NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

State Pollutant Discharge Elimination System (SPDES) DISCHARGE PERMIT

Industrial Code:		SPDES Number:	**NY – 027 0679**
Discharge Class (CL):	**11**	DEC Number:	**0-9999-00096/000012**
Toxic Class (TX):		Effective Date (EDP):	**December 2, 2015**
Major Drainage Basin:	**14**	Expiration Date (ExDP):	**December 1, 2020**
Sub Drainage Basin:	**04**	Modification Dates: (EDPM)	
Water Index Number:	**D-63**		
Compact Area:	**DEL**		

This SPDES permit is issued in compliance with Title 8 of Article 17 of the Environmental Conservation Law of New York State and in compliance with the Clean Water Act, as amended, (33 U.S.C. §1251 et.seq.)(hereinafter referred to as "the Act").

PERMITTEE NAME AND ADDRESS					
Name:	**Crossroads Ventures, LLC**	Attention:	**Dean Gitter, President**		
Street:	**PO Box 466 (6 Galli Curci Road)**				
City:	**Highmont**	State:	**NY**	Zip Code:	**12441**

is authorized to discharge from the facility described below:

FACILITY NAME AND ADDRESS															
Name:	**Belleayre Resort at Catskill Park**														
Location (C,T,V):									County:	**Ulster and Delaware**					
Facility Address:	**NYS Route 28**														
City:	**Shandaken**						State:	**NY**		Zip Code:	**12441**				
From Outfall No.:		at Latitude:		°		'		"	& Longitude:		°		'		"
into receiving waters known as:	**Todd Mountain Brook, Emory Brook, Crystal Spring Brook and Unnamed tributary to Emory Brook**									Class:					

and (list other Outfalls, Receiving Waters & Water Classifications)
in accordance with: effluent limitations; monitoring and reporting requirements; other provisions and conditions set forth in this permit; and 6 NYCRR Part 750-1and 750-2.

DISCHARGE MONITORING REPORT (DMR) MAILING ADDRESS					
Mailing Name:	**N/A**				
Street:					
City:		State:		Zip Code:	
Responsible Official or Agent:			Phone:		

This permit and the authorization to discharge shall expire on midnight of the expiration date shown above and the permittee shall not discharge after the expiration date unless this permit has been renewed, or extended pursuant to law. To be authorized to discharge beyond the expiration date, the permittee shall apply for permit renewal not less than 180 days prior to the expiration date shown above.

DISTRIBUTION:

CO BWP - Permit Coordinator
RWE
RPA
Region2_NPDES@epa.gov (surface water only & no Class 02 or 04)
NYSEFC (Class 05 & 07 only)

Permit Administrator: Daniel. T. Whitehead	
Address: 21 South Putt Corners Road New Paltz NY 12561	
Signature: Daniel Whitehead	Date: 12/02/15

Part I. PERMIT COVERAGE AND LIMITATIONS

A. Permit Coverage

This permit authorizes stormwater *discharges* to *surface waters of the State* from the following construction activity provided the permittee complies with the provisions of this permit; the "Stormwater Management Design Report for The Modified Belleayre Resort at Catskill Park" prepared by The LA Group and dated March 2012, revised February 2014; and the "Individual Stormwater Pollution Prevention Plan for the Phase 1(A) of the Modified Belleayre Resort at Catskill Park" prepared by The LA Group and dated March 2011, revised March 2012 and March 2013:

Belleayre Resort at Catskill Park
NYS Route 28
Shandaken, NY 12441

B. Effluent Limitations Applicable to Discharges from Construction Activities

Discharges authorized by this permit must achieve, at a minimum, the effluent limitations in Part I.B.1. (a) – (f) of this permit. These limitations represent the degree of effluent reduction attainable by the application of best practicable technology currently available.

1. Erosion and Sediment Control Requirements - The permittee must select, design, install, implement and maintain control measures to *minimize* the *discharge* of *pollutants* and prevent a violation of the *water quality standards*. The selection, design, installation, implementation, and maintenance of these control measures must meet the non-numeric effluent limitations in Part I.B.1.(a) – (f) of this permit and be in accordance with the New York State Standards and Specifications for Erosion and Sediment Control, dated August 2005, using sound engineering judgment. Where control measures are not designed in conformance with the design criteria included in the technical standard, the permittee must include in the Stormwater Pollution Prevention Plan ("SWPPP") the reason(s) for the deviation or alternative design and provide information which demonstrates that the deviation or alternative design is *equivalent* to the technical standard.

   a. **Erosion and Sediment Controls.** Design, install and maintain effective erosion and sediment controls to *minimize* the *discharge* of *pollutants* and prevent a violation of the *water quality standards*. At a minimum, such controls must be designed, installed and maintained to:

      (i) *Minimize* soil erosion through application of runoff control and soil stabilization control measure to *minimize pollutant discharges*;

(ii) Control stormwater *discharges* to *minimize* channel and streambank erosion and scour in the immediate vicinity of the *discharge* points;

(iii) *Minimize* the amount of soil exposed during *construction activity*;

(iv) *Minimize* the disturbance of *steep slopes*;

(v) *Minimize* sediment *discharges* from the site;

(vi) Provide and maintain natural buffers around surface waters, direct stormwater to vegetated areas and maximize stormwater infiltration to reduce *pollutant*
(vii) *discharges*, unless *infeasible*;

(viii) *Minimize* soil compaction. Minimizing soil compaction is not required where the intended function of a specific area of the site dictates that it be compacted; and

(ix) Unless *infeasible*, preserve a sufficient amount of topsoil to complete soil restoration and establish a uniform, dense vegetative cover.

b. **Soil Stabilization**. In areas where soil disturbance activity has temporarily or permanently ceased, the application of soil stabilization measures must be initiated by the end of the next business day and completed within seven (7) days from the date the current soil disturbance activity ceased. See Appendix A for definition of *Temporarily Ceased*.

c. **Dewatering**. *Discharges* from dewatering activities, including *discharges* from dewatering of trenches and excavations, must be managed by appropriate control measures.

d. **Pollution Prevention Measures**. Design, install, implement, and maintain effective pollution prevention measures to *minimize* the *discharge* of *pollutants* and prevent a violation of the *water quality standards*. At a minimum, such measures must be designed, installed, implemented and maintained to:

(i) *Minimize* the *discharge* of *pollutants* from equipment and vehicle washing, wheel wash water, and other wash waters. This applies to washing operations that use clean water only. Soaps, detergents and solvents cannot be used;

(ii) *Minimize* the exposure of building materials, building products, construction wastes, trash, landscape materials, fertilizers, pesticides, herbicides, detergents, sanitary waste and other materials present on the site to precipitation and to stormwater. Minimization of exposure is not required in cases where the exposure to precipitation and to stormwater will not result in a *discharge* of *pollutants*, or where exposure of a specific material or product

poses little risk of stormwater contamination (such as final products and materials intended for outdoor use) ; and

(iii) Prevent the *discharge* of *pollutants* from spills and leaks and implement chemical spill and leak prevention and response procedures.

e. **Prohibited *Discharges*.** The following *discharges* are prohibited:

(i) Wastewater from washout of concrete;

(ii) Wastewater from washout and cleanout of stucco, paint, form release oils, curing compounds and other construction materials;

(iii) Fuels, oils, or other *pollutants* used in vehicle and equipment operation and maintenance;

(iv) Soaps or solvents used in vehicle and equipment washing; and

(v) Toxic or hazardous substances from a spill or other release.

f. **Surface Outlets**. When discharging from basins and impoundments, the outlets shall be designed, constructed and maintained in such a manner that sediment does not leave the basin or impoundment and that erosion at or below the outlet does not occur.

C. Maintaining Water Quality

The Department expects that compliance with the conditions of this permit will control *discharges* necessary to meet applicable *water quality standards*. It shall be a violation of the *ECL* for any discharge to either cause or contribute to a violation of *water quality standards* as contained in Parts 700 through 705 of Title 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York, such as:

1. There shall be no increase in turbidity that will cause a substantial visible contrast to natural conditions;

2. There shall be no increase in suspended, colloidal or settleable solids that will cause deposition or impair the waters for their best usages; and

3. There shall be no residue from oil and floating substances, nor visible oil film, nor globules of grease.

If there is evidence indicating that the stormwater *discharges* authorized by this permit are causing, have the reasonable potential to cause, or are contributing to a violation of the *water quality standards*; the permittee must take appropriate corrective action in accordance with Part II.F.4. of this permit and document in accordance with Part II.F.3. of this permit. To address

the *water quality standard* violation the permittee may need to provide additional information or include and implement appropriate controls in the SWPPP to correct the problem.

D. Discharges Eligible For Coverage Under This Permit

1. This permit may authorize all *discharges* of stormwater from *construction activity* to *surface waters of the State* and *groundwaters* except for ineligible *discharges* identified under subparagraph E. of this Part.

2. Except for non-stormwater *discharges* explicitly listed in the next paragraph, this permit only authorizes stormwater *discharge*s from *construction activities*.

3. Notwithstanding paragraphs D.1 and D.2 above, the following non-stormwater *discharges* may be authorized by this permit: *discharge*s from firefighting activities; fire hydrant flushings; waters to which cleansers or other components have not been added that are used to wash vehicles or control dust in accordance with the SWPPP, routine external building washdown which does not use detergents; pavement washwaters where spills or leaks of toxic or hazardous materials have not occurred (unless all spilled material has been removed) and where detergents are not used; air conditioning condensate; uncontaminated *groundwater* or spring water; uncontaminated *discharge*s from construction site de-watering operations; and foundation or footing drains where flows are not contaminated with process materials such as solvents. For those entities required to obtain coverage under this permit, and who *discharge* as noted in this paragraph, and with the exception of flows from firefighting activities, these *discharge*s must be identified in the SWPPP. Under all circumstances, the permittee must still comply with *water quality standards* in Part I.C. of this permit.

4. The permittee must maintain permit eligibility to *discharge* under this permit. Any *discharges* that are not compliant with the eligibility conditions of this permit are not authorized by the permit.

E. Discharges Which Are Ineligible for Coverage Under This Permit

The following discharges are **not** authorized by this permit:

1. *Discharge*s after *construction activities* have been completed and the site has undergone *final stabilization*;

2. *Discharge*s that are mixed with sources of non-stormwater other than those expressly authorized under subsection D.3. of this Part and identified in the SWPPP required by this permit;

3. *Construction activities* or *discharges* from *construction activities* that may adversely affect an endangered or threatened species unless the permittee has obtained a permit issued pursuant to 6 NYCRR Part 182 for the project or the Department has

issued a letter of non-jurisdiction for the project. All documentation necessary to demonstrate eligibility shall be maintained on site in accordance with Part II.B.2 of this permit.

4. *Discharges* which either cause or contribute to a violation of *water quality standards* adopted pursuant to the *ECL* and its accompanying regulations;

5. *Construction activities* that have the potential to affect an *historic property*, unless there is documentation that such impacts have been resolved. The following documentation necessary to demonstrate eligibility with this requirement shall be maintained on site in accordance with Part II.C.2 of this permit and made available to the Department in accordance with Part IV.E of this permit:

   a. Documentation that the *construction activity* is not within an archeologically sensitive area indicated on the sensitivity map, and that the *construction activity* is not located on or immediately adjacent to a property listed or determined to be eligible for listing on the National or State Registers of Historic Places, and that there is no new permanent building on the construction site within the following distances from a building, structure, or object that is more than 50 years old, or if there is such a new permanent building on the construction site within those parameters that NYS Office of Parks, Recreation and Historic Preservation (OPRHP), a Historic Preservation Commission of a Certified Local Government, or a qualified preservation professional has determined that the building, structure, or object more than 50 years old is not historically/archeologically significant.

   - 1-5 acres of disturbance - 20 feet
   - 5-20 acres of disturbance - 50 feet
   - 20+ acres of disturbance - 100 feet, or

   b. DEC consultation form sent to OPRHP, and copied to the NYS DEC Agency Historic Preservation Officer (APO), and

      (i) the State Environmental Quality Review (SEQR) Environmental Assessment Form (EAF) with a negative declaration or the Findings Statement, with documentation of OPRHP's agreement with the resolution; or
      (ii) documentation from OPRHP that the *construction activity* will result in No Impact; or
      (iii) documentation from OPRHP providing a determination of No Adverse Impact; or
      (iv) a Letter of Resolution signed by the owner/operator, OPRHP and the DEC APO which allows for this *construction activity* to be eligible for coverage under the general permit in terms of the State Historic Preservation Act (SHPA); or

   c. Documentation of satisfactory compliance with Section 106 of the National Historic Preservation Act for a coterminous project area:

(i) No Affect
(ii) No Adverse Affect
(iii) Executed Memorandum of Agreement, or

d. Documentation that:
(i) SHPA Section 14.09 has been completed by NYS DEC or another state agency.

Part II. PERMIT CONDITIONS

A. Permit Authorization

Coverage under this permit authorizes stormwater discharges from only those areas of disturbance that are identified in the permit application. If the permittee wishes to have stormwater discharges from additional construction activities authorized, they must apply for a permit modification, unless otherwise notified by the Department.

B. Construction Phasing

1. The permittee shall use the "Individual Stormwater Pollution Prevention Plan for the Phase 1(A) of the Modified Belleayre Resort at Catskill Park" prepared by The LA Group and dated March 2011, revised March 2012 and March 2013 as the model when preparing the SWPPP for future phases of construction.

2. Construction of future phases of the Modified Belleayre Resort at Catskill Park project shall not commence until the Department has approved the SWPPP for that phase.

3. The permittee shall submit the SWPPP (including detailed construction drawings) for future phases of construction at least sixty (60) business days before construction of that phase is scheduled to commence.

4. Construction of future phases of the project cannot commence until all earth disturbing activities in the current phase are complete and a non-erosive cover has been established on all disturbed areas by the application of temporary or permanent stabilization measures. The permittee shall have the qualified inspector perform a site inspection and prepare a written statement certifying that this condition has been achieved. The permittee shall submit the qualified inspector's certification statement along with a written notification of the completion of the current phase to the Regional Office stormwater contact person prior to commencing construction on the next phase (see Appendix B).

C. General Requirements

1. The permittee shall ensure that the provisions of the SWPPP are implemented from the *commencement of construction activity* until all areas of disturbance have achieved *final stabilization.* This includes any changes made to the SWPPP pursuant to Part II.C.3. of this permit.

2. The permittee shall maintain a copy of the SWPPP, inspection reports, and all documentation necessary to demonstrate eligibility with this permit at the construction site until all disturbed areas have achieved *final stabilization.* The documents must be maintained in a secure location, such as a job trailer, on-site construction office, or mailbox with lock. The secure location must be accessible during normal business hours to an individual performing a compliance inspection.

3. Unless otherwise notified by the Department, the permittee shall amend the SWPPP whenever the current provisions prove to be ineffective in minimizing *pollutants* in stormwater *discharges* from the site; whenever there is a change in design, construction, or operation at the construction site that has or could have an effect on the *discharge* of *pollutants*; and to address issues or deficiencies identified during an inspection by the *qualified inspector,* the Department or other regulatory authority. The permittee shall notify the Regional Office stormwater contact person (see Appendix B) in writing of each amendment to the SWPPP within five (5) business days of the identification/observation of a SWPPP deficiency.

4. Prior to the *commencement of construction activity*, the permittee must identify the contractor(s) and subcontractor(s) that will be responsible for installing, constructing, repairing, replacing, inspecting and maintaining the erosion and sediment control practices included in the SWPPP; and the contractor(s) and subcontractor(s) that will be responsible for constructing the post-construction stormwater management practices included in the SWPPP. The permittee shall have each of the contractors and subcontractors identify at least one person from their company that will be responsible for implementation of the SWPPP. This person shall be known as the *trained contractor.* The permittee shall ensure that at least one *trained contractor* is on site on a daily basis when soil disturbance activities are being performed.

   The permittee shall have each of the contractors and subcontractors identified above sign a copy of the following certification statement below before they commence any *construction activity*:

   "I hereby certify under penalty of law that I understand and agree to comply with the terms and conditions of the SWPPP and agree to implement any corrective actions identified by the *qualified inspector* during a site inspection. I also understand that the permittee must comply with the terms and conditions of this State Pollutant Discharge Elimination System ("SPDES") permit and that it is unlawful for any person to cause or contribute to a violation of *water quality standards.* Furthermore, I am aware that there are significant penalties for submitting false information, that I do not believe to be true, including the possibility

of fine and imprisonment for knowing violations"

In addition to providing the certification statement above, the certification page must also identify the specific elements of the SWPPP that each contractor and subcontractor will be responsible for and include the name and title of the person providing the signature; the name and title of the *trained contractor* responsible for SWPPP implementation; the name, address and telephone number of the contracting firm; the address (or other identifying description) of the site; and the date the certification statement is signed. The permittee shall attach the certification statement(s) to the copy of the SWPPP that is maintained at the construction site. If new or additional contractors are hired to implement measures identified in the SWPPP after construction has commenced, they must also sign the certification statement and provide the information listed above.

5. In accordance with statute, regulations, and the terms and conditions of this permit, the Department may suspend or revoke the permittee's coverage under this permit at any time if the Department determines that the SWPPP does not meet the permit requirements. Upon a finding of significant non-compliance with the practices described in the SWPPP or violation of this permit, the Department may order an immediate stop to all activity at the site until the non-compliance is remedied. The stop work order shall be in writing, describe the non-compliance in detail, and be sent to the permittee.

6. The permittee shall submit each inspection report, required by Part II.F.3 of this permit, to the Regional Office stormwater contact person (see Appendix B) by electronic mail. The inspection reports shall be submitted within two (2) business days of the date the inspection was performed.

D. General Construction Site Inspection and Maintenance Requirements

1. The permittee must ensure that all erosion and sediment control practices (including pollution prevention measures) and all post-construction stormwater management practices identified in the SWPPP are inspected and maintained in accordance with Part II.E. and F. of this permit.

2. The terms of this permit shall not be construed to prohibit the State of New York from exercising any authority pursuant to the ECL, common law or federal law, or prohibit New York State from taking any measures, whether civil or criminal, to prevent violations of the laws of the State of New York, or protect the public health and safety and/or the environment.

E. Contractor Maintenance Inspection Requirements

1. The permittee shall have the *trained contractor* inspect the erosion and sediment control practices and pollution prevention measures being implemented within the active work area daily to ensure that they are being maintained in effective operating condition at all times. If deficiencies are identified, the contractor shall begin implementing corrective actions within one business day and shall complete the corrective actions in a reasonable time frame.

2. For construction sites where soil disturbance activities have been temporarily suspended (e.g. winter shutdown) and *temporary stabilization* measures have been applied to all disturbed areas, the *trained contractor* can stop conducting the maintenance inspections. The *trained contractor* shall begin conducting the maintenance inspections in accordance with Part II.E.1. of this permit as soon as soil disturbance activities resume.

3. For construction sites where soil disturbance activities have been shut down with partial project completion, the *trained contractor* can stop conducting the maintenance inspections if all areas disturbed as of the project shutdown date have achieved *final stabilization* and all post-construction stormwater management practices required for the completed portion of the project have been constructed in conformance with the SWPPP and are operational.

F. Qualified Inspector Inspection Requirements

The permittee shall have a *qualified inspector* conduct site inspections in conformance with the following requirements.

1. The *qualified inspector* shall conduct site inspections in accordance with the following timetable:

   a. Where soil disturbance activities are on-going, the *qualified inspector* shall conduct at least two (2) site inspections every seven (7) calendar days. The two (2) inspections shall be separated by a minimum of two (2) full calendar days.

   b. Where soil disturbance activities have been temporarily suspended (e.g. winter shutdown) and *temporary stabilization* measures have been applied to all disturbed areas, the *qualified inspector* shall conduct a site inspection at least once every thirty (30) calendar days. The permittee shall notify the Regional Office stormwater contact person (see Appendix B) in writing prior to reducing the frequency of inspections.

   c. Where soil disturbance activities have been shut down with partial project completion, the *qualified inspector* can stop conducting inspections if all areas disturbed as of the project shutdown date have achieved *final stabilization* and all post-construction stormwater management practices required for the

completed portion of the project have been constructed in conformance with the SWPPP and are operational. The permittee shall notify the Regional Office stormwater contact person (see Appendix B) in writing prior to the shutdown. If soil disturbance activities are not resumed within 2 years from the date of shutdown, the permittee shall have the *qualified inspector* perform a final inspection and certify that all disturbed areas have achieved *final stabilization,* and all temporary, structural erosion and sediment control measures have been removed; and that all post-construction stormwater management practices have been constructed in conformance with the SWPPP and are operational.

2. At a minimum, the *qualified inspector* shall inspect all erosion and sediment control practices and pollution prevention measures to ensure integrity and effectiveness, all post-construction stormwater management practices under construction to ensure that they are constructed in conformance with the SWPPP, all areas of disturbance that have not achieved *final stabilization,* all points of *discharge* to natural surface waterbodies located within, or immediately adjacent to, the property boundaries of the construction site, and all points of *discharge* from the construction site.

3. The *qualified inspector* shall prepare an inspection report subsequent to each and every inspection. At a minimum, the inspection report shall include and/or address the following:

   a. Date and time of inspection;

   b. Name and title of person(s) performing inspection;

   c. A description of the weather and soil conditions (e.g. dry, wet, saturated) at the time of the inspection;

   d. A description of the condition of the runoff at all points of *discharge* from the construction site. This shall include identification of any *discharges* of sediment from the construction site. Include *discharges* from conveyance systems (i.e. pipes, culverts, ditches, etc.) and overland flow;

   e. A description of the condition of all natural surface waterbodies located within, or immediately adjacent to, the property boundaries of the construction site which receive runoff from disturbed areas. This shall include identification of any *discharges* of sediment to the surface waterbody;

   f. Identification of all erosion and sediment control practices and pollution prevention measures that need repair or maintenance;

   g. Identification of all erosion and sediment control practices and pollution prevention measures that were not installed properly or are not functioning

as designed and need to be reinstalled or replaced;

h. Description and sketch of areas with active soil disturbance activity, areas that have been disturbed but are inactive at the time of the inspection, and areas that have been stabilized (temporary and/or final) since the last inspection;

i. Current phase of construction of all post-construction stormwater management practices and identification of all construction that is not in conformance with the SWPPP and technical standards;

j. Corrective action(s) that must be taken to install, repair, replace or maintain erosion and sediment control practices and pollution prevention measures; and to correct deficiencies identified with the construction of the post-construction stormwater management practice(s);

k. Identification and status of all corrective actions that were required by previous inspection; and

l. Digital photographs, with date stamp, that clearly show the condition of all practices that have been identified as needing corrective actions. The *qualified inspector* shall attach paper color copies of the digital photographs to the inspection report being maintained onsite within seven (7) calendar days of the date of the inspection. The *qualified inspector* shall also take digital photographs, with date stamp, that clearly show the condition of the practice(s) after the corrective action has been completed. The *qualified inspector* shall attach paper color copies of the digital photographs to the inspection report that documents the completion of the corrective action work within seven (7) calendar days of that inspection.

4. Within one business day of the completion of an inspection, the *qualified inspector* shall notify the permittee and appropriate contractor or subcontractor identified in Part II.C.4. of this permit of any corrective actions that need to be taken. The contractor or subcontractor shall begin implementing the corrective actions within one business day of this notification and shall complete the corrective actions in a reasonable time frame.

5. All inspection reports shall be signed by the *qualified inspector.* Pursuant to Part II.C.2. of this permit, the inspection reports shall be maintained on site with the SWPPP. In addition, a copy of each inspection report shall be submitted to the Regional Office stormwater contact person (see Appendix B) in accordance with Part II.C.6. of this permit.

Part III. TERMINATION OF PERMIT COVERAGE

A. Notification of Total Project Completion

Upon completion of construction of the total project, the permittee shall have the qualified inspector perform a final site inspection and prepare a written statement certifying that all construction activity identified in the SWPPP has been completed; all disturbed areas have achieved final stabilization; all temporary, structural erosion and sediment control measures have been removed; and that all post-construction stormwater management practices have been constructed in conformance with the SWPPP and are operational. The permittee shall submit the qualified inspector's certification statement along with a written notification of project completion to the Regional Office stormwater contact person (see Appendix B) within five (5) business days of the date the final inspection is performed.

B. Termination of Permit Coverage

Unless otherwise notified by the Department, the permittee must maintain coverage under this permit for one (1) year from the date that the Regional Office stormwater contact person (see Appendix B) receives the notification of total project completion. Thirty (30) calendar days prior to the expiration of this one (1) year period, the permittee shall submit a written request to the Regional Office stormwater contact person (see Appendix B) to have their permit coverage terminated.

Part IV. STANDARD PERMIT CONDITIONS

A. Duty to Comply

The permittee must comply with all conditions of this permit. All contractors and subcontractors associated with the project must comply with the terms of the SWPPP. Any non-compliance with this permit constitutes a violation of the Clean Water Act (CWA) and the ECL and is grounds for an enforcement action against the permittee and/or the contractor/subcontractor; permit revocation, suspension or modification; or denial of a permit renewal application. Upon a finding of significant non-compliance with this permit or the applicable SWPPP, the Department may order an immediate stop to all *construction activity* at the site until the non-compliance is remedied. The stop work order shall be in writing, shall describe the non-compliance in detail, and shall be sent to the permittee.

B. Enforcement

Failure of the permittee, its contractors, subcontractors, agents and/or assigns to strictly adhere to any of the permit requirements contained herein shall constitute a violation of this permit. There are substantial criminal, civil, and administrative penalties associated with violating the provisions of this permit. Fines of up to $37,500 per day for each violation and imprisonment for up to fifteen (15) years may be assessed depending upon the nature and degree of the offense.

C. Need to Halt or Reduce Activity Not a Defense

It shall not be a defense for the permittee in an enforcement action that it would have been necessary to halt or reduce the *construction activity* in order to maintain compliance with the conditions of this permit.

D. Duty to Mitigate

The permittee and its contractors and subcontractors shall take all reasonable steps to *minimize* or prevent any *discharge* in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

E. Duty to Provide Information

The permittee shall make available to the Department for inspection or furnish to the Department, within a reasonable specified time period of a written request, all documentation necessary to demonstrate eligibility and any information to determine compliance with this permit or to determine whether cause exists for modifying or revoking this permit, or suspending or denying coverage under this permit, in accordance with the terms and conditions of this permit.

F. Other Information

When the permittee becomes aware that they failed to submit any relevant facts, or submitted incorrect information in any of the documents required by this permit , or have made substantive revisions to the SWPPP (e.g. the scope of the project changes significantly, the type of post-construction stormwater management practice(s) changes, there is a reduction in the sizing of the post-construction stormwater management practice, or there is an increase in the disturbance area or *impervious area*), which were not reflected in the original permit application submitted to the Department, they shall promptly submit such facts or information to the Department using the contact information in Appendix B. of this permit. Failure of the permittee to correct or supplement any relevant facts within five (5) business days of becoming aware of the deficiency shall constitute a violation of this permit.

G. Property Rights

The issuance of this permit does not convey any property rights of any sort, nor any exclusive privileges, nor does it authorize any injury to private property nor any invasion of personal rights, nor any infringement of Federal, State or local laws or regulations. The permittee must obtain any applicable conveyances, easements, licenses and/or access to real property prior to *commencing construction activity*.

H. Severability

The provisions of this permit are severable, and if any provision of this permit, or the application of any provision of this permit to any circumstance, is held invalid, the application of such

provision to other circumstances, and the remainder of this permit shall not be affected thereby.

I. Proper Operation and Maintenance

The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit and with the requirements of the SWPPP.

J. Inspection and Entry

The permittee shall allow an authorized representative of the Department, EPA, applicable county health department, or, in the case of a construction site which *discharges* through an *MS4*, an authorized representative of the *MS4* receiving the discharge, upon the presentation of credentials and other documents as may be required by law, to:

1. Enter upon the permittee's premises where a regulated facility or activity is located or conducted or where records must be kept under the conditions of this permit;
2. Have access to and copy at reasonable times, any records that must be kept under the conditions of this permit; and
3. Inspect at reasonable times any facilities or equipment (including monitoring and control equipment), practices or operations regulated or required by this permit.
4. Sample or monitor at reasonable times, for purposes of assuring permit compliance or as otherwise authorized by the Act or ECL, any substances or parameters at any location.

K. Permit Actions

This permit may, at any time, be modified, suspended, revoked, or renewed by the Department in accordance with 6 NYCRR Part 621. The filing of a request by the permittee for a permit modification, revocation and reissuance, termination, a notification of planned changes or anticipated noncompliance does not limit, diminish and/or stay compliance with any terms of this permit.

L. Definitions

Definitions of key terms are included in Appendix A of this permit.

M. Re-Opener Clause

Any Department initiated permit modification, suspension or revocation will be conducted in accordance with 6 NYCRR Part 621, 6 NYCRR 750-1.18, and 6 NYCRR 750-1.20.

N. Penalties for Falsification of Forms and Reports

In accordance with 6NYCRR Part 750-2.4 and 750-2.5, any person who knowingly makes any false material statement, representation, or certification in any application, record, report or other document filed or required to be maintained under this permit, including reports of compliance or noncompliance shall, upon conviction, be punished in accordance with ECL §71-1933 and or Articles 175 and 210 of the New York State Penal Law.

O. Other Permits

Nothing in this permit relieves the permittee from a requirement to obtain any other permits required by law.

P. Special Conditions

1. The permittee shall comply with the mitigation conditions listed in a letter (Crossroads Ventures LLC Proposed Mitigation Conditions), dated April 5, 2013,from Daniel A. Ruzow of Whiteman Osterman & Hanna, LLP to Daniel T. Whitehead, Regional Permit Administrator, NYS DEC.

2. On November 17, 2014, the Watershed Inspector General (WIG) reached agreement with the applicant for revisions of the SWPPP. Those revisions are deemed part of the SWPPP for this permit. In addition, under the agreement, any subsequent SWPPP for future phases of the project, is subject to further review by the WIG.

3. If any human remains or archaeological remains are encountered during excavation, the permittee must immediately cease, or cause to cease, all *construction activity* in the area of the remains and notify the appropriate Regional Water Engineer (RWE). *Construction activity* shall not resume until written permission to do so has been received from the RWE.

APPENDIX A

Definitions

Alter Hydrology from Pre to Post-Development Conditions - means the post-development peak flow rate(s) has increased by more than 5% of the pre-developed condition for the design storm of interest (e.g. 10 yr and 100 yr).

Combined Sewer - means a sewer that is designed to collect and convey both "sewage" and "stormwater".

Commence (Commencement of) Construction Activities - means the initial disturbance of soils associated with clearing, grading or excavation activities; or other construction related activities that disturb or expose soils such as demolition, stockpiling of fill material, and the initial installation of erosion and sediment control practices required in the SWPPP. See definition for "*Construction Activity(ies)*" also.

Construction Activity (ies) - means any clearing, grading, excavation, filling, demolition or stockpiling activities that result in soil disturbance. Clearing activities can include, but are not limited to, logging equipment operation, the cutting and skidding of trees, stump removal and/or brush root removal. Construction activity does not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original purpose of a facility.

Direct Discharge (to a specific surface waterbody) - means that runoff flows from a construction site by overland flow and the first point of discharge is the specific surface waterbody, or runoff flows from a construction site to a separate storm sewer system and the first point of discharge from the separate storm sewer system is the specific surface waterbody.

Discharge(s) - means any addition of any pollutant to waters of the State through an outlet or point source.

Environmental Conservation Law (ECL) - means chapter 43-B of the Consolidated Laws of the State of New York, entitled the Environmental Conservation Law.

Equivalent (Equivalence) – means that the practice or measure meets all the performance, longevity, maintenance, and safety objectives of the technical standard and will provide an equal or greater degree of water quality protection.

Final Stabilization - means that all soil disturbance activities have ceased and a uniform, perennial vegetative cover with a density of eighty (80) percent over the entire pervious surface has been established; or other equivalent stabilization measures, such as permanent landscape mulches, rock rip-rap or washed/crushed stone have been applied on all disturbed areas that are not covered by permanent structures, concrete or

pavement.

General SPDES permit - means a SPDES permit issued pursuant to 6 NYCRR Part 750-1.21 and Section 70-0117 of the ECL authorizing a category of discharges.

Groundwater(s) - means waters in the saturated zone. The saturated zone is a subsurface zone in which all the interstices are filled with water under pressure greater than that of the atmosphere. Although the zone may contain gas-filled interstices or interstices filled with fluids other than water, it is still considered saturated.

Historic Property – means any building, structure, site, object or district that is listed on the State or National Registers of Historic Places or is determined to be eligible for listing on the State
or National Registers of Historic Places.

Impervious Area (Cover) - means all impermeable surfaces that cannot effectively infiltrate rainfall. This includes paved, concrete and gravel surfaces (i.e. parking lots, driveways, roads, runways and sidewalks); building rooftops and miscellaneous impermeable structures such as patios, pools, and sheds.

Infeasible – means not technologically possible, or not economically practicable and achievable in light of best industry practices.

Larger Common Plan of Development or Sale - means a contiguous area where multiple separate and distinct *construction activities* are occurring, or will occur, under one plan. The term "plan" in "larger common plan of development or sale" is broadly defined as any announcement or piece of documentation (including a sign, public notice or hearing, marketing plan, advertisement, drawing, permit application, State Environmental Quality Review Act (SEQRA) environmental assessment form or other documents, zoning request, computer design, etc.) or physical demarcation (including boundary signs, lot stakes, surveyor markings, etc.) indicating that *construction activities* may occur on a specific plot.

For discrete construction projects that are located within a larger common plan of development or sale that are at least 1/4 mile apart, each project can be treated as a separate plan of development or sale provided any interconnecting road, pipeline or utility project that is part of the same "common plan" is not concurrently being disturbed.

Minimize – means reduce and/or eliminate to the extent achievable using control measures (including best management practices) that are technologically available and economically practicable and achievable in light of best industry practices.

Municipal Separate Storm Sewer (MS4) - a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made

channels, or storm drains):

(i) Owned or operated by a State, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to State law) having jurisdiction over disposal of sewage, industrial wastes, stormwater, or other wastes, including special districts under State law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under section 208 of the CWA that discharges to surface waters of the State;

(ii) Designed or used for collecting or conveying stormwater;

(iii) Which is not a *combined sewer*; and

(iv) Which is not part of a Publicly Owned Treatment Works (POTW) as defined at 40 CFR 122.2.

National Pollutant Discharge Elimination System (NPDES) - means the national system for the issuance of wastewater and stormwater permits under the Federal Water Pollution Control Act (Clean Water Act).

New Development – means any land disturbance that does not meet the definition of Redevelopment Activity included in this appendix.

Performance Criteria – means the design criteria listed under the "Required Elements" sections in Chapters 5, 6 and 10 of the technical standard, New York State Stormwater Management Design Manual, dated January 2015. It does not include the Sizing Criteria (i.e. WQv, RRv, Cpv, Qp and Qf) in Part I.C.2. of the permit.

Pollutant - means dredged spoil, filter backwash, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand and industrial, municipal, agricultural waste and ballast discharged into water; which may cause or might reasonably be expected to cause pollution of the waters of the state in contravention of the standards or guidance values adopted as provided in 6 NYCRR Parts 700 et seq .

Qualified Inspector - means a person that is knowledgeable in the principles and practices of erosion and sediment control, such as a licensed Professional Engineer, Certified Professional in Erosion and Sediment Control (CPESC), Registered Landscape Architect, or other Department endorsed individual(s).

It can also mean someone working under the direct supervision of, and at the same company as, the licensed Professional Engineer or Registered Landscape Architect, provided that person has training in the principles and practices of erosion and sediment control. Training in the principles and practices of erosion and sediment control means that the individual working under the direct supervision of the licensed Professional Engineer or Registered Landscape Architect has received four (4) hours of Department endorsed training in proper erosion and sediment control principles from a Soil and Water

Conservation District, or other Department endorsed entity. After receiving the initial training, the individual working under the direct supervision of the licensed Professional Engineer or Registered Landscape Architect shall receive four (4) hours of training every three (3) years.

It can also mean a person that meets the *Qualified Professional* qualifications in addition to the *Qualified Inspector* qualifications.

Note: Inspections of any post-construction stormwater management practices that include structural components, such as a dam for an impoundment, shall be performed by a licensed Professional Engineer.

Qualified Professional - means a person that is knowledgeable in the principles and practices of stormwater management and treatment, such as a licensed Professional Engineer, Registered Landscape Architect or other Department endorsed individual(s). Individuals preparing SWPPPs that require the post-construction stormwater management practice component must have an understanding of the principles of hydrology, water quality management practice design, water quantity control design, and, in many cases, the principles of hydraulics. All components of the SWPPP that involve the practice of engineering, as defined by the NYS Education Law (see Article 145), shall be prepared by, or under the direct supervision of, a professional engineer licensed to practice in the State of New York..

Redevelopment Activity(ies) – means the disturbance and reconstruction of existing impervious area, including impervious areas that were removed from a project site within five (5) years of preliminary project plan submission to the local government (i.e. site plan, subdivision, etc.).

Regulated, Traditional Land Use Control MS4 - means a city, town or village with land use control authority that is required to gain coverage under New York State DEC's SPDES General Permit For Stormwater Discharges from Municipal Separate Stormwater Sewer Systems (MS4s).

Routine Maintenance Activity - means *construction activity* that is performed to maintain the original line and grade, hydraulic capacity, or original purpose of a facility, including, but not limited to:

- Re-grading of gravel roads or parking lots,
- Stream bank restoration projects (does not include the placement of spoil material),
- Cleaning and shaping of existing roadside ditches and culverts that maintains the approximate original line and grade, and hydraulic capacity of the ditch,
- Cleaning and shaping of existing roadside ditches that does not maintain the approximate original grade, hydraulic capacity and purpose of the ditch if the changes to the line and grade, hydraulic capacity or purpose of the ditch are

installed to improve water quality and quantity controls (e.g. installing grass lined ditch),
- Placement of aggregate shoulder backing that makes the transition between the road shoulder and the ditch or embankment,
- Full depth milling and filling of existing asphalt pavements, replacement of concrete pavement slabs, and similar work that does not expose soil or disturb the bottom six (6) inches of subbase material,
- Long-term use of equipment storage areas at or near highway maintenance facilities,
- Removal of sediment from the edge of the highway to restore a previously existing sheet-flow drainage connection from the highway surface to the highway ditch or embankment,
- Existing use of Canal Corp owned upland disposal sites for the canal, and
- Replacement of curbs, gutters, sidewalks and guide rail posts.

Site limitations – means site conditions that prevent the use of an infiltration technique and or infiltration of the total WQv. Typical site limitations include: seasonal high groundwater, shallow depth to bedrock, and soils with an infiltration rate less than 0.5 inches/hour. The existence of site limitations shall be confirmed and documented using actual field testing (i.e. test pits, soil borings, and infiltration test) or using information from the most current United States Department of Agriculture (USDA) Soil Survey for the County where the project is located.

Sizing Criteria – means the criteria included in Part I.C.2 of the permit that are used to size post-construction stormwater management control practices. The criteria include; Water Quality Volume (WQv), Runoff Reduction Volume (RRv), Channel Protection Volume (Cpv), Overbank Flood (Qp), and Extreme Flood (Qf).

State Pollutant Discharge Elimination System (SPDES) - means the system established pursuant to Article 17 of the ECL and 6 NYCRR Part 750 for issuance of permits authorizing discharges to the waters of the state.

Steep Slope – means land area with a Soil Slope Phase that is identified as an E or F, or the map unit name is inclusive of 25% or greater slope, on the United States Department of Agriculture ("USDA") Soil Survey for the County where the disturbance will occur.

Surface Waters of the State - shall be construed to include lakes, bays, sounds, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Atlantic ocean within the territorial seas of the state of New York and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, public or private (except those private waters that do not combine or effect a junction with natural surface waters), which are wholly or partially within or bordering the state or within its jurisdiction. Waters of the state are further defined in 6 NYCRR Parts 800 to 941.

Temporarily Ceased – means that an existing disturbed area will not be disturbed again

within 14 calendar days of the previous soil disturbance.

Temporary Stabilization - means that exposed soil has been covered with material(s) as set forth in the technical standard, New York Standards and Specifications for Erosion and Sediment Control, to prevent the exposed soil from eroding. The materials can include, but are not limited to, mulch, seed and mulch, and erosion control mats (e.g. jute twisted yarn, excelsior wood fiber mats).

Total Maximum Daily Loads (TMDLs) - A TMDL is the sum of the allowable loads of a single pollutant from all contributing point and nonpoint sources. It is a calculation of the maximum amount of a pollutant that a waterbody can receive on a daily basis and still meet *water quality standards*, and an allocation of that amount to the pollutant's sources. A TMDL stipulates wasteload allocations (WLAs) for point source discharges, load allocations (LAs) for nonpoint sources, and a margin of safety (MOS).

Trained Contractor - means an employee from the contracting (construction) company, identified in Part III.A.6., that has received four (4) hours of Department endorsed training in proper erosion and sediment control principles from a Soil and Water Conservation District, or other Department endorsed entity. After receiving the initial training, the *trained contractor* shall receive four (4) hours of training every three (3) years.

It can also mean an employee from the contracting (construction) company, identified in Part III.A.6., that meets the *qualified inspector* qualifications (e.g. licensed Professional Engineer, Certified Professional in Erosion and Sediment Control (CPESC), Registered Landscape Architect, or someone working under the direct supervision of, and at the same company as, the licensed Professional Engineer or Registered Landscape Architect, provided they have received four (4) hours of Department endorsed training in proper erosion and sediment control principles from a Soil and Water Conservation District, or other Department endorsed entity).

The *trained contractor* is responsible for the day to day implementation of the SWPPP.

Uniform Procedures Act (UPA) Permit - means a permit required under 6 NYCRR Part 621 of the Environmental Conservation Law (ECL), Article 70.

Water Quality Standard - means such measures of purity or quality for any waters in relation to their reasonable and necessary use as promulgated in 6 NYCRR Part 700 et seq.

APPENDIX B

Region 4 Stormwater Contact

Regional Water Engineer
NYS DEC
Office of Environmental Quality
1130 North Westcott Road
Schenectady, NY 12306-2014
Tel: 518-357-2045

Region 3 Stormwater Contact

Regional Water Engineer
NYS DEC
Office of Environmental Quality
100 Hillside Avenue, Suite 1W
White Plains, NY 10603
Tel: 914-428-2505