New York State Department of Environmental Conservation
Division of Environmental Permits
Building 40 - SUNY, Stony Brook, New York 11790-2356
Telephone (516) 444-0365
Facsimile (516) 444-0360

RECEIVED SEP 0 3 1999

John P. Cahill
Commissioner

August 6, 1999

Village of Westhampton Dunes
P.O. Box 728
Westhampton Beach, NY 11978

RE: Permit No: 1-4736-01887/00001

Dear Permittee:

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

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

Very truly yours,

John W. Pavacic
Regional Permit Administrator

JWP:ls
Enclosure

95-20-1 (8/87)—9d

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 Departmental conditions on it, contact the Regional Permit Administrator listed below. Please refer to the permit number shown when contacting the DEC.

Regional Permit Administrator

Permit Number 1-4736-01887/00001

Expiration Date 08-31-2009

JOHN W. PAVACIC

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

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

DEC PERMIT NUMBER		EFFECTIVE DATE
1-4736-01887/00001	PERMIT Under the Environmental Conservation Law	August 6, 1999
FACILITY/PROGRAM NUMBER(S)		EXPIRATION DATE(S) August 31, 2009

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

- ☐ Article 15, Title 5: Protection of Waters
- ☐ Article 15, Title 15: Water Supply
- ☐ Article 15, Title 15: Water Transport
- ☐ Article 15, Title 15: Long Island Wells
- ☐ Article 15, Title 27: Wild, Scenic and Recreational Rivers
- ☐ 6NYCRR 608: Water Quality Certification
- ☐ Article 17, Titles 7, 8: SPDES
- ☐ Article 19: Air Pollution Control
- ☐ Article 23, Title 27: Mined Land Reclamation
- ☐ Article 24: Freshwater Wetlands
- ■ Article 25: Tidal Wetlands
- ☐ Article 27, Title 7; 6NYCRR 360: Solid Waste Management
- ☐ Article 27, Title 9; 6NYCRR 373: Hazardous Waste Management
- ☐ Article 34: Coastal Erosion Management
- ☐ Article 36: Floodplain Management
- ☐ Articles 1, 3, 17, 19, 27, 37; 6NYCRR 380: Radiation Control

PERMIT ISSUED TO	TELEPHONE NUMBER
Village of Westhampton Dunes	(516) 288-6571
ADDRESS OF PERMITTEE P.O. Box 728, Westhampton Beach, NY 11978	
CONTACT PERSON FOR PERMITTED WORK Herb Hoffman, Village of Westhampton Dunes	TELEPHONE NUMBER (516) 466-4432 (516) 288-6571
NAME AND ADDRESS OF PROJECT/FACILITY Incorporated Village of Westhampton Dunes, Moriches Bay and Atlantic Ocean	
LOCATION OF PROJECT/FACILITY Westhampton Dunes, North & South of Dune Road from approx. Gunning Point on the east to Cupsogue Beach County Park on the west	

COUNTY	TOWN	WATERCOURSE	NYTM COORDINATES
Suffolk	Southampton	Atlantic Ocean/Moriches Bay	E:692.3 N:4516.0

DESCRIPTION OF AUTHORIZED ACTIVITY:

Reconstruct, repair and construct single family dwellings and accessory structures (i.e. pool, deck, hot tub, sheds) a minimum of 75' landward of the tidal wetland boundary as identified by NYSDEC. Installation of sanitary systems a minimum of 2' above seasonal high groundwater and a minimum of 100' landward of the tidal wetland boundary. Placement of clean upland fill a minimum of 75' landward of the tidal wetland boundary. Trench and install underground utilities, driveways and install dune walkovers (Atlantic Ocean Beach) a maximum of 4' in width (except for one 6' x 8' platform per walkover) a minimum of 18" over grade. All regulated activity shall be in accordance with plans specified in Special Condition 1 of this permit.

By acceptance of this permit, the permittee agrees that the permit is contingent upon strict compliance with the ECL, all applicable regulations, the General Conditions specified (see page 2 & 3) and any Special Conditions included as part of this permit.

PERMIT ADMINISTRATOR:	ADDRESS	
John W. Pavacic	Bldg. #40, SUNY, Stony Brook, NY 11790-2356	
AUTHORIZED SIGNATURE John W. Pavacic	DATE August 6, 1999	Page 1 of 6

NOTIFICATION OF OTHER PERMITTEE OBLIGATIONS

Item A: Permittee Accepts Legal Responsibility and Agrees to Indemnification

The permittee expressly agrees to indemnify and hold harmless the Department of Environmental Conservation of the State of New York, its representatives, employees, agents, and assigns for all claims, suits, actions, damages, and costs of every name and description, arising out of or resulting from the permittee's undertaking of activities or operation and maintenance of the facility or facilities authorized by the permit in compliance or non-compliance with the terms and conditions of the permit.

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.

GENERAL CONDITIONS

General Condition 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.

General Condition 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.

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. 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 (HWMF), major Air Pollution Control (APC) and Solid Waste Management Facilities (SWMF); and
b) 30 days before expiration of all other permit types.

Submission of applications for permit renewal or modification are to be submitted to:

NYSDEC Regional Permit Administrator, Region 1, SUNY Bldg #40, Stony Brook, NY 11790-2356

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

The Department reserves the right to modify, suspend or revoke this permit. The grounds for modification, suspension or revocation include:

a) 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.

ADDITIONAL GENERAL CONDITIONS FOR ARTICLES 15 (TITLE 5), 24, 25, 34 AND 6NYCRR PART 608

(TIDAL WETLANDS)

1. 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.

2. 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.

3. Granting of this permit does not relieve the applicant of the responsibility of obtaining any other permission, consent or approval from the U.S. Army Corps of Engineers, U.S. Coast Guard, New York State Office of General Services or local government which may be required.

4. 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.

5. Any material dredged in the conduct of the work herein permitted shall be removed evenly, without leaving large refuse piles, ridges across the bed of a waterway or floodplain or deep holes that may have a tendency to cause damage to navigable channels or to the banks of a waterway.

6. There shall be no unreasonable interference with navigation by the work herein authorized.

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

8. If granted under 6NYCRR Part 608, the NYS Department of Environmental Conservation hereby certifies that the subject project will not contravene effluent limitations or other limitations or standards under Sections 301, 302, 303, 306 and 307 of the Clean Water Act of 1977 (PL 95-217) provided that all of the conditions listed herein are met.

9. At least 48 hours prior to commencement of the project, the permittee and contractor shall sign and return the top portion of the enclosed notification form certifying that they are fully aware of and understand all terms and conditions of this permit. Within 30 days of completion of project, the bottom portion of the form must also be signed and returned, along with photographs of the completed work and, if required, a survey.

10. All activities authorized by this permit must be in strict conformance with the approved plans submitted by the applicant or his agent as part of the permit application.

SPECIAL CONDITIONS

1. Any landowner who desires to utilize this General Permit must submit a building application and plot plan/survey to the Village of Westhampton Dunes Building Department. The applicant will fill out a Village Building application for permit at the Village of Westhampton Dunes. The Chief Building Inspector will review to insure the project meets the General Permit requirements and forward to NYSDEC Westhampton Dunes General Permit Manager (Charles T. Hamilton, Regional Supervisor of Natural Resources) by FAX (444-0297) and/or mail, within one week, the application, proposed plans and proof of preexisting dwelling existence (i.e., survey, building permit, scalable aerial photograph, etc.) and Village building permit in the case of a new structure on a previously vacant lot. The Chief Building inspector shall forward a statement that proposed structure complies with Village setbacks codes.

2. A copy of the General Permit will be provided to all approved applicants along with a blank form Notice of Commencement and Notice of Completion, which forms are to be completed and submitted to DEC upon commencement and completion of the project.

3. Any project that exceeds the scope of this General Permit will require that a full permit application be submitted to the Region One, NYSDEC Division of Environmental Permits office for approval.

4. During construction, concrete or leachate shall not escape or be discharged, nor shall washings from transit mix trucks, mixes, or other devices enter tidal wetlands and/or protected buffer areas.

5. Any debris or excess material from construction of this project shall be completely removed from the adjacent area (upland) and removed to an approved upland area for disposal. No debris is permitted in tidal wetlands and/or protected buffer areas.

6. There shall be no disturbance to vegetated tidal wetlands or protected buffer areas as a result of the permitted activity.

7. All fill shall consist of "clean" sand, gravel, or soil (not asphalt, flyash, broken concrete or demolition debris).

8. No excavation of the beach is authorized for the purpose of obtaining fill or stone materials.

9. There shall be no discharge of runoff or other effluent on, in or down the bluff face or onto the beach.

10. There shall be no draining of swimming pool water directly or indirectly into tidal wetlands or protected buffer areas.

11. Driveways and parking areas: A pervious driveway/parking area may be installed a minimum of 75 feet landward of the DEC-flagged tidal wetland. Alternatively, an impervious driveway or parking area may be installed provided that the area of the impervious driveway or parking area together with the area of all other structures does not exceed 20% of the square footage of the adjacent area of this parcel and is a minimum of 75' landward of the tidal wetland boundary, unless such impervious driveway or parking area existed prior to October 31, 1994. If the impervious driveway or parking area existed prior to October 31, 1994, the Permittee may reconstruct or repair such driveway or parking area provided that they are no greater in ground coverage than that of the pre-existing driveway and parking area, and such repaired or rebuilt driveway or parking area shall be within substantially the same footprint as the pre-existing driveway and parking area, and does not alter tidal wetlands.

12. Roads, driveways, and/or parking areas shall be graded to direct runoff away from tidal wetlands and protected buffer areas.

13. Sanitary system (bottom of tank and leaching pools) shall be located a minimum of 2 feet above seasonal high groundwater.

14. As to each lot subject to this permit:

- On lots on which a structure existed prior to October 31, 1994, Permittee is authorized by this general permit to build, rebuild, or repair one-family dwelling and accessory structures, including driveways and parking areas, that are no greater in ground coverage than that of the pre-existing structures, and such repaired or rebuilt structures shall be within substantially the same footprint as the pre-existing structures.

- On lots on which no structure existed prior to October 31, 1994, Permittee is authorized by this general permit to construct dwellings that comply with local zoning setbacks. No more than 20% of adjacent area of each parcel may be covered with structures and impervious accessory structures, including driveways and parking areas.

SPECIAL CONDITIONS

- Permittee must have tidal wetland boundary flagged by the Department staff prior to conducting any regulated activity. DEC shall use its best effort to flag a lot for which a permittee has submitted an application pursuant to paragraph 1 above and obtained a Village Building Permit within 20 days of DEC's receipt of notice of intent to commence construction, and in any event, shall flag such lot within 30 days of such receipt.

- All authorized regulated activities may be conducted a minimum of 75 feet landward of the DEC-flagged tidal wetland.

- There shall be no disturbance to vegetation or topography a minimum of 50 feet landward of DEC-flagged tidal wetland.

- Fill may only be placed in areas a minimum of 75 feet landward of the DEC-flagged tidal wetland.

- Sanitary system may not be installed within 100 feet of a DEC-flagged tidal wetland.

15. Endangered Species

The Department will create a map yearly depicting suitable plover breeding and endangered species habitat, based on the previous two years survey data, within the Village of Westhampton Dunes, including, but not limited to, the public beach conservation areas, and undeveloped and developed parcels within the Village. These areas will be designated as Zone 1. All other areas deemed non-suitable at the time of survey (prior to the breeding season) shall be designated as Zone 2.

Department will create a map of the historic nesting areas of endangered species and piping plover based on the previous two years' nesting data, which areas will be designated as Zone 1. All other areas of the Village shall be designated as Zone 2.

All regulated construction activities to be conducted between April 1 through September 1 of any year in the areas designated on the attached map shall adhere to the following conditions:

Zone 1: No exterior construction shall occur on any property located within Zone 1 between April 1 and June 30 of any year. If no endangered species are nesting or otherwise utilizing properties previously included in Zone 1 and its associated 300 feet buffer area as breeding habitat (includes areas with observed territorial behavior, courtship behavior, nesting, feeding, or brood-rearing) by July 1 of any year, an amended General Permit may be issued on a case-by-case basis, containing appropriate conditions, by the Regional Supervisor of Natural Resources and Westhampton Dunes Building Inspector for exterior construction to be conducted between July 1 and September 1 of any year.

Zone 2:

a. One week prior to conducting any regulated activity, permittee shall have an approved DEC endangered species monitor inspect the subject property for the presence of endangered species (piping plover, least tern, roseate tern, common tern) within 500 feet of proposed regulated activity area.

b. If no endangered species are known to be or are not observed within 500 feet of said regulated activities, permittee may commence construction with monitoring for endangered species activity to be conducted once per week while regulated activities are conducted. If the endangered species monitor and/or Department staff observe endangered species within 1,000 feet of regulated activity conducted in Zone 2, the Department may require an increase in the frequency of monitoring from once per week to more frequent.

c. If endangered species are observed or known to be located less than 500 feet from proposed regulated activity area, permittee cannot commence work until authorization is received from Region One NYSDEC Endangered Species Unit. Permittee and/or monitor shall notify the Department by Fax (516 444-0297) of the proposed activity, the duration of activity, and the location of endangered species in relationship to regulated activity and bird behavior or activity.

Following are proposed activities and the likely decision in most cases:

SPECIAL CONDITIONS

Construct one family dwelling and associated structure when the distance from the regulated activity and the endangered birds are:

i. between 300 feet and 500 feet (likely approvable with daily monitor)
ii. between 200 feet and 300 feet (may be approvable with daily monitor)
iii. less than 200 feet (possibly approvable with daily monitor and other protective procedures)
iv. less than 300 feet separated by road, dune, building, etc. (may be approvable with daily monitor)
v. less than 200 feet separated by road, dune, building etc. (possibly approvable with daily monitor and other protective procedures)

Distances between the regulated activity and the endangered birds will have to be greater before a permit will be issued if construction includes the use of heavy machinery and/or the sinking of pilings. A dune or road may not present a barrier sufficient to warrant less restrictive conditions for allowance of regulated activity under all circumstances.

d. If at any time, the endangered species monitor and/or Department staff observe disturbance (including but not limited to distress calls/peeping, bird being flushed and kept off the nest, broken wing display, or "escorting" of intruder outside of bird territory by an adult) to endangered species, the project will be regulated so as to stop the disturbance to the endangered species in a manner approved by the Department Endangered Species Unit Region One. Every observed disturbance must be reported to the Endangered Species Unit with corrective action reported daily to the Village Building Inspector.

e. Endangered Species Monitor Selection and Responsibilities:

- Monitor(s) shall be hired by the Village and/or the permittee, subject to the review of the monitor's qualifications and training and approval of the monitor by the DEC.

- Monitor condition and behavior of endangered species adjacent to project site

- Report all disturbances to endangered species to DEC & Village Building Inspector

- Provide daily report for all monitored projects to DEC Natural Resources Supervisor

- Provide weekly report of project status & endangered species status to DEC Endangered Species Unit and Village Building Inspector 4:00 PM every Friday

DEC and Westhampton Dunes do not condone or approve of any disturbance to endangered species during the conducting of any regulated activity authorized by said agencies in either Zone 1 or Zone 2. It is the permittee's responsibility to insure that no disturbance occurs to endangered species. If endangered species enter a permittee's parcel while regulated activity is occurring, such activity shall cease until the endangered species monitor and/or Department staff determine that such activity does not constitute a disturbance.

16. Construction of Walkways

An owner of a lot located south of Dune Road may construct one walkway that extends from said lot over the crest of the dune to the beach, in accordance with the following:

a. said walkway shall incorporate a clear opening of six feet high by six feet wide in the 25 foot conservation zone landward of the landward toe of the dune, to run parallel to the dune which shall be sufficient to allow the passage of a governmental emergency vehicle.
b. said walkway shall not be greater than 4 feet in width, and shall be located at least 18 inches above the sand, etc. except a 6' wide by 8' platform may be built landward of topographic crest of dune.

17. This permit applies to any property in the Village of Westhampton Dunes located north of Dune Road, and any property located south of Dune Road from the topographic crest of the dunes seaward to the high water mark of the Atlantic Ocean. The portions of the lots located south of Dune Road between Dune Road and the topographic crest of the dunes are not subject to tidal wetland jurisdiction given the current topography. DEC will provide the Village of Westhampton Dunes a drawing showing any additional parcels not subject to tidal wetland jurisdiction. The Village of Westhampton Dunes may file this permit with Suffolk County for the purpose of demonstrating DEC's determination of non-jurisdiction for purposes of the tidal wetlands law.