ISSUED TO:

Ottawa County Drain Commissioner
12220 Fillmore Street Room 141
West Olive, MI 49460

Permit No. 11-70-0103-P
Issued October 18, 2012
Extended
Revised
Expires October 18, 2017

This permit is being issued by the Michigan Department of Environmental Quality (MDEQ) under the provisions of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA), and specifically:

- Part 301, Inland Lakes and Streams
- Part 303, Wetlands Protection
- Part 31, Floodplain/Water Resources Protection

Permission is hereby granted, based on permittee assurance of adherence to State of Michigan requirements and permit conditions, to:

Permitted Activity:

A United States Army Corps of Engineers permit is required before this work can be conducted.

Construct the Park West Drain by installing approximately 42,000 lineal feet of storm sewer, ranging from 12 inches to 48 inches in diameter. For water quality purposes and runoff reduction, install approximately 31,000 lineal feet of bioswales, raised inlets, and perforated pipe and 1,500 lineal feet of driveway culverts. Excavate a total of approximately 391 cubic yards of material and place approximately 69 cubic yards of fill for a total wetland impact of 0.22 acres. Replace the existing 145-foot long, 36-inch diameter culvert in Winstrom Creek under Ottawa Beach Road with a 140-foot long, 6-foot by 10-foot box culvert, with realignment of the culvert. The proposed construction of the road crossing includes the installation of approximately 52 cubic yards of riprap for stabilization within the proposed box culvert and wetland/floodplain excavation areas. An additional 800 cubic yards of dredging will occur from below the ordinary high water mark of Lake Macatawa at the outlet of the drain at where it discharges to the Anchorage Marina boat well area. In order to mitigate wetland impacts, place under a Conservation Easement 6.34 acres of coastal wetland adjacent to Ottawa Beach Road. All construction work shall be completed in accordance with the attached revised plans dated August 1, 2012 and September 26, 2012.

Water Course Affected: wetlands

Property Location: Ottawa County, Park Township, Section 3 10
Subdivision, Lot Town/Range 5N, 16W Property Tax No.

Authority granted by this permit is subject to the following limitations:

A. Initiation of any work on the permitted project confirms the permittee’s acceptance and agreement to comply with all terms and conditions of this permit.
B. The permittee, in exercising the authority granted by this permit, shall not cause unlawful pollution as defined by Part 31, Water Resources Protection, of the NREPA.
C. This permit shall be kept at the site of the work and available for inspection at all times during the duration of the project or until its date of expiration.
D. All work shall be completed in accordance with the plans and specifications submitted with the application and/or plans and specifications attached to this permit.
E. No attempt shall be made by the permittee to forbid the full and free use by the public of public waters at or adjacent to the structure or work approved.
F. It is made a requirement of this permit that the permittee give notice to public utilities in accordance with Act 53 of the Public Act of 1974 and comply with each of the requirements of that Act.

G. This permit does not convey property rights in either real estate or material, nor does it authorize any injury to private property or invasion of public or private rights, nor does it waive the necessity of seeking federal assent, all local permits, or complying with other state statutes.

H. This permit does not prejudice or limit the right of a riparian owner or other person to institute proceedings in any circuit court of this state when necessary to protect his rights.

I. Permittee shall notify the MDEQ within one week after the completion of the activity authorized by this permit, by completing and forwarding the attached preaddressed postcard to the office addressed thereon.

J. This permit shall not be assigned or transferred without the written approval of the MDEQ.

K. Failure to comply with conditions of this permit may subject the permittee to revocation of permit and criminal and/or civil action as cited by the specific state act, federal act, and/or rule under which this permit is granted.

L. All dredged or excavated materials shall be disposed of in an upland site (outside of floodplains, unless exempt under Part 31, and wetland).

M. In issuing this permit, the MDEQ has relied on the information and data that the permittee has provided in connection with the submitted application for permit. If, subsequent to the issuance of a permit, such information and data prove to be false, incomplete, or inaccurate, the MDEQ may modify, revoke, or suspend the permit, in whole or in part, in accordance with the new information.

N. The permittee shall indemnify and hold harmless the State of Michigan and its departments, agencies, officials, employees, agents and representatives for any and all claims or causes of action arising from acts or omissions of the permittee or employees, agents, or representatives of the permittee undertaken in connection with this permit. This permit shall not be construed as an indemnity by the State of Michigan for the benefit of the permittee or any other person.

O. Noncompliance with these terms and conditions and/or the initiation of other regulated activities not specifically authorized shall be cause for the modification, suspension, or revocation of this permit, in whole or in part. Further, the MDEQ may initiate criminal and/or civil proceedings as may be deemed necessary to correct project deficiencies, protect natural resource values, and secure compliance with statutes.

P. If any change or deviation from the permitted activity becomes necessary, the permittee shall request, in writing, a revision of the permitted activity from the MDEQ. Such revision request shall include complete documentation supporting the modification and revised plans detailing the proposed modification. Proposed modifications must be approved, in writing, by the MDEQ prior to being implemented.

Q. This permit may be transferred to another person upon written approval of the MDEQ. The permittee must submit a written request to the MDEQ to transfer the permit to the new owner. The new owner must also submit a written request to the MDEQ to accept transfer. The new owner must agree, in writing, to accept all conditions of the permit. A single letter signed by both parties which includes all the above information may be provided to the MDEQ. The MDEQ will review the request and if approved, will provide written notification to the new owner.

R. Prior to initiating permitted construction, the permittee is required to provide a copy of the permit to the contractor(s) for review. The property owner, contractor(s), and any agent involved in exercising the permit are held responsible to ensure that the project is constructed in accordance with all drawings and specifications. The contractor is required to provide a copy of the permit to all subcontractors doing work authorized by the permit.

S. Construction must be undertaken and completed during the dry period of the wetland. If the area does not dry out, construction shall be done on equipment mats to prevent compaction of the soil.

T. Authority granted by this permit does not waive permit requirements under Part 91, Soil Erosion and Sedimentation Control, of the NREPA, or the need to acquire applicable permits from the County Enforcing Agent.

U. Authority granted by this permit does not waive permit requirements under the authority of Part 305, Natural Rivers, of the NREPA. A Natural Rivers Zoning Permit may be required for construction, land alteration, streambank stabilization, or vegetation removal along or near a natural river.

V. The permittee is cautioned that grade changes resulting in increased runoff onto adjacent property is subject to civil damage litigation.

W. Unless specifically stated in this permit, construction pads, haul roads, temporary structures, or other structural appurtenances to be placed in a wetland or on bottomland of the waterbody are not authorized and shall not be constructed unless authorized by a separate permit or permit revision granted in accordance with the applicable law.

X. For projects with potential impacts to fish spawning or migration, no work shall occur within fish spawning or migration timelines (i.e., windows) unless otherwise approved in writing by the MDNR, Fisheries Division.

Y. Work to be done under authority of this permit is further subject to the following special instructions and specifications:

1) This permit is being issued for the maximum time allowed under Part 301, Inland Lakes and Streams and Part 303, Wetlands Protection, of the Natural Resources and Environmental Protection Act, PA 451 of 1994, as amended, including all permit extensions allowed under the administrative rules R 281.813 and R 281.923. Therefore, no extensions of this permit will be granted. Initiation of the construction work authorized by this permit indicates the permittee’s acceptance of this condition. The permit, when signed by the MDEQ, will be for a five-year period beginning at the date of issuance.

2) The permittee is responsible for acquiring all necessary easements or rights-of-way before commencing any work authorized by this permit. All construction operations relating to or part of this project shall be confined to the existing right-of-way limits or other acquired easements.
3) If any change or deviation from the permitted activity becomes necessary, the permittee shall request, in writing, a revision of the permitted activity and/or mitigation plan from the MDEQ. Such revision requests shall include complete documentation supporting the modification and revised plans detailing the proposed modification. Proposed modifications must be approved, in writing, by the MDEQ prior to being implemented.

4) "As-Built" construction plans of the project shall be submitted to this office within 30 days of project completion. The "as-built" plans shall be sealed and signed by a licensed professional engineer registered in the State of Michigan, and shall certify the project has been completed in accordance with this permit.

5) Authority granted by this permit does not waive any jurisdiction of the United States Army Corps of Engineers or the need for a federal permit, if required.

6) Authority granted by this permit does not waive compliance requirements under Part 91, Soil Erosion and Sedimentation Control, of the NREPA. Any discharge of sediment into waters of the state and/or off the road right-of-way is a violation of this permit, Part 91, and Part 31, Water Resources Protection, of the NREPA. A violation of these parts subjects the permittee to potential fines and penalties.

7) Prior to the initiation of any permitted construction activities, a siltation barrier shall be constructed immediately down gradient of the construction site. Siltation barriers shall be specifically designed to handle the sediment type, load, water depth, and flow conditions of each construction site throughout the anticipated time of construction and unstable site conditions. The siltation barrier shall be maintained in good working order throughout the duration of the project. Upon project completion, the accumulated materials shall be removed and disposed of at an upland (non-wetland, non-floodplain) site. The siltation barrier shall then be removed in its entirety and the area restored to its original configuration and cover.

8) Temporary soil erosion and sedimentation control measures shall be installed before commencement of the earth change and shall be maintained daily. Temporary soil erosion and sedimentation control measures shall be maintained until permanent soil erosion and sedimentation control measures are in place and the area is stabilized. Permanent soil erosion and sedimentation control measures for all slopes, channels, ditches, or any disturbed area shall be installed within five (5) calendar days after final grading or the final earth change has been completed.

9) All raw areas resulting from the permitted construction activity shall be promptly and effectively stabilized with sod and/or seed and mulch (or other technology specified by this permit or project plans) in a sufficient quantity and manner so as to prevent erosion and any potential siltation to surface waters or wetlands.

10) All dredge/excavated spoils including organic and inorganic soils, vegetation, and other material removed shall be placed on upland (non-wetland, non-floodplain or non-bottomland), prepared for stabilization, and stabilized with sod and/or seed and mulch in such a manner so as to prevent and ensure against erosion of any material into any waterbody, wetland, or floodplain.

11) The existing structure shall be kept open to pass the stream flow during removal of the existing road fill.

The placement of the new culvert and the initial placement of fill over the culvert shall be done immediately after removal of the existing culvert. The placement shall be conducted in such a manner that all flow is immediately passed through the new culverts, allowing the major placement of fill to be done in the dry or in still water where erosion and siltation will be minimized. The fill material used in this initial placement shall be washed gravel, coarse aggregate, or rock and shall be placed at both ends of the culvert to a level above normal water level before backfill material is placed. Bagged concrete riprap may be used for end fill.

The culvert shall be installed to line up with the direction of stream flow at both the inlet and outlet ends, and must be recessed into the stream bed 6 to 12 inches, unless otherwise indicated in the conditions of this permit.

Road fill side slopes shall not be steeper than 1-on-2 (1 vertical to 2 horizontal) except where headwalls of reinforced concrete, mortar masonry, dry masonry, or other acceptable methods are used.
Road fill side slopes terminating in the stream and any raw streambanks resulting from this construction shall be stabilized with appropriate erosion control measures to the top of the bank. All other raw areas draining directly to the stream shall be protected with riprap over geotextile filter fabric, sod, and/or seed and mulch as necessary to provide effective erosion protection.

If the project, or any portion of the project, is stopped and lies incomplete for any length of time other than that encountered in a normal work week, every precaution shall be taken to protect the incomplete work from erosion, including the placement of temporary gravel bag riprap or other acceptable temporary protection.

No work shall be done in the stream during periods of above-normal flows except as necessary to prevent erosion.

12) Unless specifically stated under the “Permitted Activity” of this permit, construction pads, haul roads, temporary structures, or other structural appurtenances to be placed in a wetland or on bottomland of the waterbody are not authorized and shall not be constructed unless authorized by a separate permit or permit revision granted in accordance with the applicable law.

13) During work on the crossing, the stream shall be passed through the existing culvert for as long as possible, with short periods of bypass pumping or diversion through a temporary culvert or channel as minimally necessary to facilitate construction. If a temporary channel is utilized, it shall be completely stabilized with riprap placed over geotextile filter fabric prior to passing flow and maintained in good working condition until the culvert is installed and stabilized.

The existing streambanks shall be reshaped and stabilized to afford a smooth transition into the culvert(s) at both the upstream and downstream ends.

Exposed streambanks resulting from this construction shall be immediately riprapped to a point three feet above the ordinary high water mark. The exposed bank above the three foot point may be riprapped or stabilized with mulch blankets, sod and/or seed and mulch as is necessary to provide adequate erosion protection.

14) Prior to commencement of any dredging authorized by this permit, the entire dredge area shall be enclosed with a filter fabric sediment curtain to prevent off-site siltation. The sediment curtain shall be installed to extend from the bed of the waterbody to a point above the existing water’s surface. The sediment curtain shall be maintained for the duration of the project and shall be left in place after completion of dredging until all disturbed sediments have settled.

15) All dredge material shall be immediately placed into trucks or barges and taken to an approved upland disposal site. Placement of dredge material into open water, onto ice, or onto exposed bottomland is not authorized by this permit.

The permittee is cautioned that excessive dredging resulting in the impairment of the structural integrity of seawalls on neighboring riparian properties is subject to civil damage litigation.

No work, or dredging authorized by this permit is allowed from May 1 to June 30 due to critical spawning, migration, and/or recreational use periods.

16) No fill, excess soil, or other material shall be placed in any wetland or surface water area not specifically authorized by this permit, its plans, and specifications.

17) All slurry resulting from any dewatering operation shall be discharged through a filter bag or pumped to a sump located away from wetlands and surface waters and allowed to filter through natural upland vegetation, gravel filters, or other engineered devices for a sufficient distance and/or period of time necessary to remove sediment or suspended particles.
18) Sieve grain size analysis for Anchorage Marina dated February 15, 2000, showed that sediments to be dredged are sand (95 percent or more of the particles remain on a No. 200 sieve). The permittee acknowledges that new sieve grain analysis data would have to be submitted to the MDEQ to confirm these findings prior tocommencing dredging activities within Anchorage Marina in Lake Macatawa.

19) The permittee acknowledges that the dredge material has not been classified as to contaminant status. Disposal of the dredged sediments is to uplands. If the dredged sediments are determined to be contaminated at a future date, the permittee is considered a potentially responsible party and remains liable for any and all necessary site restoration and clean up under Part 115, Solid Waste Management, and Part 201, Environmental Remediation, of the NREPA.

**Wetland Mitigation**

20) The permittee shall, as a primary condition of this permit, mitigate the loss of 0.22 acres of wetland, consisting of emergent and forested wetland. The authorization granted by this permit is contingent upon the completion of mitigation as follows:

a. The permittee shall execute a conservation easement over 6.34 acres of wetlands as shown on the permit plans in a form identical to the conservation easement model on the MDEQ’s website at [www.michigan.gov/degwetlands](http://www.michigan.gov/degwetlands). The original executed conservation easement and associated exhibits must be sent to the MDEQ for review and recording within 60 days of the issuance of this permit. Send to: Conservation Easement Coordinator, MDEQ, Water Resources Division, P.O. Box 30458, Lansing, Michigan, 48909, with a copy of the executed easement mailed to the District Office’s address above.

An acceptable executed conservation easement must be submitted to the MDEQ by the permittee prior to commencement of any permitted work within regulated areas.

The conservation easement boundary shall be demarcated by the placement of signs along the perimeter. The signs shall be placed at an adequate frequency, visibility, and height for viewing, made of a suitable material to withstand climatic conditions, and should be replaced as needed. The signs shall include the following language:

WETLAND CONSERVATION EASEMENT
NO CONSTRUCTION OR PLACEMENT OF STRUCTURES ALLOWED.
NO MOWING, CUTTING, FILLING, DREDGING OR APPLICATION OF CHEMICALS ALLOWED.
MICHIGAN DEPARTMENT OF ENVIRONMENTAL QUALITY

Except as otherwise provided by this permit or approved in writing by the MDEQ, the following activities are prohibited in perpetuity within the mitigation area: alteration of topography, creation of paths, trails, or roads; placement of fill, dredging, or excavation; drainage of surface or groundwater; construction or placement of any structure; plowing, tilling, or cultivating the soils or vegetation; cutting, removal, or alteration of vegetation; including the planting of non-native plant species; construction of unauthorized utility or petroleum lines; storage or disposal of garbage, trash, debris, abandoned equipment; accumulation of machinery or other waste materials; use or storage of off-road vehicles; placement of billboards or signs; or the use of the wetland for the dumping of storm water (except as otherwise allowed in this permit).
Wetland Mitigation Monitoring

21) The permittee shall complete restoration and management activities in the mitigation area approved for preservation credit, as follows:

A plan outlining the restoration and management goals, methods, and monitoring shall be submitted and approved by the MDEQ prior to initiating any work in regulated areas authorized by this permit.

The permittee shall monitor the mitigation area approved for preservation credit for a minimum of five (5) years. The following information should be collected and provided in the monitoring reports:

a. Sample vegetation in plots located along transects shown in the plan once between July 15 and August 31 with an approach approved by the MDEQ.

b. Provide annual photographic documentation of the mitigation area approved for preservation credit from permanent photo stations located within the mitigation wetland. At a minimum, photo stations shall be located at both ends of each transect. Photos must be labeled with the location, date photographed, and direction.

c. Provide a written summary of data from previous monitoring periods and a discussion of changes or trends based on all monitoring results.

d. Provide a written summary of all the problem areas that have been identified and potential corrective measures to address them.

A monitoring report, which compiles and summarizes all data collected during the monitoring period, shall be submitted annually by the permittee. Monitoring reports shall cover the period of January 1 through December 31 and be submitted to the MDEQ prior to January 31 of the following year.

A qualified individual able to identify vegetation to genus and species must conduct the wetland monitoring. The MDEQ reserves the right to reject reports with substandard monitoring data.

If the MDEQ determines that the restoration and management goals have not been met, the MDEQ may require subsequent annual monitoring until final approval from the MDEQ can be granted.

22) Prior to initiating construction activities authorized by this permit that might impact the Southwest Ottawa County Landfill’s groundwater contamination plume, the permittee is required to submit to the MDEQ a final dewatering plan for review and approval.

23) Prior to initiating construction activities authorized by this permit, the permittee is required to submit to the MDEQ a maintenance plan for the proposed bioswales and the outlet swale along Perry Street.

24) In issuing this permit, the MDEQ has relied on the information and data that the permittee has provided in connection with the permit application. If, subsequent to the issuance of this permit, such information and data prove to be false, incomplete, or inaccurate, the MDEQ may modify, revoke, or suspend the permit, in whole or in part, in accordance with the new information.

25) The permittee shall indemnify and hold harmless the State of Michigan and its departments, agencies, officials, employees, agents and representatives for any and all claims or causes of action arising from acts or omissions of the permittee, or employees, agents, or representatives of the permittee, undertaken in connection with this permit. This permit shall not be construed as an indemnity by the State of Michigan for the benefit of the permittee or any other person.
26) Prior to initiation of construction, a preconstruction meeting shall be held with the contractor, permittee or her/his representative(s), and representatives of the MDEQ. To arrange the required meeting, please contact Luis Saldivia, MDEQ, Grand Rapids District Office at 616-356-0208.

This permit shall become effective on the date of the MDEQ representative's signature. Upon signing by the permittee named herein, this permit must be returned to the MDEQ's Water Resources Division, for final execution.

Permittee hereby accepts and agrees to comply with the terms and conditions of this permit.

X

Permittee

Date

X

Paul Geerlings, Ottawa County Drain Commissioner

Printed Name and Title of Permittee

By:

Luis A. Saldivia
Grand Rapids District Supervisor
Water Resources Division
616-356-0500

cc: Park Township Clerk
    Ottawa CEA
    Melanie Haveman, USEPA, Region 5, Chicago
    James Luke, USACE, Detroit
    John Tenpas, Driesenga & Associates
    Adrienne Peterson, Peterson Environmental, LLC
    Mario Fusco, DEQ, Lansing
    Colleen O'Keefe, DEQ, Lansing
Bioswale Seed Mix

Andropogon gerardii ~ big bluestem grass
Avena sativa ~ oats
Carex comosa ~ bristly sedge
Carex cristatella ~ crested oval sedge
Carex linda ~ bottlebrush sedge
Carex species ~ wetland Carex species
Carex vulpinoidea ~ brown fox sedge
Elymus virginicus ~ Virginia wild rye
Glyceria striata ~ fowl manna grass
Lolium multiflorum ~ annual rye grass
Panicum virgatum ~ switch grass
Scirpus atrovirens ~ dark green rush
Scirpus cyperinus ~ wool grass
Spartina pectinata ~ prairie cord grass
October 10, 2012

Mr. Luis Saldivia, P.E.
Grand Rapids District Supervisor
MDEQ, WRD
350 Ottawa Avenue, NW; Unit 10
Grand Rapids, MI 49503-2341

RE: MDEQ Permit
File Number: 11-70-0103-P
County: Ottawa
Project Name: Park West Drain

I have carefully reviewed the attached document, and by affixing my signature attest to the fact I concur with all of the terms and conditions contained within it. As the permittee, I fully understand that I am wholly, and solely, responsible for assuring the project is completed as authorized and in full compliance with all of the permit requirements.

Respectfully,

Paul Geerlings
Drain Commissioner