

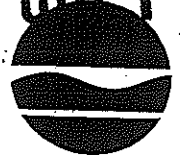
New York State Department of Environmental Conservation
Division of Environmental Permits

47-40 21ST Street, Long Island City, NY 11101-5407

Phone: (718) 482-4997 • FAX: (718) 482-4975

Website: www.dec.state.ny.us

FILE COPY



Denise M. Sheehan
Commissioner

December 27, 2005

Fax and First Class Mail

Joanne Imohiosen
NYC Department of Parks and Recreation
830 Fifth Avenue
New York, NY 10021

J. Pierre Gagne
Ferry Point Partners, LLC
c/o Gagne Development Corp.
422 Summer Street
Standford, CT. 06901

Re: DEC Permit No. 2-6006-00014/00013-0
Ferry Point Park Golf Course Construction, Bronx County

Dear Assistant Commissioner Imohiosen and Mr. Pierre Gagne:

The above referenced permit, issued November 18, 2005 is hereby revised as follows:

DESCRIPTION OF AUTHORIZED ACTIVITY:

Construction of a Golf Course, Community Park and Waterfront Park on 222 acres of Ferry Point Park, requiring a total of 2,370,000 cubic yards of material in-place volume. This material will be imported to the Site by truck and consist exclusively of: 1) recognizable and uncontaminated concrete or concrete products (including steel or fiberglass reinforcing rods that are embedded in the concrete), brick, soil, sand, gravel, and rock (hereafter referred to in this permit as select exempt construction and demolition debris) totaling approximately 2,120,000 cubic yards for the shaping layer, and 2) uncontaminated soil totaling approximately 250,000 cubic yards for the cover layer. The imported material will be used to attain the final approved grades and contours.

All other conditions and requirement of the issued permit remain as previously written.

December 27, 2005

You are required to provide a copy of this notice to all agents, contractors and employees performing any part of the permitted activities, maintain an accessible copy at the project site and at the document repository established for this project.

Very truly yours,



John F. Cryan
Regional Permit Administrator

cc: S. Kass, Esq., Cater, Ledyard and Milburn
C. King, Esq., New York City Law Department
S. Grogg, TRC Raymond Keyes Associates
J. Nehila, Esq., NYSDEC, DLA
K. Brezner, NYSDEC, DSHM, R2
M. Redis, NYSDEC, DSHM, R2
Scott Menrath, NYSDEC, BSWRR, Albany
J. Kaufman, Capt., NYSDEC, DLE

File

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION



PERMIT
Under the Environmental
Conservation Law (ECL)

DEC PERMIT NUMBER: 2-6006-00014/00013
FACILITY: Ferry Point Park Golf Course

EFFECTIVE DATE: November 18, 2006
EXPIRATION DATE: November 30, 2008

TYPE OF PERMIT: New Renewal Modification Permit to Construct Permit to Operate

- | | | |
|--|---|--|
| <input checked="" type="checkbox"/> Article 27, Title 7; 6 NYCRR 360: Solid Waste Management | <input type="checkbox"/> 6 NYCRR 608: Water Quality Certification | <input type="checkbox"/> Article 15, Title 15: Long Island Wells |
| <input type="checkbox"/> Article 17, Titles 7, 8: SPDES | <input type="checkbox"/> Article 25: Tidal Wetlands | <input type="checkbox"/> Article 15, Title 5: Protection of Waters |

PERMIT ISSUED TO: Owner: NYC Department of Parks and Recreation and Operator: Pierre Gagne, Ferry Point Partners, LLC	TELEPHONE: 212-360-8111(NYCDPR) 212-699-1915 (FPP, LLC)
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ADDRESS OF PERMITTEE:
NYCDPR, 830 5th Avenue, New York, NY 10021-7001
FPP, LLC, c/o Gagne Development Company, 422 Summer Street, Stamford, Ct. 06901

CONTACT PERSON FOR PERMITTED WORK: J. Pierre Gagne Gagne Development Company, LLC	TELEPHONE: 212-699-1915
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PROJECT/FACILITY NAME: Ferry Point Park Golf Course Construction

PROJECT/FACILITY ADDRESS: Eastern portion of Ferry Point Park, bounded by the Bronx Whitestone Bridge, Balcom, Miles and Emerson Avenues, Schley Avenue and the East River, Bronx County. Block 5583, Lot 100, Block 5622, Lot 1

DESCRIPTION OF AUTHORIZED ACTIVITY:

Construction of a Golf Course, Community Park and Waterfront Park on 222 acres of Ferry Point Park, requiring a total of approximately 2,543,729 cubic yards of material in-place volume. This material will be imported to the Site by truck and consist exclusively of: 1) recognizable and uncontaminated concrete or concrete products (including steel or fiberglass reinforcing rods that are embedded in the concrete), brick, soil, sand, gravel, and rock (hereafter referred to in this permit as select exempt construction and demolition debris) totaling approximately 2,370,000 cubic yards for the shaping layer, and 2) uncontaminated soil totaling approximately 250,000 cubic yards for the cover layer. The imported material will be used to attain the final approved grades and contours.

All work associated with the authorized activity described above shall comply with all of the applicable provisions of 6 NYCRR Part 360 (Solid Waste Management Regulations), effective 29 September 1997. By acceptance of this permit, the Permittee agrees that this permit is contingent upon strict compliance with the ECL, all applicable regulations, and the General Conditions and Special Conditions included herein.

REGIONAL PERMIT ADMINISTRATOR: John F. Cryan	ADDRESS: NYS Department of Environmental Conservation 47-40 21 st Street, Long Island City, NY 11101
AUTHORIZED SIGNATURE: <i>John F. Cryan (for JFC)</i>	DATE: November 18, 2005
Page 1 of 17	

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

NOTIFICATION OF OTHER PERMITTEE OBLIGATIONS**Item A: Permittee Accepts Legal Responsibility and Agrees to Indemnification**

The Permittee has accepted expressly, by the execution of its application for the subject work, the full legal responsibility for all damages and costs, direct or indirect, of whatever nature and by whomever suffered, for liability it incurs resulting from activity conducted pursuant to this permit or in noncompliance with this permit and has agreed to indemnify and save harmless the State from suits, actions, damages, and costs of every name and description resulting from such activity.

Item B: 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 subject 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.

GENERAL CONDITIONS**General Condition 1: Facility Inspection by the Department**

The subject 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 subject work suspended pursuant to ECL 71-0301 and SAPA 401(3).

The Permittee must provide a person to accompany the Department's representative during an inspection of the subject facility when the Department provides written or verbal notification to the Permittee at least 24 hours prior to such inspection.

A copy of this permit, including all general and special conditions therein, all amendments thereto, and all documents referenced therein must be available for inspection by the Department at the project site at all times that activity associated with the subject work is occurring. Failure to produce a copy of such permit, conditions, amendments, or documents upon request by a Department representative is a violation of this permit.

Any sign provided by the Department with this permit must be protected from the weather and posted in a conspicuous location at the subject work site throughout the period during which any of the subject work occurs.

General Condition 2: Relationship of this Permit to Other Department Orders and Determinations

Unless expressly provided for by the Department, 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.

General Condition 3: Applications for Permit Renewals or Modifications

The Permittee must submit a separate written application to the Department for renewal, modification, or transfer of this permit, including but not limited to a change in facility operator. 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. The Permittee must submit a renewal application at least:

- a) 180 days before expiration of permits for State Pollutant Discharge Elimination System (SPDES), Hazardous Waste Management Facilities, major Air Pollution Control (APC) and Solid Waste Management Facilities; and
- b) 30 days before the expiration of all other permit types.

Submission of applications for permit renewal, modification, or transfer are to be submitted to:
NYSDEC Regional Permit Administrator, Region 2, 47-40 21 Street, Long Island City, NY 11101 (tel. 718/482-4997).

General Condition 4: Permit Modifications, Suspensions, and Revocations by the Department

The Department reserves the right to modify, suspend, or revoke this permit when:

- a) the scope of the permitted activity is exceeded or a violation of any condition of the permit or provisions of the ECL and pertinent regulations is found;
- b) the permit was obtained by misrepresentation or failure to disclose relevant facts;
- c) new material information is discovered; or
- d) environmental conditions, relevant technology, or applicable law or regulation have materially changed since the permit was issued.

General Condition 5: Compliance with Other Regulatory Requirements

The Permittee is responsible for obtaining any other permits, approvals, lands, easements, and rights-of-way that may be required for the subject work. The Permittee and its independent contractors, employees, agents, and assigns must comply with all applicable local, State, and federal regulatory requirements.

General Condition 6: Permittee to Ensure that its Contractors to Comply with Permit

The Permittee must ensure that its independent contractors, employees, agents, and assigns read, understand, and comply with this permit, including all General and Special Conditions herein, in general, and General Condition No. 5, above, in particular. Such persons must be subject to the same sanctions for violations of this permit as those prescribed for the Permittee.

DEC PERMIT NUMBER

2-6006-00014/00013

FACILITY

Ferry Point Park Golf Course

Page 2 of 17

ADDITIONAL GENERAL CONDITIONS FOR ARTICLE 27 and 6 NYCRR Part 360 (Solid Waste Management Facilities)

7. That 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 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 must not be completed, the owners, must, without expense to the State, and to such extent and in such time and manner as the Department may require, remove all or any portion of the 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.
8. The State of New York must 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.
9. All necessary precautions must 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. Any creosote-treated lumber must be weathered for at least six months before it is brought to the subject work site.
10. Any material dredged in association with the work herein permitted must be removed evenly, without leaving large refuse piles, ridges across the bed of a waterway or flood plain, or deep holes that may have a tendency to cause damage to navigable channels, the banks of a waterway, water quality, sediment quality, or benthic habitat.
11. There must be no unreasonable interference with navigation by the work herein authorized.
12. If upon the expiration or revocation of this permit, the project hereby authorized has not been completed, the Permittee must, without expense to the State, and to such extent and in such time and manner as the Department may require, remove all or any portion of the 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.
13. If granted under Article 36, this permit does not signify in any way that the project will be free from flooding.
14. If granted under 6 NYCRR Part 608, the Department 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.
15. In accordance with Title 19, Part 600.4 (c) of the New York Code of Rules and Regulations, the Department hereby certifies that the action described and approved in this permit, if located within the Coastal Zone, is consistent to the maximum extent practicable with the policies and purposes of the New York City Waterfront Revitalization Program.

SPECIAL CONDITIONS

Site Work

1. All activities authorized by this permit shall conform to all documents supporting the original permit, DEC No. 2-6006-00014/00011, dated July 17, 2000 and modified October 18, 2002 as modified by the following:
 - Technical Environmental Assessment for the Ferry Point Park Recreation Facility prepared by Allee, King, Rosen and Fleming dated February 11, 2002 and amended September 29, 2004;
 - Geotechnical Engineering Study prepared by Langan Engineering and Environmental Services, Inc. dated July 2, 2002;
 - Response to Request for Additional Information prepared by TRC Raymond Keyes Associates dated July 2, 2002;
 - Fill Procurement Protocol shall be as per the Department letters dated May 21, 2001 and May 23, 2001 from John Nehila to Steve Kass;
 - Ferry Point Park: Offsite Methane Monitoring-Bronx, New York prepared by AKRF, Inc., October 12, 2001;
 - Landfill Gas (LFG) Passive Vent Trench Along Miles And Emerson Avenues Plan and Detail, V-1, Sheet 1 of 4 prepared by TRC with checked date 02/04/02 ;
 - Landfill Gas (LFG) Passive Vent Trench Along Balcom, Miles And Schley Avenues Plan and Detail, V-2, Sheet 2 of 4 prepared by TRC with checked date 02/04/02 ;
 - Landfill Gas (LFG) Passive Vent Trench Along Northern Property Boundary Plan and Detail, V-3, Sheet 3 of 4 prepared by TRC with checked date 02/04/02;
 - LFG Vent Trench and Piezometer Network Profile, V-4, Sheet 4 of 4 prepared by TRC with checked date 02/04/02;
 - Landfill Gas (LFG) Passive Vent Trench Along Balcom, And Schley Avenues Plan and Detail, C-2, Sheet 1 of 1 prepared by TRC with checked date 07/20/01;

DEC PERMIT NUMBER
2-6006-00014/00013

FACILITY
Ferry Point Park Golf Course

Page 3 of 17

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

SPECIAL CONDITIONS

ADDITIONAL SPECIAL CONDITIONS FOR ARTICLES 27 and 6 NYCRR Part 369 (Solid Waste Management Facilities)

- Landfill Gas (LFG) Passive Vent Trench Along Balcom between Sampson & Dewey Avenues Plan and Detail, C-1, Sheet 1 of 1 prepared by TRC with checked date 03/09/01;
- Volume #1, Application for Modification to the Solid Waste Management Facility Permit for Construction of Ferry Point Park Recreation Facility, Bronx, NY, Engineering Report, prepared by TRC Raymond Keyes Associates, dated June 30, 2005. (revised)
- Volume #2, Application for Modification to the Solid Waste Management Facility Permit for Construction of Ferry Point Park Recreation Facility, Bronx, NY, Engineering Report, prepared by TRC Raymond Keyes Associates, dated June 30, 2005.
- Settlement Evaluation and Long Term Monitoring Plan, Ferry Point Golf Course, Ferry Point Park, Bronx, NY, prepared by Langan Engineering and Environmental Services, Inc., dated January 26, 2005.
- Response to Department Comments prepared by TRC Raymond Keyes Associates, dated August 2, 2005 and by Langan Engineering and Environmental Services, Inc., dated June 30, 2005.
- Application for Modification to the Solid Waste Management Facility Permit for Construction of Ferry Point Park Recreation Facility, Bronx, NY, "Second Supplement to Engineering Report," prepared by TRC Raymond Keyes Associates, dated August 23, 2004.
- Site plans labeled "Ferry Point Park Public Recreational Facility Bulk Earthwork, Ferry Point Park Public Recreation Facility, Ferry Point Park, Bronx, New York" prepared by TRC Raymond Keyes Associates, dated April 22, 2005 (revised) consisting of drawings:
 - ▶ GC-2, G1 and G-2 dated 7/01/05 (last revised);
 - ▶ G-3, and G-4 dated 1/21/05 (last revised);
 - ▶ D-1 dated 7/1/04 (last revised);
 - ▶ D-2 dated 7/1/05 (last revised);
 - ▶ V-1, V-2, V-3 and V-4 dated 02/04/04 (last revised);
 - ▶ C-1 dated 3/09/01 (last revised);
 - ▶ C-2 dated 7/20/01;
 - ▶ SW-1.00 dated 4/13/04;
 - ▶ SW 1A.01 dated 2/18/04;
 - ▶ SW 1B.01 and SW 1b.02 dated 4/13/04;
 - ▶ Irrigation Design Phase 1 Ferry Point Park Approval Set, labeled "Ferry Point Park 0514-AS-R04-060704, Phase 1 Approval Set" dated 06/07/04 (last revised), sheets numbered 1, 2, 3 and 4 dated 5/22/03 and sheets numbered I, II and III dated 5/22/03.

2. Activities authorized by this permit include development of a golf course and parks, as well as the construction of associated structures, utility lines, gas venting and control systems. All aspects of the project must be constructed in accordance with the Department approved design plans, specifications and documents noted in Special Condition # 1. All physical aspects of the project including project location referenced in this permit shall be referred to as the "Site." All construction aspects of the permitted activities referenced in this permit shall be referred to as the "Project."
3. In accordance with "Item A" of the Notification of Other Permittee Obligations" found on page 2 of this permit, the Department in general accepts no liability for the structural integrity and/or the adequacy of the buildings and/or foundation designs of the proposed buildings or other structures associated with the development of the golf course. In addition, the Department specifically does not guarantee nor accept

DEC PERMIT NUMBER 2-6006-00014/00013	FACILITY Ferry Point Park Golf Course	Page 4 of 17
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NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

SPECIAL CONDITIONS

ADDITIONAL SPECIAL CONDITIONS FOR ARTICLES 27 and 6 NYCRR Part 360 (Solid Waste Management Facilities)

liability in regards to the measures proposed to prevent the subsidence of any buildings, foundations and other structures built on or adjacent to the Site, or to prevent the migration of explosive gas. . .

4. All operations at the Site shall occur Monday through Saturday during daylight hours, between sunrise and sunset, unless otherwise authorized by the Department.
5. All truck traffic entering and leaving the Site shall use only authorized truck traffic routes, and conform to the construction traffic management plans noted in Exhibit K of Volume #1, Application for Modification to the Solid Waste Management Facility Permit for Construction of Ferry Point Park Recreation Facility, Bronx, New York, Engineering Report, prepared by TRC Raymond Keyes Associates, dated June 30, 2005 (revised).
 - a) All truckers shall receive written instruction on the truck access routes to and from the Site.
 - b) All trucks entering the site shall be tarped or sufficiently covered to comply with local and state highway regulations. The Site access and exit routes shall be maintained so that they are free from dust, dirt and debris resulting from the truck traffic.
6. No fill can be brought to the Site nor can any compaction activities begin until all gas monitoring wells, gas geoprobe points, landfill vent trench piezometers, and other methane monitoring devices referenced in reports and plans made a part of this permit have been installed and are demonstrated to be working properly. The Department reserves the right to require expeditious installation of additional monitoring or control devices should data or other information suggest that the venting trench has failed to perform as designed, or that landfill gas from the Site has migrated off-site or otherwise poses a threat to public health or the environment.
7. Short-term settlement monitoring must strictly conform to the recommendations listed in the Settlement Evaluation and Long Term Monitoring Plan, Ferry Point Golf Course Ferry Point Park, Bronx, NY, prepared by Langan Engineering and Environmental Services, Inc., dated January 26, 2005.
 - a) Short-term monitoring must continue until at least six months after the completion of fill placement.
 - b) Prior to resumption of any filling, the Permittees must repair all short-term monitoring points, and either continue the bi-weekly monitoring or receive approval from the Department for a modified short-term settlement monitoring program.
8. The long-term settlement monitoring must strictly conform to the recommendations listed in the Settlement Evaluation and Long Term Monitoring Plan, Ferry Point Golf Course Ferry Point Park, Bronx, NY, prepared by Langan Engineering and Environmental Services, Inc., dated January 26, 2005.
 - a) The long-term monitoring shall continue for 30 years with quarterly testing of all points for the first five years, semi-annual testing for the next five years and annual testing for the next twenty years, unless otherwise approved by the Department.

DEC PERMIT NUMBER
2-6006-00014/00013

FACILITY
Ferry Point Park Golf Course

Page 5 of 17

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

SPECIAL CONDITIONS

ADDITIONAL SPECIAL CONDITIONS FOR ARTICLES 27 and 6 NYCRR Part 360 (Solid Waste Management Facilities)

- b) All monitoring points must be maintained in proper working condition. If any points are unable to be sampled for any reason, they must be repaired within two weeks of such detection and re-tested.

Fill Importation

9. The Permittees are authorized to import a total of 2,370,000 cubic yards of in-place fill material to the Site. The fill material shall consist of approximately 2,120,000 cubic yards of select exempt construction and demolition (C&D) debris for the shaping layer, and approximately 250,000 cubic yards of uncontaminated soil for the cover layer. The imported material shall be used on Site to attain the final approved grades and contours approved by the Department, and referenced on plans made a part of this permit.
- a) The use of asphalt as fill material on the Site is prohibited.
 - b) The use of dredge spoils as fill material on the Site is prohibited.
 - c) There shall be no mechanical separation of steel and fiberglass reinforcing rods from concrete and concrete products at the Site.
 - d) No size reduction or material processing may occur on Site, except with earth moving equipment in the course of placement. However, the breakdown and removal of stumps and wood previously left on Site by the New York City Department of Sanitation (DOS) is permitted.
 - e) All solid waste material excavated from the Site shall be properly secured immediately; and then removed from the Site and legally disposed of within seven (7) days.
 - f) All unauthorized solid waste or fill material found on the Site shall be properly secured immediately, and then removed and legally disposed of within five (5) days of its discovery by Permittees.
 - g) All select exempt construction and demolition (C&D) debris for the shaping layer and the cover layer material must be free of all non-exempt C&D recognizable debris.
10. The quantification of all imported fill material shall be continuously tracked by both truck volume, and periodic topographic survey of the imported in-place fill volume. Since compacted in-place fill volumes will not equal truck volumes of fill, a 41 percent (41%) correction factor shall be applied. The correction factor for converting truck volume into in-place volume may be modified by the Department.
11. The Permittees must cease the importation of fill material if:
- a) The final approved grades are attained prior to the permitted amount of fill material being imported;
 - b) 2,120,000 cubic yards of select exempt construction and demolition debris for the shaping layer, as measured by in-place fill volume determined through topographic survey, are accepted. All material imported to the Site is considered shaping layer material, unless testing determines otherwise; or
 - c) 423,729 cubic yards of uncontaminated soil for the cover layer, as measured by truck volume, are accepted. is the Permittees shall terminate such fill importation activities.

DEC PERMIT NUMBER
2-6006-00014/00013FACILITY
Ferry Point Park Golf Course

Page 6 of 17

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

SPECIAL CONDITIONS

ADDITIONAL SPECIAL CONDITIONS FOR ARTICLES 27 and 6 NYCRR Part 360 (Solid Waste Management Facilities)

12. Within 60 days of the effective date of this permit, the Permittees must provide a list of all DEC registered construction and demolition debris processing facilities (DEC registered C&D facilities or registration facilities) used to obtain select exempt construction and demolition debris for fill material to the Department for its approval prior to use. The subsequent transportation and use of fill material from other additional registration facilities requires written Departmental approval. Such requests must be submitted to the Department for approval not less than ten (10) business days prior to any proposed date for importation from the new locations. No fill material may be received from unapproved facilities or locations.
13. Select exempt construction and demolition debris to be used as fill material at the Site may be accepted from DEC registered C&D facilities, provided that the facilities segregate and clearly mark each stockpile with a specific identification number, the date each stockpile was started and the date when it was sampled by the Permittees. The Department shall be notified by Permittees at least 24 hours before any sampling event at a DEC registered C&D facility. All sampling reports shall be faxed to the Department directly from the certified testing laboratory.
14. The Permittees shall be responsible for ensuring that topsoil is procured from a DEC approved source, and it meets all permit specifications. If the topsoil is manufactured, the soil used in its manufacture must not originate from any industrial sites or DEC registered C&D facilities.
15. The Permittees shall be responsible for ensuring that the shaping and cover soil meet the relevant sections of the June 30, 2005 Engineering Report, Volume 1, Section B, General Operations Plan, as well as the following:
- a) In order for select exempt construction and demolition debris material to be used on Site, it must be sampled both prior to acceptance and after the importation of each additional 10,000 cubic yards (in truck volumes). Each soil sample is to be analyzed for Toxicity Characteristic Leachate Procedure (TCLP), volatile organic compounds (VOCs), semi-volatile organic compounds (SVOCs), polychlorinated biphenyls (PCBs), and metals (including Resource Conservation and Recovery Act (RCRA) metals).
 - b) In order for topsoil material to be used on Site for the cover layer, it must be sampled prior to acceptance and after the importation of each additional 2,000 cubic yards (in truck volumes). Each soil sample is to be analyzed for the entire analyte list in the NYSDEC Technical and Administrative Guidance Memorandum (TAGM) 4046, total volatile organic compounds (VOCs), total semi-volatile organic compounds (SVOCs), pesticides and herbicides, polychlorinated biphenyls (PCBs), and metals (including Resource Conservation and Recovery Act (RCRA) metals).
 - c) The shaping layer must meet the following chemical limits:
 - i. Total carcinogenic SVOC levels must be less than 3 ppm if any one of the carcinogenic SVOCs exceed TAGM 4046. The following are the list of carcinogenic SVOCs that are subject to this 3 ppm limit: Benzo(a)pyrene, Dibcnzo(a,h)anthracene, Benzo(a)anthracene, Benzo(b)fluoranthene, Indeno(1,2,3-cd)pyrene, Benzo(k)fluoranthene, and Chrysenc.

DEC PERMIT NUMBER
2-6006-00014/00013FACILITY
Ferry Point Park Golf Course

Page 7 of 17

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

SPECIAL CONDITIONS

ADDITIONAL SPECIAL CONDITIONS FOR ARTICLES 27 and 6 NYCRR Part 360 (Solid Waste Management Facilities)

- ii. Total SVOCs must be less than 500 ppm
- iii. Metals:
 - Arsenic less than 28 ppm;
 - Barium less than 2,000 ppm;
 - Cadmium less than 20 ppm;
 - Chromium less than 1,000 ppm;
 - Copper less than 1000 ppm;
 - Lead less than 400 ppm;
 - Mercury less than 0.57 ppm
 - Selenium less than 11 ppm
 - Silver less than 100 ppm
- iv. Asbestos for all layers must be 0.5% or less
- v. Total sulfur for all layers must be 0.5% or less
- vi. Total PCBs less than 10 ppm
- vii. Total Pesticides less than 10 ppm
- viii. VOCs (all individual analytes less than TAGM 4046)

d) The final placement (including top soil), location, thickness, and detailed chemical limits of the final cover layers on the Site, including the community park and waterfront park, are subject to the specifications, directions and requirements determined by NYS Department of Health (NYSDOH) to be applicable. It is the responsibility of the Permittees to obtain a written determination from NYSDOH. The Permittees must provide the Department with a copy of NYSDOH's determination. No cover layer material may be placed on the Site, until the Department acknowledges receipt of NYSDOH's determination.

16. The major components (greens, contours, heights and top soil) of the cover layer shall meet the Nicklaus Design Technical Specification, as noted in Exhibit C of the June 30, 2005 Engineering Report, and as follows:

- Greens - Greens mix imported to the site shall be tested as per material testing requirements. Fertilizer and soil amendments may be applied on the greens mix after spreading to construction specifications and finally grassed, as per the specifications provided by the agronomist.
- Topsoil - Topsoil imported shall be consistent with native topsoil, and shall be free of rock and debris greater than three quarters of an inch, as per Exhibit C of the Engineering Report. Soil amendments, fertilizer applications and seed may be applied to tee, fairway and rough areas, as per Exhibit C of the June 30, 2005 Engineering Report.

17. The Department may conduct joint sampling or take split samples as necessary for verification purposes.

Fill Progression Monitoring

18. The Permittees shall place grade stakes indicating elevations for proposed final grades of fill and cover material.

DEC PERMIT NUMBER
2-6006-00014/00013

FACILITY
Ferry Point Park Golf Course

Page 8 of 17

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

SPECIAL CONDITIONS

ADDITIONAL SPECIAL CONDITIONS FOR ARTICLES 17 and 6 NYCRR Part 360 (Solid Waste Management Facilities)

- 19. The Permittees shall place benchmarks throughout the Site, in a manner acceptable to the Department, for the purpose of periodically measuring and surveying fill elevations. Benchmarks are to be maintained at all times. If it becomes necessary, they shall be repaired promptly.

Project Completion Schedule

- 20. The project shall progress according to the Construction Schedule provided in Volume #1, Application for Modification to the Solid Waste Management Facility Permit for Construction of Ferry Point Park Recreation Facility, Bronx, NY, Engineering Report, prepared by TRC Raymond Keyes Associates, dated June 30, 2005 (as revised), Exhibit A. The effective date for implementation of the construction schedule is the effective date of this permit.
- 21. Within 60 days of the effective date of this permit, the Permittees shall submit a plan to the Department for its approval which delineates the previously approved imported material volume for the following areas or purpose: Eastern Area, Northwestern Area, Southern Area, Park Area and landscaping for the Park.
- 22. In accordance with the approved plan in Special Condition #1, placement of fill material in each section of the Site shall not exceed the designed and approved final contours for each section.
- 23. Only cover material may be stockpiled in a section upon completion of the placement of fill material for the shaping layer in that section as per design calculations. In addition, cover material may be stockpiled in a section where the completion of fill placement has not occurred, if such stockpile is segregated and secured from construction and demolition debris used for the shaping layer.
- 24. Upon completion of filling operations to approved grades in a section, the Permittees shall commence the rough shaping and placement of cover material, and the installation of drainage, irrigation and utilities, as per Construction Schedule noted in Special Condition # 20. Prior to placement of this cover material, Permittees must comply with the requirements of Special Condition # 15(d).

Independent Environmental Monitor

- 25. An Independent Environmental Monitor (IEM), accountable to the Department, shall be retained by the Permittees to provide environmental oversight of all activities authorized by this permit for the duration of its permitted term, including, but not limited to, the quantification, importation and placement of fill, and the monitoring of the Site.
 - a) It shall be the IEM's responsibility to provide notice of any deviation from the activities authorized by this permit and any deviation from New York State Environmental Regulations (6NYCRR Part 360) to the Department immediately, but in no event later than 24 hours after such deviation is detected. This notification must include the date and time of the potential non-compliance, the nature of the non-compliance, any corrective action, and any additional measures the IEM will be undertaking to track the issue until corrected. Should the IEM be uncertain

DEC PERMIT NUMBER 2-6006-00014/00013	FACILITY Ferry Point Park Golf Course	Page 9 of 17
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NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

SPECIAL CONDITIONS

ADDITIONAL SPECIAL CONDITIONS FOR ARTICLES 27 and 5 NYCRR Part 249 (Solid Waste Management Facilities)

as to whether such a deviation has occurred, the matter shall be promptly reported to the Department for a determination. For the purposes of this permit, a deviation(s) shall mean any of the following:

- i. An apparent violation of any condition of this permit;
 - ii. An apparent violation of Federal, State or Local Law;
 - iii. A material difference between construction or monitoring data obtained by the Permittees or their consultants, and that obtained by the IEM;
 - iv. Any receipt of fill that does not meet the specifications authorized in this permit;
 - v. Any receipt of fill from a site not authorized under the permit or by the Department.
 - vi. Any condition, activity or occurrence that may endanger or pose a threat to public health, safety or the environment.
- b) Notwithstanding any other reporting this permit requires, the IEM shall submit a detailed written report to the Department no less frequently than every three months detailing the IEM's activities at the Site, the estimated total volume of fill material (including cover material) received during the reporting period based on truck volume, the total volume of fill in place at the Site, the percentage of filling to final grades, and the number(s) of trucks prohibited from entering the Site. The report also shall summarize any site meetings amongst the Permittees, their consultants or others, verify that all samples taken and monitoring done at the Site by the Permittees or consultants conform to this permit, detail any substantive change in the condition of the Site or project, fully explain any deviations occurring during the reporting period and their disposition, and describe any other occurrence, circumstance or condition that may have a bearing upon the safe and environmentally sound operation of the Project or Site.
- c) The IEM must be approved by the Department prior to the finalization of any contractual agreement with the Permittees, and the initial receipt of any fill material at the Site.
- d) The continued retention, discharge, or replacement of the IEM shall be at the sole discretion of the Department. The Permittees waive any right to seek judicial review of the Department's exercise of that discretion. The Permittees must fully pay all invoices and bills from the IEM within sixty days of submission. The IEM or its Department approved representative shall be present on Site whenever it is open. Under no circumstances shall Project activities, including the receipt or management of fill, take place while the IEM or its designated representative is absent from the Site.
- e) The Department shall have access to any information obtained by the IEM at any time. The IEM shall keep all information including, but not limited to, fill records, inspection reports, field notes, monitoring data, graphics, databases, financial records, minutes of meetings and other information in a form approved by the Department.
- f) The IEM, if an individual, shall possess a New York State Professional Engineer license. If an engineering firm serves as the IEM, the firm must provide an employee of that firm who is a New York State licensed professional engineer to perform all functions and certifications noted in

DEC PERMIT NUMBER
2-6006-00014/00013

PROGRAM / FACILITY NUMBER
Ferry Point Park Golf Course

Page 10 of 17

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

SPECIAL CONDITIONS

ADDITIONAL SPECIAL CONDITIONS FOR ARTICLES 27 and 4 NYCRR Part 249 (Solid Waste Management Facilities)

Section 1.1 of the Engineering Report. In addition, the IEM shall:

- i. monitor all aspects of the Permittees' fill operations at the Ferry Point Park ("FPP") facility;
- ii. have unrestricted access to all personnel employed by the Permittees at the FPP facility, and to all files and records maintained by the Permittees at the FPP facility pursuant to this permit;
- iii. inspect the proposed sources of fill, review the documentation about the sources of the material, including without limitation, any off-site sampling, and certify as to the acceptability of the material for use at the Site, in accordance with the criteria specified in the Engineering Report, Section 2. The IEM shall notify the Department at least 24 hours before any on-site sampling;
- iv. visually inspect each truckload of imported fill material at the Site, and undertake reasonable verification activities including directing, where appropriate, verification sampling, analysis and certification by the IEM on a Project specific tracking form that it meets criteria for acceptable fill at the Site;
- v. inspect each truckload of material upon its dumping on Site with a Photo-Ionization Detector (PID).
- vi. prohibit any truck from leaving the dumping area before the load has been inspected, and the manifest signed by the IEM. If any load is rejected, the rejected fill material shall be reloaded onto the same truck immediately and legally transported off-site. However, if the rejected fill material is a DEC regulated solid waste or hazardous waste, it must be segregated immediately and secured on-site, until it is removed by a DEC permitted hauler for appropriate disposal. Such regulated or hazardous waste must be removed from the Site within 3 days of its discovery;
- vii. monitor the off loading of all material at the unloading station. No truck shall be allowed to off load unless the IEM is present. Such truck shall only be allowed to leave the station after the load is tested and found acceptable.
- viii. certify that the sampling of material at the project Site conforms to the permit requirements, and review the results of all laboratory tests;
- ix. notify the Department daily about the receipt of unacceptable material or any violations of conditions set forth in this permit;
- x. maintain files on Site of fill sampling data, site histories, and internal manifest (tracking) forms;

DEC PERMIT NUMBER
2-6006-00014/00013

FACILITY
Ferry Point Park Golf Course

Page 14 of 17

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

SPECIAL CONDITIONS

ADDITIONAL SPECIAL CONDITIONS FOR ARTICLES 27 and 6 NYCRR Part 260 (Solid Waste Management Facilities)

- xi. report and certify to the Department that the on-site gas well monitoring has been conducted as required by this permit. Notify the Department immediately if levels exceed 25% of the lower explosive limit (LEL) in any gas monitoring well;
- xii. certify that: (a) all grades of the shaping layer of a section are correct prior to the placement of cover material on that section; (b) a minimum of two feet of fill material covers the existing municipal solid waste layer; and (c) the final cover layer meets the appropriate specifications of the Engineering Report noted in Special Condition #1;
- xiii. during fill delivery and earthwork, submit bi-weekly reports to the Department summarizing all Site activities set forth by this permit. Each report shall provide details of all rejected fill material, quantify the amount of material imported onto the Site using truck volumes, and the results of all on-site gas monitoring for that period;
- xiv. review the final post-construction report and certify that the fill operation was performed in accordance with the permit documents. The certified post-construction report must be submitted by the IEM to the Department within sixty (60) calendar days after the completion of the earthwork portion of the Project;
- xv. report all operational upsets, emergencies, unusual circumstances (including, but not limited to, unauthorized entries, security breaches, equipment breakdowns, fires, thefts, acts of vandalism, and on-site accidents) to the Regional Solid Waste Engineer by telephone (at 718/482-4996) within 24 hours of the occurrence, and in writing within 3 business days advising the engineer of the nature of the event, and providing a description of how the event was handled.

Gas Venting Trench

26. During the duration of this permit, the Permittees shall inspect the gas venting trench monthly to verify the integrity of the venting trench and its mulch cover. The Permittees shall maintain the gas venting trench at all times, and promptly repair any soil washouts of the mulch cover, as necessary. If any portion of the venting trench or mulch cover is found in need of repair, this fact must be reported to the IEM immediately and all necessary repairs must be made within two weeks of discovery. In addition, the mulch cover shall be replaced, at a minimum, every spring to maintain the effectiveness of the gas venting trench. The Permittees shall maintain the gas venting trench for a minimum of at least five years after the completion of construction of the golf course, or longer if required by the Department.
- a) Any request for changes to these requirements shall not be considered by the Department prior to the termination of the five-year minimum monitoring period, which follows the completion of construction of the golf course. A subsequent request for relief from these provisions must demonstrate to the Department's satisfaction that an alternative schedule is warranted.

DEC PERMIT NUMBER
2-6006-00014/00013FACILITY
Ferry Point Park Golf Course

Page 12 of 17

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

SPECIAL CONDITIONS

ADDITIONAL SPECIAL CONDITIONS FOR ARTICLES 37 and 4 NYCRR Part 360 (Solid Waste Management Facilities)

- 27. Monthly monitoring of the gas venting trench shall continue for the duration of the permit. Thereafter, the Permittees shall monitor the gas venting trench monthly for one year after the completion of construction of the golf course, and then quarterly for a minimum of four additional years. Any request for changes to these requirements shall not be considered by the Department prior to the termination of the minimum five-year monitoring period following construction of the golf course. A request for relief from these provisions must demonstrate to the Department's satisfaction that an alternative schedule is warranted.
- 28. The gas venting trench shall be inspected quarterly, as well as after major rainfall events (5-year storms with at least 4 inches of rain over a 24-hour period) for a minimum of five years after the completion of construction of the golf course. Any request for changes to these requirements shall not be considered by the Department prior to the termination of the minimum five-year monitoring period following the completion of construction of the golf course. A request for relief from these provisions must demonstrate to the Department's satisfaction that an alternative schedule is warranted. If any well or point used to monitor the effectiveness of the gas venting trench is found to require repairs, this fact must be reported to the IEM immediately and all necessary repairs must be made within two weeks of discovery.
- 29. Gas venting trench inspection reports shall include the inspection date, the name of inspector, and a description of repairs, monitoring results and maintenance performed. A log of these self-inspections must be maintained including the dates, times and results of the inspections. A copy of this gas venting trench inspection log shall be submitted to the Department within 72 hours after the inspection period specified in Special Conditions No. 26 through 28.

Piezometers

- 30. The Permittees shall conduct monthly monitoring of the depth of ground water in each piezometer installed at the gas venting trench, until the completion of the construction of the golf course. All readings shall be submitted to the Department in a monthly report. The piezometer water elevation monitoring shall continue quarterly for period of five years after the completion of construction of the golf course. Any request for proposed changes to these requirements shall not be considered prior to the termination of the minimum five-year monitoring period following construction of the golf course. A request for relief from this provision must demonstrate to the Department's satisfaction that an alternative schedule is warranted. If any piezometer is found to require repairs, this fact must be reported to the IEM immediately, and all necessary repairs must be made within two weeks of discovery.
- 31. Within 60 days of their receipt of this permit, the Permittees shall submit a Response Action Plan to the Department. This Plan shall set forth the measures to be implemented by the Permittees, if the piezometer readings indicate that the groundwater table has dropped below the depth of the gas venting trench.
- 32. The Permittees shall sample the perimeter gas monitoring wells #0, #1A, #1 to #3, #5 to #12, and #14 to #18, and the on-site monitoring wells #13 and #19 on a bi-weekly basis to detect any explosive gas migration. Copies of the bi-weekly monitoring field notes shall be faxed to the Department within 24 hours after the sampling, and a copy of this report shall be submitted to the Department within 3 business days reported to the IEM immediately and all necessary repairs must be made within two weeks of discovery.

DEC PERMIT NUMBER 2-6006-00014/00013	FACILITY Ferry Point Park Golf Course	Page 13 of 17
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NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

SPECIAL CONDITIONS

ADDITIONAL SPECIAL CONDITIONS FOR ARTICLES 27 and 6 NYCRR Part 360 (Solid Waste Management Facilities)

33. The Permittees shall maintain the perimeter gas monitoring wells #0, #1A, #1 to #3, #5 to #12, and #14 to #18, and the on-site monitoring wells #13 and #19, until a minimum of at least six months after the completion of construction of the golf course on the Site. Any reduction to this maintenance schedule shall not be considered by the Department, until after the minimum maintenance period has elapsed. A request for relief from this provision must demonstrate to the Department's satisfaction that an alternative schedule is warranted. If any perimeter gas monitoring well is found to require repairs, this fact must be reported to the IEM immediately and all necessary repairs must be made within two weeks of discovery. The Permittees shall maintain on-site gas monitoring well #19, and the existing gas collection pipes for the operating life of the golf course.
34. All perimeter gas monitoring wells should be tested at least on a bi-weekly basis. However, if any individual monitoring point has a bi-weekly reading that equals or exceeds 100% LEL or three consecutive bi-weekly readings are greater than 25% LEL, a modified methane gas action plan shall be implemented by the Permittees. Such plan shall require, at minimum, weekly testing of the individual monitoring point(s) with the elevated readings. The Department also may require any additional measures it deems necessary. Any individual point under the modified methane gas action plan may return to the regular bi-weekly monitoring schedule, when three (3) consecutive weekly readings are all less than the 25% LEL action level.

Deed Restriction

35. Within 30 days of the effective date of this permit, the Permittees shall prepare draft language for a Deed Restriction. The deed restriction, which shall run with the land in perpetuity, shall recite and require compliance with this permit's provisions as regards to: (a) on-site and off-site monitoring; (b) the maintenance of the gas venting trenches, piezometers, and perimeter gas monitoring wells and (c) criteria for abandonment of the site as specified in Special Condition 38 of this permit. Upon Departmental approval of the final deed restriction, it shall be filed immediately at the Bronx County Clerk's Office. A certified copy of the deed restriction shall be provided to the DEC.

Off-site Gas Monitoring Network

36. The Permittees shall conduct bi-weekly monitoring of the Off-site Gas Monitoring Network. A copy of the bi-weekly monitoring field notes shall be faxed to the Department within 24 hours, and a copy of the monitoring report shall be submitted to the Department within 3 days of the completion of each round of monitoring. Any reduction of the monitoring frequency shall not be considered by the Department, until at least six months after the completion of the golf course on the Site. A request for relief from this provision must demonstrate to the Department's satisfaction that an alternative schedule is warranted. Each bi-weekly monitoring report shall include the gcoprobe monitoring point(s) installed on or near Buttrick, Schley, Balcom, Miles and Emerson Avenues, as described in the methane monitoring reports referenced in Special Condition #1 of this permit.

DEC PERMIT NUMBER
2-6006-00014/00013FACILITY
Ferry Point Park Golf Course

Page 14 of 17

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

SPECIAL CONDITIONS

ADDITIONAL SPECIAL CONDITIONS FOR ARTICLES 37 and 4 NYCRR Part 360 (Solid Waste Management Facilities)

37. The Permittees shall maintain, and upgrade if required, the Off-site Gas Monitoring Network during facility construction and after completion of the golf course. Any reduction of these requirements shall not be considered by the Department, until six months after the completion of the construction of the golf course. A reduction request must demonstrate to the Department's satisfaction that an alternative schedule is warranted.
- a) The Permittees may request Departmental approval to substitute for all, or part of, the Off-site Gas Monitoring Network by installing geoprobe soil gas monitoring points of a placement and design suitable to the Department. Such points must be at linear intervals no greater than 50 feet (on 50-foot centers) along either segments of the perimeter boundary of the gas venting trench or the drainage ditch.
 - b) If any point used for off-site gas monitoring is found to require repairs, this fact must be reported to the IEM immediately and all necessary repairs must be made within two weeks of discovery. A copy of the off-site gas monitoring well results also must be sent to the New York City Housing Authority.
 - c) All off-site gas monitoring points shall be tested on a bi-weekly basis. If any individual monitoring point has a bi-weekly reading that equals or exceeds 100% LEL, or three consecutive bi-weekly readings that are greater than 25% LEL, sampling of that point shall be done weekly. Any individual point under the later modified methane gas action plan may return to the regular bi-weekly monitoring schedule, if there are three (3) consecutive weekly readings all less than the 25% LEL action level.
 - d) None of the requirements specified in Special Conditions Nos. 26 through 34, 36 or 37 (a) through (c) may be terminated without written approval from the Department.

Project Abandonment and Environmentally Sound Closure

38. Should the Project be abandoned, the entire 222 acre Site must be closed, monitored and maintained after closure in accordance with 6NYCRR Sect. 360-2.15 as a landfill in operation since 2000.
- a) Within 120 days after notice from the Department that the Site has been deemed abandoned, the Permittees must submit a closure plan for DEC's approval. The closure plan must include an implementation schedule, which provides that closure must be certified as complete no later than three years after the Department's determination that the Site has been abandoned. The closure plan also shall specify in detail how it will be implemented. In addition, the closure plan must include a post-closure maintenance and monitoring plan for the Site, which addresses existing environmental conditions on the Site. Upon Department approval of the plan the Permittees shall begin to implement closure of the Site immediately, and after closure is implemented fully shall submit a complete closure certification report to the Department. This report must be stamped by a professional engineer licensed in New York State.
 - b) For the purposes of this permit, abandonment shall mean any of the following :
 - i. Filling operations authorized under this permit cease for a period of 12 consecutive months, as provided in 6 NYCRR Sect. 360-1.11(f);

DEC PERMIT NUMBER
2-6008-00014/00013PROGRAM / FACILITY NUMBER
Ferry Point Park Golf Course

Page 15 of 17

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

SPECIAL CONDITIONS

ADDITIONAL SPECIAL CONDITIONS FOR ARTICLES 27 and 8 NYCRR Part 350 (Solid Waste Management Facilities)

- ii. Failure to complete the Project in accordance with this permit, as determined by the Department, by the expiration date of this permit; or
 - iii Termination of this Project as a result of enforcement action by the Department or another government agency for non-compliance with this permit, or with applicable Federal, State or Local Law.
- c) The terms of this Special Provision shall govern, if in conflict with the terms of General Condition No. 12.

Submittals

39. Within 60 days of completion of the filling operation on the Site and construction of the earthwork portion of the Project, the Permittees shall provide:
- a) as-built drawings of the Project, signed by a professional engineer licensed in New York State, for DEC's approval. The post-construction as built drawings shall, at a minimum, include detailed cross-sections illustrating the depth of fill placed and location of all utilities and associated structures, road ways, and storm water drainage control structures for the Project. The as-built plans also shall include the location of all monitoring and control systems and devices (including gas control and monitoring, water quality and elevation monitoring, and settlement monitoring).
 - b) a written post-construction certification report for review and approval by the Department and certification by the Independent Environmental Monitor. This report shall include approved "as-built" drawings demonstrating that the earthwork and filling operation was accomplished in accordance with the Department approved plans and this permit. If as-built drawings are not approved by DEC within 120 days of the completion of the filling operation, the Site is deemed abandoned as per Special Condition # 38.
40. All reports and written submissions shall be sent in duplicate to the regional office of the DEC, with an additional copy to DEC Central Office, and another copy to the document repository as noted below. Each submission shall have a transmittal page, which references the DEC permit number and the relevant Special Condition number.

Kenneth B. Brezner, P.E.
 Regional Solid Materials Engineer
 NYS DEC, Region 2
 47-40 21st Street
 Long Island City, NY 11101

DEC PERMIT NUMBER
2-6006-00014/00013

FACILITY
Ferry Point Park Golf Course

Page 16 of 17

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

SPECIAL CONDITIONS

ADDITIONAL SPECIAL CONDITIONS FOR ARTICLES 27 and 6 NYCRR Part 360 (Solid Waste Management Facilities)

Scott Menrath, P.E., Chief
Solid Waste Facility Section
Bureau of Solid Waste, Reduction, and Recycling
NYS DEC
625 Broadway
Albany, NY 12233-7253

FPP Golf Course Document Repository
New York City Department of Parks and Recreation
1 Bronx River Parkway
Bronx, NY 10462-2869

41. All notifications to the Department, as referenced in Special Conditions of this permit, shall be made to the Regional Solid and Hazardous Materials Engineer, NYS DEC, 47-40 21st Street, Long Island City, NY 11101. All immediate, 24-hour, verbal or expedited notifications shall be made by telephone and fax to the attention of Kenneth Brezner, Regional Solid Materials Engineer at: 718-482-6391 (fax) / 718-482-4996 (phone), or other numbers subsequently provided by the Department.
42. Copies of reports generated or reviewed by the Independent Environmental Monitor shall be maintained at the document repository referenced in Special Condition No. 40 above.

END OF CONDITIONS

DEC PERMIT NUMBER
2-6008-00014/00013

FACILITY
Ferry Point Park Golf Course

Page 17 of 17