PERMIT

Under the Environmental Conservation Law (ECL)

Permittee and Facility Information

Permit Issued To:
JOSEPH P DUCILLO, JR
11 MECHANIC ST
AMENIA, NY 12501
(845) 373-9539

Facility:
11, 13, 15, 17, 21 MECHANIC ST
11, 13, 15, 17, 21 MECHANIC ST
AMENIA, NY 12501

Facility Location: in AMENIA in DUTCHESS COUNTY
Facility Principal Reference Point: NYTM-E: 620.171 NYTM-N: 4633.827
Latitude: 41°50'50.0" Longitude: 73°33'08.8"
Authorized Activity: This permit authorizes 13,664 square feet of physical disturbance to the state regulated 100 foot adjacent area of NYS Freshwater Wetland AM-9 (Class II) for the purpose of expanding an existing mini-storage facility onto an adjacent parcel and constructing a work storage garage.

All work must be conducted in strict accordance with the plans referenced in Natural Resource Condition No. 1 and as conditioned by this permit.

This permit contains conditions designed to protect Bog turtles (Glyptemys muhlenbergii), a state-listed endangered species. These include, but are not limited to, the requirement to retain the services of a certified bog turtle monitor in some instances and the requirment to install a restrictive barrier around the work area from April 1st to September 30th.

Permit Authorizations

Freshwater Wetlands - Under Article 24
Permit ID 3-1320-00133/00002
New Permit Effective Date: 8/16/2019 Expiration Date: 12/31/2021

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: TRACEY L O'MALLEY, Deputy Regional Permit Administrator
Address: NYSDEC Region 3 Headquarters
21 S Putt Corners Rd
New Paltz, NY 12561

Authorized Signature: _____ Date 8 / 16 / 2014

Distribution List

Supervisor, Town of Amenia
B. Friedmann, Ecological Analysis
B. Drumm, R3 Ecosystem Health
L. Masi, R3 Wildlife

Permit Components

NATURAL RESOURCE PERMIT CONDITIONS

GENERAL CONDITIONS, APPLY TO ALL AUTHORIZED PERMITS

NOTIFICATION OF OTHER PERMITTEE OBLIGATIONS

Permit Attachments

Permit Sign
Miscellaneous Attachments - Not Otherwise Specified

NATURAL RESOURCE PERMIT CONDITIONS - Apply to the Following Permits: FRESHWATER WETLANDS

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 the project sponsor and are listed in Natural Resource Condition No. 2.

2. **Approved Plan List** The approved plans consist of the following eight sheets prepared for Outback Storage, Mechanic Street, Amenia, NY:

Sheet Name	Sheet Number	Originally Dated	Last Revised
Bog Turtle Education Pamphlet for the Outback Storage Site			
Overall Site Plan	SP.1	09/14/2016	06/14/2019
Existing Conditions Plan	SP.2	09/14/2016	06/14/2019
Site Plan	SP.3	09/14/2016	06/14/2019
Utility Plan	SP.4	09/14/2016	06/14/2019
Landscaping/Lighting Plan	SP.5	09/14/2016	06/14/2019
Erosion & Sediment Control Plan	SP.6	09/14/2016	06/14/2019
Details	D.1	09/14/2016	06/14/2019

3. **Post Permit Sign** The permit sign enclosed with this permit shall be posted in a conspicuous location on the worksite and adequately protected from the weather.

4. **Notice of Intent to Commence Work** The permittee shall notify Brian Drumm, DEC Bureau of Ecosystem Health via electronic mail (brian.drumm@dec.ny.gov) and Lisa Masi, DEC Bureau of Wildlife (lisa.masi@dec.ny.gov) at least 48 hours in advance of the time of work commencement.

5. **Precautions Against Contamination of Waters** All necessary precautions shall be taken to preclude contamination of any wetland or waterway by suspended solids, sediments, fuels, solvents, lubricants, epoxy coatings, paints, concrete, leachate or any other environmentally deleterious materials associated with the project.

6. **Install Erosion Controls** Prior to commencement of the activities authorized herein, the permittee shall install securely anchored silt fencing and/or continuous staked straw bales as shown on the plans or drawings referenced in this permit. These erosion control devices shall be maintained until all disturbed land is fully vegetated to prevent any silt or sediment from entering the freshwater wetland or its adjacent area. Silt fencing, hay bales and any accumulated silt or sediment shall be completely removed for disposal at an appropriate upland site.

7. **Invasive Species (Non-native Vegetation)** To prevent the unintentional introduction or spread of invasive species, the permittee must ensure that all construction equipment be cleaned of mud, seeds, vegetation and other debris before entering any approved construction areas within the state regulated freshwater wetland or its 100 foot adjacent area.

8. **Bog Turtle Monitor** A Bog Turtle Monitor must be retained to implement the Education and Encounter plan, over see installation of the barrier fence, and monitor any work outside of the barrier fence that takes place between April 1st and September 30th.

9. **Bog Turtle Barrier** Acceptable approved work time-frames for bog turtle at this site are between October 1st and March 31st. If the construction is outside the acceptable work period (in whole or part) a temporary restrictive barrier is to be installed around the perimeter of project. The barrier must completely enclose the work area. If a barrier is required, all work shall be within the exclusion barrier as designated on the site plans. The barrier should be inspected daily and repaired immediately if damaged.

10. **Bog Turtle Encounters** Report encounters with bog turtles to the NYSDEC Region 3 Wildlife Office within 24-hours at 845-256-3098 or wildlife.R3@dec.ny.gov. Information to be provided includes location, project name and explanation of the incident. The plan "Bog Turtle Education Pamphlet for the Outback Storage Site" outlines the measures which must be taken during encounters.

11. **Restore Temporarily Disturbed Areas** All temporary disturbances must be restored as described in the approved plans.

12. **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.

13. **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.

14. **State May Require Site Restoration** If upon the expiration or revocation of this permit, the project hereby authorized has not been completed, the applicant shall, without expense to the State, and to such extent and in such time and manner as the Department of Environmental Conservation may lawfully require, remove all or any portion of the uncompleted structure or fill and restore the site to its former condition. No claim shall be made against the State of New York on account of any such removal or alteration.

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 3 Headquarters
21 S Putt Corners Rd
New Paltz, NY12561

4. **Submission of Renewal Application** The permittee must submit a renewal application at least 30 days before permit expiration for the following permit authorizations: Freshwater Wetlands.

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

a. materially false or inaccurate statements in the permit application or supporting papers;

b. failure by the permittee to comply with any terms or conditions of the permit;

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.

Item E: SEQR Unlisted Action, No Lead Agency, No Significant Impact Under the State Environmental Quality Review Act (SEQR), the project associated with this permit is classified as an Unlisted Action and the Department of Environmental Conservation has determined that it will not have a significant effect on the environment. Other involved agencies may reach an independent determination of environmental significance for this project.

New York State

Department of Environmental Conservation

NOTICE

The Department of Environmental Conservation (DEC) has issued permit(s) pursuant to the Environmental Conservation Law for work being conducted at this site. For further information regarding the nature and extent of work approved and any Department condition on it, contact the DEC at 845-256-3054. Please refer to the permit number shown when contacting the DEC.

Permittee: Joseph P. Ducillo, Jr.

Permit No. 3-1320-00133/00002

Effective Date: 8/16/2019

Expiration Date: 12/31/2020

☐ Applicable if checked. No instream work allowed between October 1 & April 30

NOTE: This notice is **NOT** a permit.

AN ENDANGERED SPECIES IN NEW YORK STATE
A FEDERALLY LISTED THREATED SPECIES

Bog Turtle

Glyptemys muhlenbergii

This area of the Town of Amenia, including the Outback Self Storage project site, contains suitable habitat for the Bog Turtle, which is a New York State Listed Endangered Species. This species is an important part of our ecosystem and it is illegal to kill, harm or harass them. Although no bog turtles have been noted on the Outback Storage site, bog turtles have been identified with 1.0 mile of the site. It is possible for turtles to travel up to 1 mile. This brochure's intent is to educate the public of their potential presence and provide valuable information should an encounter occur even though bog turtle sightings are rare.

THIS PAMPHLET IS TO BE DISTRIBUTED TO:

- To all construction workers at the project site
- And available at the office for the project

SIMILAR SPECIES

The spotted turtle (*Clemmys guttata*) is New York State's most similar species to the bog turtle and can always be distinguished from bog turtles by the many yellow spots that are present on their heads and necks.

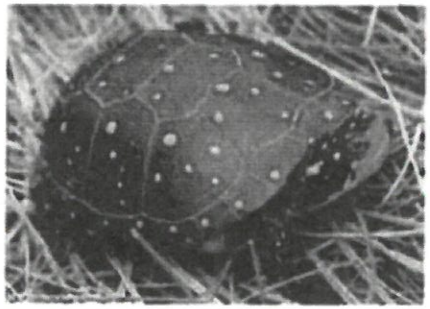

Photo Credit: Nick Scobel

ADDITIONAL INFORMATION

For additional information on bog turtles, refer to the following resources:

- NYSDEC Bog Turtle Fact Sheet (www.dec.ny.gov/animals/7164.html)
- NY Natural Heritage Program Animal Guidance (www.acris.nynhp.org/guide.php?id=7507)
- US Fish and Wildlife Service New York Field Office Bog Turtle Website (https://www.fws.gov/northeast/nyfo/es/bogturtle.htm)

BOG TURTLE EDUCATION PAMPHLET FOR THE Outback Storage Site

Photo Credit: https://www.nrcs.usda.gov/wps

PLEASE NOTE:

All native species of reptiles and amphibians are protected from collection and take without appropriate license or permits. Contact the Regional NYSDEC wildlife office for more information or to report sightings.

FACT SHEET

- The bog turtle is New York's smallest sized turtle with a shell length of three to four and a half inches. A distinguishing feature of this turtle is the bright orange or yellow blotches behind the ear on each side of the head.
- Mating occurs primarily in the spring but may occur in the fall with nesting beginning in early to mid June.
- The bog turtle overwinters often in an abandoned muskrat lodge or burrow. During the nesting season, a female bog turtle may lay a clutch of two to four eggs on an unshaded tussock sedge.
- Bog turtles take 8-11 years to reach sexual maturity and may live to be 30 years old.
- Bog turtles are a semi-aquatic species preferring habitat with cool, shallow, slow moving water, deep soft mucky soil, and tussock forming herbaceous vegetation. In New York, the bog turtle is generally found in open, early successional types of habitats such as wet meadows or open calcareous boggy areas generally dominated by sedges (*Carex spp.*) or sphagnum moss. Like other cold-blooded or ectothermic species, it requires habitats with a good deal of solar penetration for basking and nesting.
- Collection of the bog turtle without a permit is prohibited in all states where it occurs. It was listed as threatened in 1997 by the U. S. Fish and Wildlife Service, and has been listed in CITES Appendix I, (Convention of International Trade in Endangered Species) since 1975.

MEASURES TO TAKE DURING ENCOUNTERS

CONSTRUCTION:

- In the event that a bog turtle is found within the work area:
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1. All work within 330 feet of the turtle will cease immediately.
2. Workers are not to touch the turtle. The turtle is not to be collected or persecuted.
3. Turtles can only be moved by a qualified biologist with knowledge of bog turtles and relocation procedures, who is licensed by the NYSDEC to handle bog turtles.
4. Workers are to contact the contractor in charge, who will contact a qualified biologist to safely move the bog turtle out of the construction zone and place back into the wetland.
5. Work will not re-commence until the permitted person arrives at the site to move the bog turtle to a safe area away from the construction. A worker shall be assigned to monitor the location of the turtle until it is removed from the construction area. In addition, work cannot recommence until the NYSDEC provides notice in writing work can proceed.
6. If the turtle is found within the turtle barrier fence, work cannot re-commence until the fencing is inspected by and signed off on by the qualified biologist.
7. In addition, the New York State Department of Environmental Conservation (NYSDEC) Wildlife Office at (845)-256-3098 or (Wildlife.R3@dec.ny.gov) and the US Fish and Wildlife Service (USFWS) New York Field Office at (607)- 753-9334, must be contacted within 24 hours if a bog turtle is found on the site. Please provide the location, the project name, and an explanation of the incident.

Contact Information for Qualified Biologist:
Michael Nowicki
203-910-4716

Photo Credit: paherpsurvey.org