



pennsylvania

DEPARTMENT OF ENVIRONMENTAL PROTECTION

SOUTHEAST REGIONAL OFFICE

JUN 07 2011

Mr. Joseph Blazano
Eastern Metal Recycling Terminal, LLC
1500 South 6th Street
Camden, NJ 08104

Re: Water Obstruction and Encroachment
Permit No. E23-488
Eastern Metal Recycling Terminal
APS No. 730706, AUTH No. 850224
Eddystone Borough
Delaware County

Dear Mr. Blazano:

Enclosed is your State Water Obstruction and Encroachment Permit. Please review the permit so that you are aware of the extent of authorization and the conditions that apply.

Please be advised this permit does not have Federal authorization for this project and such authorization is required prior to starting your project. We encourage you to contact the U.S. Army Corps of Engineers, 215.656.6728, concerning any Federal permits or approvals you may also need.

Prior to the commencement of construction, the enclosed *Acknowledgment of Appraisal of Permit Conditions* must be completed and signed by the permittee and an individual responsible for the supervision or control of the construction work acknowledging and accepting the general and special conditions, if any, contained in the permit. Unless the signed *Acknowledgment of Appraisal of Permit Conditions* is submitted to this office, the permit is void.

Also, a copy of both the permit and the *Acknowledgment of Appraisal of Permit Conditions* must be available at the work site for inspection upon request by any officer or agent of the Department or any other Federal, State, County, and Municipal agency.

Finally, the Completion Report form must be signed by you and the supervising engineer indicating that the work has been completed as approved. The Completion Report must be submitted to this office within 30 days of the completion of the approved project.

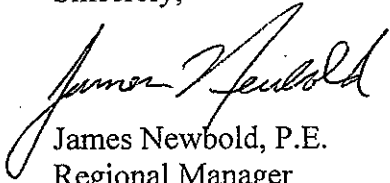
JUN 07 2011

Mr. Joseph Blazano

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If you have any questions concerning this matter, please call Mr. Abdel Nassani at the phone number located in the first page footer.

Sincerely,



James Newbold, P.E.
Regional Manager
Watershed Management

Enclosure

cc: U.S. Army Corps of Engineers
Mr. Pringle - Hudson Engineers, Inc.
Mr. Nassani
Mr. Brown
Re 30 (GJS10)340-7a

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
WATERSHED MANAGEMENT PROGRAM

WATER OBSTRUCTION AND ENCROACHMENT PERMIT

The Department of Environmental Protection ("Department"), established by the Act of December 3, 1970, P.L. 834 (71 P.S. §§ 510-1 et seq.) and empowered to exercise certain powers and perform certain duties under and by virtue of the Act of November 26, 1978, P.L. 1375, as amended by the Act of October 23, 1979, P.L. 204 (32 P.S. §§ 693.1 et seq.) known as the "Dam Safety and Encroachments Act"; Act of October 4, 1978, P.L. 851 (32 P.S. §§ 679.101 et seq.) known as the "Flood Plain Management Act"; Act of June 22, 1937, P.L. 1987 (35 P.S. §§ 691.1 et seq.) known as the "Clean Streams Law"; and the Administrative Code, Act of April 9, 1929, P.L. 177, as amended, which empowers the Department to exercise certain powers and perform certain duties by law vested in and imposed upon the Water Supply Commission of Pennsylvania and the Water and Power Resources Board, hereby issues this permit to:

**Eastern Metal Recycling Terminal, LLC
1500 South 6th Street
Camden, NJ 08104**

giving its consent to construct and maintain four stormwater outfall structures which varies between 38 inches to 48 inches in diameter in and along the Delaware River associated with the redevelopment of the former Foamex site. The site is located near the intersection of Saville Avenue and 2nd Street in Eddystone Borough, Delaware County (Bridgeport, NJ-PA, USGS Quadrangle N:3.75 inches, W:1.75 inches).

The issuance of this permit also constitutes approval of a Water Quality Certification under Section 401 of the Federal Water Pollution Control Act [33 U.S.C.A. 1341(a)].

If this work is not completed on or before the **31st** day of **December** A.D. **2013**, this permit, if not previously revoked or specifically extended by the Department, in writing, shall become void without further notification.

This permit is issued in response to an application filed with the Department on the **23rd** day of **September** A.D. **2010**, and with the understanding that the work shall be performed in accordance with the maps, plans, profiles, and specifications filed with and made a part of the application on **October 18, 2010**, subject, however, to the provisions of the Dam Safety and Encroachments Act, the Flood Plain Management Act, the Clean Streams Law, the Administrative Code, the rules and regulations promulgated thereunder and the following conditions and restrictions:

1. The permittee shall complete and sign the *Acknowledgment of Appraisal of Permit Conditions* form thereby expressly certifying the permittee's acceptance of, and agreement to comply with, the terms and conditions of the permit. The permittee shall return a signed copy of the form to the Department. The permit will not be effective until the signed copy of the form is received by the Department.

2. The Department, in issuing this permit, has relied on the information and data which the permittee has provided in connection with his permit application. If, subsequent to the issuance of this permit, such information and data prove to be false, incomplete or inaccurate, this permit may be modified, suspended, or revoked, in whole or in part, and the Department may, in addition, institute appropriate legal proceedings.

3. This permit does not give any property rights, either in real estate or material, nor any exclusive privileges, nor shall it be construed to grant or confer any right, title, easement, or interest in, to, or over any land belonging to the Commonwealth of Pennsylvania; neither does it authorize any injury to private property or invasion of private rights, nor any infringement of Federal, State, or Local laws or regulations; nor does it obviate the necessity of obtaining Federal assent when necessary.

4. The work shall, at all times, be subject to supervision and inspection by representatives of the Department, and no changes in the maps, plans, profiles, and specifications as approved shall be made except with the written consent of the Department. The Department, however, reserves the right to require such changes or modifications in the maps, plans, profiles, and specifications as may be considered necessary. The Department further reserves the right to suspend or revoke this permit if in its opinion the best interest of the Commonwealth will be subserved thereby.

5. This permit authorizes the construction, operation, maintenance, and normal repair of the permitted structures conducted within the original specifications for the water obstruction or encroachment, and in accordance with the regulations of the Department and terms and conditions of this permit. Any repairs or maintenance involving modifications of the water obstruction or encroachment from its original specifications, and any repairs or reconstruction involving a substantial portion of the structure as defined by regulations of the Department shall require the prior written approval and permit of the Department.

6. Waste materials, scrap, or excess construction materials may not be disposed of in any watercourse, floodway or body of water, but shall be collected, stored, and disposed of in accordance with the Solid Waste Management Act (35 P.S. §§ 6018.101-6018.1003), the Municipal Waste, Planning, Recycling and Waste Reduction Act (53 P.S. §§ 4000.101-4000.1904), the Clean Streams Law (35 P.S. §§ 691.1-691.1001) and related rules and regulations.

7. There shall be no unreasonable interference with the free discharge of the river or stream or navigation during construction.

8. If, in the future, the Department determines that the water obstruction or encroachment causes unreasonable obstruction to the free passage of floodwaters or navigation, the permittee shall, upon due notice remove or alter the water obstruction or encroachment, without expense to the Commonwealth of Pennsylvania, so as to increase the flood carrying capacity of the channel or render navigation reasonably free, easy, and unobstructed, in such manner as the Department may require. No claim shall be made against the Commonwealth of Pennsylvania on account of any such removal or alteration.

9. The permittee shall notify the Department, in writing, of the proposed time for commencement of work at least 15 days prior to the commencement of construction.

10. If construction work has not been completed within the time specified in the permit and the time limit specified in the permit has not been extended, in writing, by the Department or if a permit has been revoked for any reason, the permittee shall, at his own expense and in a manner that the Department may prescribe, remove all or any portion of the work as the Department requires and restore the water course and floodplain to their former condition.

11. The permittee shall fully inform the engineer or contractor, responsible for the supervision and conduct of work, of the terms, conditions, restrictions, and covenants of this permit. Prior to the commencement of construction, the permittee shall file with the Department in writing, on a form provided by the Department, a statement signed by the permittee and an individual responsible for the supervision or conduct of the construction work acknowledging and accepting the general and special conditions contained in the permit. Unless the acknowledgment and acceptance have been filed, the permit is void. A copy of the permit and the acknowledgment shall be available at the work site for inspection upon request by an officer or agent of the Department or another Federal, State, County, or Municipal Agency.

12. The permittee shall operate and maintain the structure or work authorized herein in a safe condition in accordance with the permit terms and conditions and the approved maps, plans, profiles, and specifications.

13. This permit may not be transferred without prior written approval from the Department, such approval being considered upon receipt of the properly executed "Application of Transfer of Permit" form.

14. If and when the permittee desires to discontinue use or abandon the activity authorized herein, he must remove all or part of the structure or work authorized and take other actions as are necessary to protect safety and the environment in accordance with a permit issued by the Department.

15. If the use of explosives in any waterways is required, the permittee shall secure the prior written permit from the Pennsylvania Fish and Boat Commission, pursuant to the Pennsylvania Fish and Boat Code, Act 1980-175 Title 30 Pennsylvania Consolidated Statutes, Section 2906. Requests should be directed to the Pennsylvania Fish and Boat Commission, Division of Environmental Services, 450 Robinson Lane, Bellefonte, Pennsylvania 16823-9616, Telephone: 814.359.5140.

16. Permittee shall implement and monitor the Erosion and Sedimentation Control Plan prepared in accordance with Chapter 102, so as to minimize erosion and prevent excessive sedimentation into the receiving watercourse or body of water.

17. The project site shall, at all times, be available for inspection by authorized officers and employees of the Pennsylvania Fish and Boat Commission. Prior to commencement and upon completion of the work authorized by this permit, the permittee shall notify the Pennsylvania Fish and Boat Commission's Southeast Regional Office, P.O. Box 8, Elm, Pennsylvania 17521, Telephone: 717.626.0228.

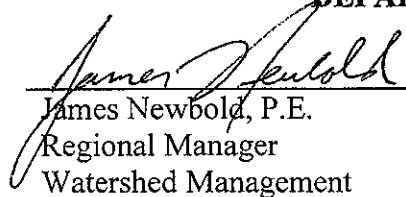
18. The project site shall, at all times, be available for inspection by authorized officers and employees of the County Conservation District. Prior to commencement and upon completion of the work authorized by this permit, the permittee shall notify the following:

Delaware County Conservation District
Rose Tree Park Hunt Club
1521 North Providence Road
Media, PA 19063
Telephone: 610.892.9484

SPECIAL CONDITIONS

- A. The permittee shall not conduct any earth disturbance activities within the Submerged Lands of the Commonwealth prior to receiving an approved copy of their Submerged Lands License Agreement from the Department.

DEPARTMENT OF ENVIRONMENTAL PROTECTION


James Newbold, P.E.
Regional Manager
Watershed Management

JUN 07 2011

Issue Date

cc: Mr. Nassani
Mr. Brown
Re 30 (GJS10)340-7

LICENSE AGREEMENT (Commercial)

DEP File No. E23-488

THIS AGREEMENT made this 26th day of May, 20 11, between the Commonwealth of Pennsylvania Department of Environmental Protection, hereinafter referred to as "Department", and

- A. _____, a corporation incorporated under the laws of the State of _____; or
- B. _____, a partnership; or
- C. _____, an individual; or
- D. Eastern Metal Recycling Terminal LLC, (other);

with its principal place of business at 1500 South 6th Street, P.O. Box 496 Camden, NJ 08104, hereinafter referred to as "Licensee".

WHEREAS, Department is authorized by the Act of November 26, 1978 (P.L. 1375, No. 325), as amended, to grant, with the approval of the Governor, licenses to occupy submerged lands of the Commonwealth on such terms and conditions as the Department shall prescribe, for the purposes set forth in said Act;

WHEREAS, Department is also authorized by said Act 325, as amended, to issue permits for the construction, operation, maintenance, modification, enlargement or abandonment of dams, water obstructions and encroachments; prior permits issued in compliance with the Act of June 8, 1907 (P.L. 496, No. 322) and the Act of June 25, 1913 (P.L. 555, No. 355) being deemed to comply with the requirements of said Act 325, as amended, and any and all said permits being the only permits referred to hereinafter;

WHEREAS, Licensee has the right to occupy riparian land abutting the Delaware River in Eddystone Borough, Delaware County, Pennsylvania;

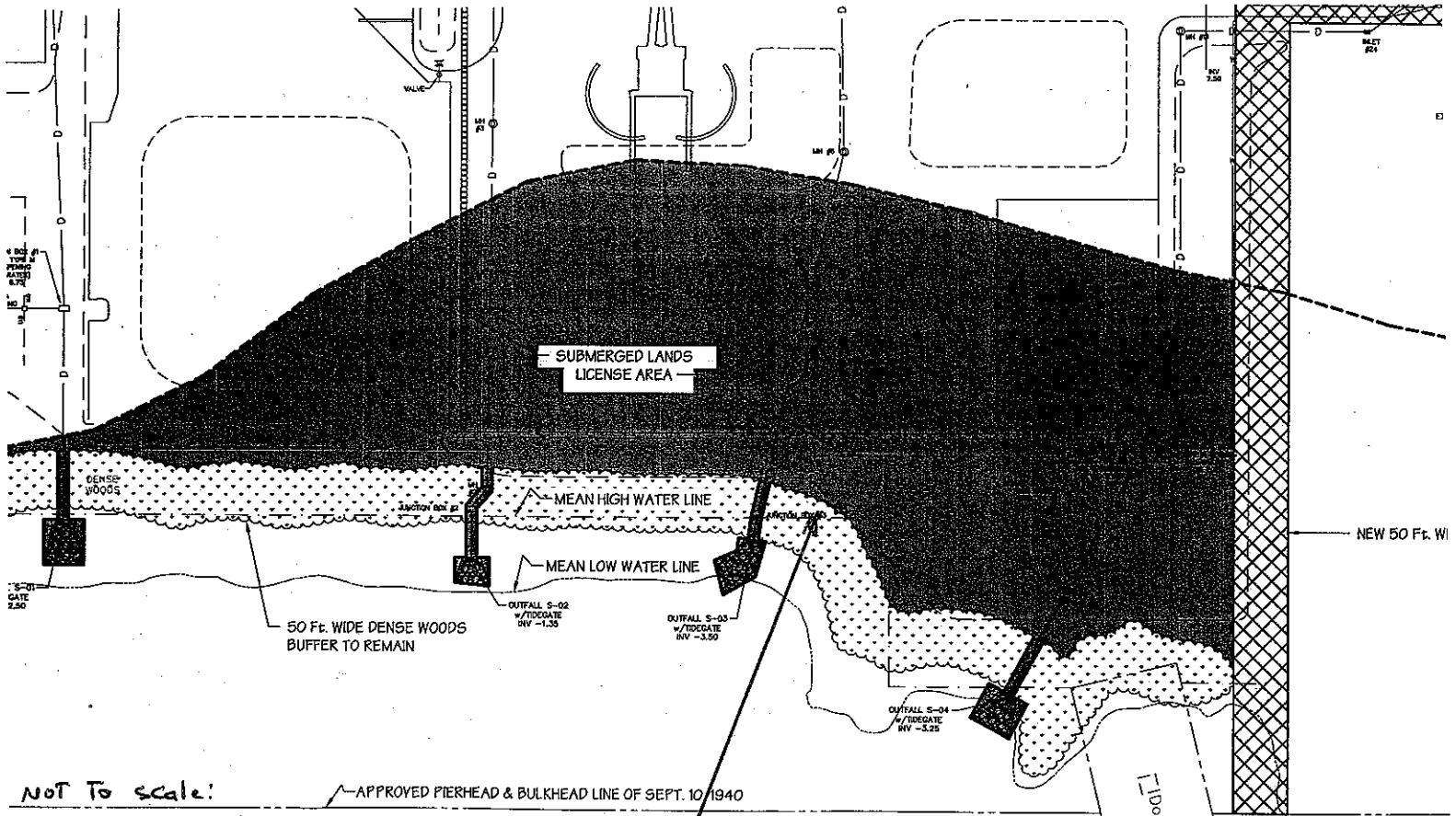
WHEREAS, Licensee's business on said riparian land requires a license to occupy submerged lands of the Commonwealth in the bed of said Stream below normal pool elevation or low water mark, as the case may be, adjacent to said riparian land in order to construct, repair, replace, operate, maintain and remove mooring pilings and other necessary encroachments and obstructions associated with its business, in accordance with the approved plans and specifications contained in Permit Application No. E23-488 and in any prior or future permit(s) for dams, water obstructions and encroachments within the premises licensed herein, referred to hereinafter as "Licensee's facilities"; and

WHEREAS, Licensee's facilities are for the purpose of (check as appropriate):

- improving navigation or public transportation;
- recreation, fishing or other public trust purposes;
- protecting public safety or the environment;
- providing water supply, energy production or waste treatment;
- other activities which require access to water;

NOW, THEREFORE, Department, in consideration of the foregoing, and the payments of Licensee of monies as hereinafter written, and the agreements, undertakings and conditions hereinafter contained, hereby grants to Licensee a license to occupy submerged lands of the Commonwealth adjacent to Licensee's riparian land for the purpose(s) set forth in paragraph(s) A below, in accordance with the approved plans and specifications contained in Permit Application No. E23-488 and in any prior or future permit(s) for dams, water obstructions and encroachments within the premises licensed herein:

- A. To construct, repair, replace, operate, maintain and remove Licensee's facilities within premises referred to herein as the "Facilities Area", occupying approximately 7.0 acres (to the nearest tenth of an acre) of submerged land owned by the Commonwealth in the aforesaid Stream, Municipality and County, the location of which Facilities Area is:
 - shown as the "Facilities Area" on the map or plan attached hereto and made a part hereof; or
 - described by metes and bounds as attached hereto and made a part hereof.



"Facilities Area"
 $336' \times 845' \approx 283920 \text{ SF}$
 Say $\approx 7.0 \text{ ACRES}$

The Fees:

$$\$50 \times 10 \times 7.0 = \$3500$$

KEY



FACILITIES AREA
(283,837 Sq. Ft.) or (6.52 ACRES)

REFERENCE DRAWINGS:

PLAN TITLE: "ALTA/ACSM (2005) LAND TITLE SURVEY,
FOAMEX L.P., 1500 EAST SECOND STREET,
PARCEL #18-05-006-000 & #18-04-308-000,
BOROUGH OF EDDYSTONE, DELAWARE COUNTY, PENNSYLVANIA
DRAWING No. 369_03070_SUR, SHEET 1 OF 1, DATED OCTOBER 2, 2009
BY TAYLOR WISEMAN TAYLOR OF MOUNT LAUREL, NEW JERSEY.

PLAN TITLE: "CAMDEN IRON & METAL, EDDYSTONE SITE,
DELAWARE COUNTY, PENNSYLVANIA,
CONCEPTUAL PLAN, OPTION 2"
FILE: FOAMEX LP FACILITY, SHEET 2 OF 2, DATED 11/10/09,
BY JANNOTTI RAIL CONSULTING, INC. OF RUSSELL, PA.

PLAN TITLE: "LAND DEVELOPMENT UTILITY PLAN
EASTERN METAL RECYCLING TERMINAL, LLC
BOROUGH OF EDDYSTONE, DELAWARE COUNTY, PA."
DRAWING No. 85061, SHEET C-5.0, DATED 3-17-10
BY CATANIA ENGINEERING ASSOCIATES, INC.

PERMIT APPLICATION

NOTE: FINAL DESIGN REQUIRED FOR CONSTRUCTION, AND
THIS DRAWING IS FOR PERMITTING PURPOSES ONLY

PROPOSED:

SUBMERGED LANDS LICENSE

AT:

Borough of Eddystone, Pa.

COUNTY OF:

Delaware County

APPLICATION BY:

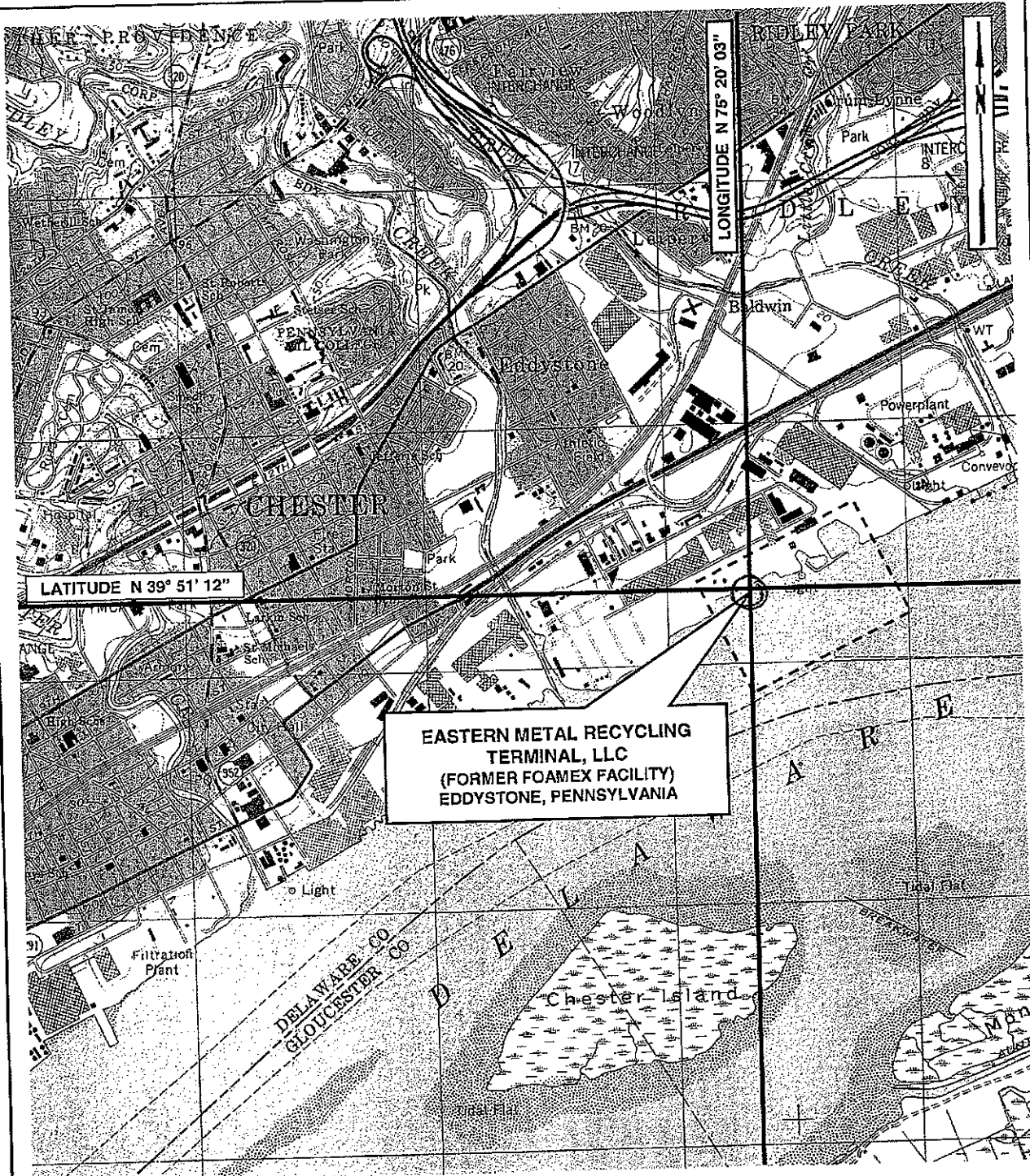
Eastern Metal Recycling Terminal, LLC

S.T. HUDSON ENGINEERS,
PROFESSIONAL ENGINEERS & CONSULTANTS

840 Cooper
Fourth



DATE: 11-10-09
BY: [Signature]



**EASTERN METAL RECYCLING
 TERMINAL, LLC
 (FORMER FOAMEX FACILITY)
 EDDYSTONE, PENNSYLVANIA**

PROJECT SITE LOCATION MAP
 UNITED STATES GEOLOGIC SURVEY QUADRANGLE
 BRIDGEPORT, NEW JERSEY - PENNSYLVANIA
 SCALE 1:24000

H-6517-07

B. To occupy for the mooring of vessels at Licensee's facilities, within premises, referred to herein as the "Mooring Area", occupying approximately _____ acres (to the nearest tenth of an acre) of submerged land owned by the Commonwealth in the aforesaid Stream, Municipality and County, the location of which Mooring Area is:

shown as the "Mooring Area" on the map or plan attached hereto and made a part hereof; or

described by metes and bounds as attached hereto and made a part hereof.

The total Facilities Area and Mooring Area being referred to herein as "Licensed Premises";

C. To dredge for construction and normal operation and maintenance within the Licensed Premises; provided that this license grants no right to dredge, excavate, remove and carry away any merchantable sand, gravel or other minerals, such activities being subject to the payment of a royalty pursuant to Sections 468(d) and 1908-A(3) of the Administrative Code of 1929, as amended.

In consideration whereof, and intending to be legally bound hereby, Licensee agrees as follows:

1. The current schedule of annual fees for Licensed Premises is as follows:
 - a. An annual fee of fifty (\$50.00) per tenth of an acre for premises licensed as "Facilities Area", and ten dollars (\$10.00) per tenth of an acre for premises licensed as "Mooring Area", with a minimum annual fee for Licensed Premises of two hundred fifty dollars (\$250.00).

Therefore, Licensee, upon the execution of this Agreement, shall pay to the Commonwealth the sum of three thousand five hundred dollars (\$3500.00). The annual fees imposed herein may be revised upon notice from the Department to the Licensee consistent with applicable law. However, until notified otherwise, Licensee shall pay to the Commonwealth the sum of three thousand five hundred dollars (\$3500.00) by the first day of June, 2012, and so on by each succeeding first day of June. The annual fees shall be payable to the Commonwealth at Department's offices in Harrisburg.

2. In the event a substantial portion of any of Licensee's facilities shall be permanently discontinued or abandoned by Licensee or any of Licensee's permits issued under or complying with Act 325, as amended, or Licensee's facilities be terminated, then this Agreement, at the option of Licensee or Department shall be modified to reflect the changed conditions. Modification may include termination where the use of Licensee's facilities is essentially permanently discontinued or abandoned by Licensee or where essentially all of Licensee's permits issued under or complying with Act 325, as amended, for Licensee's facilities be terminated.

3. Department, in addition to all other rights of termination it may have as set forth herein or generally for breach of any of the conditions, promises, agreements and undertakings by Licensee, shall also have the right to terminate this Agreement upon six (6) months written notice, whenever the Department reasonably believes that the license has become derogatory or inimical to the public interest, fails to serve the best interests of the Commonwealth or hinders a higher public use of the Licensed Premises. Such written notice shall specify the basis for the proposed termination. Termination shall become effective six (6) months after date of notice unless Licensee, within thirty (30) days after such notice, shall request in writing a hearing on the termination issue. In such hearing, due regard shall be given also to the interests of the public as served by Licensee's facilities.

If the Department, following such hearing, determines that the license has become derogatory or inimical to the public interest or fails to serve the best interests of the Commonwealth, or hinders a higher public use of Licensed Premises, then such determination and supporting facts therefor shall be mailed to Licensee. Within thirty (30) days after such determination is mailed, Licensee may appeal therefrom to the appropriate court. Termination shall be effective when the last appeal is finally heard and determined.

4. Licensee shall have the right to terminate this Agreement at any time by written notice to the Secretary of Department.

5. Should termination of this Agreement occur as of a date not falling on the first day of June, then the annual fee payable in advance for the remaining period or the sum refundable, as the case may be, shall be prorated in the ratio that the remaining period from the first day of June, bears to a year.

6. If this Agreement is terminated by operation of this Agreement or by the Department, such termination shall be confirmed by letter from the Secretary of the Department or his designee to the Licensee at the address shown above, or if termination is by Licensee, by letter from Licensee to the Secretary of the Department, at his office in Harrisburg, Pennsylvania. The letter of termination shall be acknowledged and, if this Agreement is recorded, shall likewise be recorded in the County in which this Agreement is recorded.

7. This Agreement does not supersede or waive the provisions of any Federal or Commonwealth statute, regulation or permit relevant to Licensee's operation or maintenance of its facilities. Licensee, its successors and assigns, shall at all times during the existence of this Agreement comply with all statutes, regulations and permits relevant thereto.

8. Licensee shall at all times save harmless and defend the Commonwealth, its officers and employees, from and against all losses, damages, expenses, claims, demands, suits and actions arising out of, or caused in any manner by the use of Licensed Premises by Licensee, and shall compensate the Commonwealth for any damage to it at any time resulting from the use of Licensed Premises by Licensee; provided, however, that this paragraph shall not apply to or affect any claims, demands, suits or actions by or on behalf of officers, employees, servants or

agents of the Commonwealth, or their dependents, based upon workmen's compensation or similar statutory benefits. The Department shall, at Licensee's expense, provide Licensee with such assistance as Licensee may reasonably request in writing in the defense of any claim, demand, suit or action which Licensee assumes hereunder.

9. Should Licensee default in the performance of any of the provisions of this Agreement, and such default continue or remain uncured, unsettled, unappealed or unstayed by a court of competent jurisdiction for sixty (60) days after receipt by Licensee of written notice from Department of such default, then this license shall terminate and be of no further effect; provided, however, that if Licensee has commenced substantially to cure said default within the sixty (60) day period and diligently continues such action to completion, this shall not be an event of default and Department may not terminate this license.

10. In the event this license terminates or is terminated by reason of any provision of this Agreement, or for any other reason, Licensee shall at its cost remove Licensee's facilities from Licensed Premises within such time and in such manner as Department may reasonably direct. Should Licensee fail to remove all Licensee's facilities from Licensed Premises within one (1) year after notice by Department to do so, Department may remove the same, and Licensee shall pay the costs of such removal. Notwithstanding anything to the contrary herein, Licensee shall have a period of one (1) year from the date of effective termination of the license within which to remove its facilities from Licensed Premises.

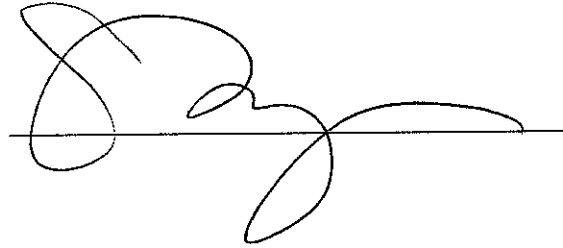
11. Licensee shall at all times perform under this Agreement in such manner as to minimize or prevent polluting the environment. Licensee shall be liable and responsible to the Commonwealth as provided by law for any pollution or other damage to any portion of the environment in or adjacent to Licensed Premises which occurs as a result or consequence of Licensee's occupation and use thereof, irrespective of whether or not such pollution or damage be due to negligence or in the inherent nature of Licensee's operations, unless the pollution or damage is the proximate result or consequence of an independent intervening cause or of force majeure. The burden of proving such independent intervening cause or force majeure shall be on Licensee. Any action for civil damages on account of such pollution brought by Department against Licensee shall not bar Department from bringing other actions under the Clean Streams Law or other pertinent law, rule, or regulation of the Commonwealth. It is understood and agreed that it is not the intention herein to impose any greater duty upon Licensee than is otherwise provided by statutory and Common law.

12. This Agreement shall be binding upon the parties, their heirs, legal representatives, successors and assigns, but shall not be assignable or transferable by Licensee without the prior written approval of the Department, which shall not be unreasonably withheld.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized officials as of the date first above written.

SIGNATURES

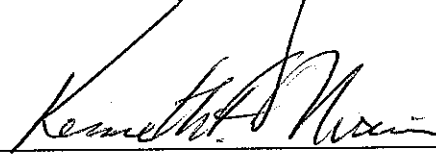
ATTEST:



A large, stylized handwritten signature in black ink, written over a horizontal line.

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL PROTECTION

By



A handwritten signature in black ink, appearing to read "Kenneth H. Nixon", written over a horizontal line.

CHIEF

DIVISION OF WATERWAYS, WETLANDS AND
STORMWATER MANAGEMENT
BUREAU OF WATERSHED MANAGEMENT

Eastern Metal Recycling Terminal LLC
Licensee's Business Name

(When Licensee is a corporation):

ATTEST:

Secretary/Treasurer

By



A handwritten signature in black ink, written over a horizontal line.

President/Vice-President
Manager Am for SB

(Corporate Seal)

(When Licensee is a partnership):

Witness

By _____
Partner's Signature

Witness

By _____
Partner's Signature

Witness

By _____
Partner's Signature

Witness

By _____
Partner's Signature

(When Licensee is an individual):

Witness


By _____
Licensee's Signature

APPROVED:

By 
Governor, Commonwealth of Pennsylvania

Approved as to legality and form:

Pre-Approved
Office of Attorney General


Chief/Assistant Counsel
Department of Environmental Protection