New York State Department of Environmental Conservation

## Division of Environmental Permits, Region One

SUNY @ Stony Brook, 50 Circle Road, Stony Brook, NY 11790 - 3409

Phone: (631) 444-0365 • FAX: (631) 444-0360

Website: [www.dec.state.ny.us](http://www.dec.state.ny.us)



November 20, 2008

Town of Shelter Island  
Town Hall  
PO Box 970  
Shelter Island, NY, 11964-0970  
Attn: James D. Dougherty, Supervisor

**RE: DEC Permit # 1-4732-00605/00010  
Taylor's Island Repair/restoration**

Dear Permittee:

In conformance with the requirements of the State Uniform Procedures Act (Article 70, ECL) and its implementing regulations (6NYCRR, Part 621) we are enclosing your permit. Please carefully read all permit conditions and special permit conditions contained in the permit to ensure compliance during the term of the permit. If you are unable to comply with any conditions, please contact us at the above address.

Also enclosed is a permit sign which is to be conspicuously posted at the project site and protected from the weather.

Sincerely,

Kevin Kispert  
Environmental Analyst II

cc: BMHP  
Costello Marine Contracting Corp  
file

NOV 25 2008



**PERMIT**  
**Under the Environmental Conservation Law (ECL)**

**Permittee and Facility Information**

**Permit Issued To:**  
TOWN OF SHELTER ISLAND  
38 NORTH FERRY RD  
  
PO BOX 970  
SHELTER ISLAND, NY 11964-0970  
(631) 749-1090

**Facility:**  
TAYLOR'S ISLAND  
MASHOMACK PRESERVE - NE CORNER - E  
END FOXEN CREEK RD|COECLES HARBOR  
SHELTER ISLAND, NY 11964

**Facility Application Contact:**  
COSTELLO MARINE CONTRACTING CORP  
PO BOX 2124  
GREENPORT, NY 11944  
(631) 477-1199

**Facility Location:** in SHELTER ISLAND in SUFFOLK COUNTY

**Facility Principal Reference Point:** NYTM-E: 726.9      NYTM-N: 4549.9  
Latitude: 41°04'07.4"      Longitude: 72°17'57.9"

**Authorized Activity:**      Repair and/or replace the existing bulkhead and seawall, construct 70 feet of new seawall, regrade an existing roadway, construct a kayak landing area, place approximately 500 cubic yards of clean fill, and revegetate with appropriate native species upon completion of the project as shown on the attached plans prepared by Costello Marine Contracting Corp., last revised 9/2/08, and NYSDEC approved on 11/18/08.

**Permit Authorizations**

**Tidal Wetlands - Under Article 25**

Permit ID 1-4732-00605/00010

New Permit      Effective Date: 11/20/2008      Expiration Date: 11/20/2013

**Water Quality Certification - Under Section 401 - Clean Water Act**

Permit ID 1-4732-00605/00011

New Permit      Effective Date: 11/20/2008      Expiration Date: 11/20/2013

**Excavation & Fill in Navigable Waters - Under Article 15, Title 5**

Permit ID 1-4732-00605/00012

New Permit      Effective Date: 11/20/2008      Expiration Date: 11/20/2013



**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: SUSAN ACKERMAN, Deputy Regional Permit Administrator  
Address: NYSDEC REGION 1 HEADQUARTERS  
SUNY @ STONY BROOK 50 CIRCLE RD  
STONY BROOK, NY 11790 -3409

Authorized Signature: \_\_\_\_\_

Date 11/19/2008

**Distribution List**

COSTELLO MARINE CONTRACTING CORP  
Marine Habitat Protection

**Permit Components**

NATURAL RESOURCE PERMIT CONDITIONS

WATER QUALITY CERTIFICATION SPECIFIC CONDITION

GENERAL CONDITIONS, APPLY TO ALL AUTHORIZED PERMITS

NOTIFICATION OF OTHER PERMITTEE OBLIGATIONS

**Permit Attachments**

Site Plan

**NATURAL RESOURCE PERMIT CONDITIONS - Apply to the Following Permits: TIDAL WETLANDS; WATER QUALITY CERTIFICATION; 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 Costello Marine Contracting Corp, last revised 9/2/08, and NYSDEC approved on 11/18/08.



- 2. Notice of Commencement** At least 48 hours prior to commencement of the project, the permittee and contractor shall sign and return the top portion of the enclosed notification form certifying that they are fully aware of and understand all terms and conditions of this permit. Within 30 days of completion of project, the bottom portion of the form must also be signed and returned, along with photographs of the completed work.
- 3. No Construction Debris in Wetland or Adjacent Area** Any debris or excess material from construction of this project shall be completely removed from the adjacent area (upland) and removed to an approved upland area for disposal. No debris is permitted in wetlands and/or protected buffer areas.
- 4. Storage of Equipment, Materials** The storage of construction equipment and materials shall be confined to the upland area landward of the bulkhead or on a barge.
- 5. 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.
- 6. No Equipment below Apparent Low Water** Equipment operation below (seaward) apparent low water is strictly prohibited.
- 7. Clean Fill Only** All fill shall consist of clean sand, gravel, or soil (not asphalt, slag, flyash, broken concrete or demolition debris).
- 8. No Beach Excavation For Fill** No excavation of the beach is authorized for the purpose of obtaining fill or stone materials.
- 9. Backfilling** All peripheral berms, cofferdams, rock revetments, seawalls, gabions, bulkheads or other approved shoreline stabilization structures shall be completed prior to placement of any fill material behind such structures.
- 10. No Seaward Extension of Bulkhead** The new bulkhead shall be constructed in place of the existing bulkhead with no seaward extension of the outermost bulkhead face.
- 11. Excavation for Bulkhead/Structure** Prior to any construction or removal of bulkheads and other shoreline stabilization structures all backfill shall be excavated landward of the structure and retained so as not to enter the waterway, tidal wetland or protected buffer area.
- 12. Long-term Plant Survival** The access road/disturbed areas shall be planted as per the approved plans, and the permittee shall ensure a minimum of 85% survival of plantings by the end of five growing seasons. If this goal is not met, the permit holder shall re-evaluate the restoration project in order to determine how to meet the mitigation goal and submit plans to be approved by the office of Marine Habitat Protection.
- 13. Use of Treated Wood** The use of wood treated with pentachlorophenol or other wood treatment not specifically approved by the department for use in wetlands and/or marine waters, is strictly prohibited in the construction of structures that will be in contact with tidal waters.
- 14. Grade to Match That Adjacent to Bulkhead** All fill must be graded to match the elevation of the land immediately adjacent to the bulkhead.



**15. No Interference With Navigation** There shall be no unreasonable interference with navigation by the work herein authorized.

**16. 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.

**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. 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.

**19. 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 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.

### WATER QUALITY CERTIFICATION SPECIFIC CONDITIONS

**1. Water Quality Certification** The NYS Department of Environmental Conservation hereby certifies that the subject project will not contravene effluent limitations or other limitations or standards under Sections 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.

### 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 1 HEADQUARTERS  
SUNY @ STONY BROOK 50 CIRCLE RD  
STONY BROOK, NY 11790 -3409

**4. Submission of Renewal Application** The permittee must submit a renewal application at least 30 days before permit expiration for the following permit authorizations: Tidal Wetlands, Water Quality Certification, Excavation & Fill in Navigable Waters.

**5. Permit Modifications, Suspensions and Revocations by the Department** The Department reserves the right to modify, suspend or revoke this permit. The grounds for modification, suspension or revocation include:

- a. materially false or inaccurate statements in the permit application or supporting papers;
- b. failure by the permittee to comply with any terms or conditions of the permit;
- c. exceeding the scope of the project as described in the permit application;
- d. newly discovered material information or a material change in environmental conditions, relevant technology or applicable law or regulations since the issuance of the existing permit;
- e. noncompliance with previously issued permit conditions, orders of the commissioner, any provisions of the Environmental Conservation Law or regulations of the Department related to the permitted activity.

**6. Permit Transfer** Permits are transferrable unless specifically prohibited by statute, regulation or another permit condition. Applications for permit transfer should be submitted prior to actual transfer of ownership.



## NOTIFICATION OF OTHER PERMITTEE OBLIGATIONS

### **Item A: Permittee Accepts Legal Responsibility and Agrees to Indemnification**

The permittee, excepting state or federal agencies, expressly agrees to indemnify and hold harmless the Department of Environmental Conservation of the State of New York, its representatives, employees, and agents ("DEC") for all claims, suits, actions, and damages, to the extent attributable to the permittee's acts or omissions in connection with the permittee's undertaking of activities in connection with, or operation and maintenance of, the facility or facilities authorized by the permit whether in compliance or not in compliance with the terms and conditions of the permit. This indemnification does not extend to any claims, suits, actions, or damages to the extent attributable to DEC's own negligent or intentional acts or omissions, or to any claims, suits, or actions naming the DEC and arising under Article 78 of the New York Civil Practice Laws and Rules or any citizen suit or civil rights provision under federal or state laws.

### **Item B: Permittee's Contractors to Comply with Permit**

The permittee is responsible for informing its independent contractors, employees, agents and assigns of their responsibility to comply with this permit, including all special conditions while acting as the permittee's agent with respect to the permitted activities, and such persons shall be subject to the same sanctions for violations of the Environmental Conservation Law as those prescribed for the permittee.

### **Item C: Permittee Responsible for Obtaining Other Required Permits**

The permittee is responsible for obtaining any other permits, approvals, lands, easements and rights-of-way that may be required to carry out the activities that are authorized by this permit.

### **Item D: No Right to Trespass or Interfere with Riparian Rights**

This permit does not convey to the permittee any right to trespass upon the lands or interfere with the riparian rights of others in order to perform the permitted work nor does it authorize the impairment of any rights, title, or interest in real or personal property held or vested in a person not a party to the permit.

**NOTICE OF COMMENCEMENT OF CONSTRUCTION**



RETURN THIS FORM TO:

COMPLIANCE  
Marine Habitat Protection  
NYSDEC  
50 Circle Road - SUNY  
Stony Brook, NY 11790-3409

OR FAX TO: 631-444-0297

PERMIT NUMBER: \_\_\_\_\_ ISSUED TO: \_\_\_\_\_

PROJECT LOCATION/ADDRESS: \_\_\_\_\_

CONTRACTOR NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

TELEPHONE: \_\_\_\_\_

Dear Sir:

Pursuant to *General Condition* of the referenced permit, you are hereby notified that the authorized activity shall commence on \_\_\_\_\_. We certify that we have read the referenced permit and approved plans and fully understand the authorized project and all permit conditions. We have inspected the project site and can complete the project as described in the permit and as depicted on the approved plans. We can do so in full compliance with all plan notes and permit conditions. The permit sign, permit and approved plans will be available at the site for inspection in accordance with general Condition No. 1.  
(Both signatures required)

PERMITEE \_\_\_\_\_ DATE \_\_\_\_\_

CONTRACTOR \_\_\_\_\_ DATE \_\_\_\_\_

**THIS NOTICE MUST BE SENT TO THE ABOVE ADDRESS AT LEAST TWO DAYS PRIOR TO COMMENCEMENT OF THE PROJECT AND FOR ANY ASSOCIATED REGULATED ACTIVITIES. FAILURE TO RETURN THIS NOTICE, POST THE PERMIT SIGN, OR HAVE THE PERMIT AND APPROVED PLANS AVAILABLE AT THE WORK SITE FOR THE DURATION OF THE PROJECT MAY SUBJECT THE PERMITEE AND/OR CONTRACTOR TO APPLICABLE SANCTIONS AND PENALTIES FOR NON-COMPLIANCE WITH PERMIT CONDITIONS.**

Cut along this line x

**NOTICE OF COMPLETION OF CONSTRUCTION**



RETURN THIS FORM TO:

COMPLIANCE  
Marine Habitat Protection  
NYSDEC  
50 Circle Road - SUNY  
Stony Brook, NY 11790-3409

OR FAX TO: 631-444-0297

PERMIT NUMBER: \_\_\_\_\_ ISSUED TO: \_\_\_\_\_

PROJECT LOCATION/ADDRESS: \_\_\_\_\_

CONTRACTOR NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

TELEPHONE: \_\_\_\_\_

Dear Sir:

Pursuant to *General Condition* of the referenced permit, you are hereby notified that the authorized activity was completed on \_\_\_\_\_. We have fully complied with the terms and conditions of the permit and approved plans. (Both signatures required)

PERMITEE \_\_\_\_\_ DATE \_\_\_\_\_

CONTRACTOR \_\_\_\_\_ DATE \_\_\_\_\_

**THIS NOTICE, WITH PHOTOGRAPHS OF THE COMPLETED WORK AND/OR A COMPLETED SURVEY, AS APPROPRIATE, MUST BE SENT TO THE ABOVE ADDRESS WITHIN 30 DAYS OF COMPLETION OF THE PROJECT.**