

**NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION**

Division of Environmental Permits, Region 9  
182 East Union, Suite 3, Allegany, NY 14706-1328  
P: (716) 372-0645 | F: (716) 372-2113  
www.dec.ny.gov

May 22, 2020

Mr. Daniel Bree  
Sealand Waste, LLC  
85 High Tech Drive  
Rush, New York 14543

Dear Permittee:

**PERMIT TRANSMITTAL LETTER  
Carroll C&D Management Facility  
Town of Carroll, Chautauqua County  
Stream Disturbance ID No. 9-0624-00025/00011  
Water Quality Certification ID No. 9-0624-00025/00007**

Enclosed is your permit which was issued in accordance with applicable provisions of the Environmental Conservation Law. The permit is valid for only that project, activity or operation expressly authorized. If modifications are desired after permit issuance, you must submit the proposed revisions and receive written approval from the Permit Administrator prior to initiating any change. If the Department determines that the modification represents a material change in the scope of the authorized project, activity, operation or permit conditions, you will be required to submit a new application for permit.

The permittee shall file with the Regional Permit Administrator, a Notice of Intent to Commence Work at least **48** hours in advance of the time of commencement and shall notify the Regional Permit Administrator of completion of work.

**PLEASE REVIEW ALL PERMIT CONDITIONS CAREFULLY. IN PARTICULAR, IDENTIFY YOUR INITIAL RESPONSIBILITIES UNDER THIS PERMIT IN ORDER TO ASSURE TIMELY ACTION IF REQUIRED. SINCE FAILURE TO COMPLY PRECISELY WITH PERMIT CONDITIONS MAY BE TREATED AS A VIOLATION OF THE ENVIRONMENTAL CONSERVATION LAW, YOU ARE REQUESTED TO PROVIDE A COPY OF THE PERMIT TO THE PROJECT CONTRACTOR, FACILITY OPERATOR, AND OTHER PERSONS DIRECTLY RESPONSIBLE FOR PERMIT IMPLEMENTATION (IF ANY).**

If you have any questions, please contact this office at the above address.

Respectfully,  
Charles D. Cranston  
Deputy Regional Permit Administrator

Enclosures



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***NOTICE OF INTENT TO COMMENCE WORK***

Date: \_\_\_\_\_, 20\_\_

**Mail, Fax (716) 372-2113 or e-mail [dep.r9@dec.ny.gov](mailto:dep.r9@dec.ny.gov)  
this completed form TO:**

**Permit Administrator  
NYSDEC  
Division of Environmental Permits  
182 East Union Suite 3  
Allegany, NY 14706-1328**

**DEC Permit ID 9-0624-00025/00011  
Carroll C&D Management Facility  
Storehouse Run/Wetland Mitigation  
Town of Carroll, Chautauqua County**

I hereby serve notice to commence work on or about \_\_\_\_\_, 20\_\_.  
Notice of project completion will be submitted within one week after termination of all work.

This is also to certify that having read in entirety the permit, I am fully aware of and understand the permit conditions and agree to comply in all respects to those requirements. I further understand that prior to undertaking any modification to the authorized project, I must seek and receive the written approval of the Regional Permit Administrator.

Sincerely,

**WARNING**

**The permittee and his/her contractor (if any) are required to follow all Permit conditions**

**Violation of permit conditions may lead to legal action including the imposition of substantial monetary fines and corrective work.**

\_\_\_\_\_  
Signature of Permittee

\_\_\_\_\_  
Signature of Permittee

\_\_\_\_\_  
Signature of Contractor (if any)

\_\_\_\_\_  
Print Contractor's Name

\_\_\_\_\_  
Contractor's Address

\_\_\_\_\_  
Contractor's Telephone #





**PERMIT**  
**Under the Environmental Conservation Law (ECL)**

**Permittee and Facility Information**

**Permit Issued To:**  
SEALAND WASTE LLC  
85 HIGH TECH DR  
RUSH, NY 14543  
(585) 359-9242

**Facility:**  
CARROLL C & D MANAGEMENT FACILITY  
309 Dodge Rd  
Frewsburg, NY 14738

**Facility Location:** in CARROLL in CHAUTAUQUA COUNTY

**Facility Principal Reference Point:** NYTM-E: 161.685270291032      NYTM-N:  
4659.44396356595

Latitude: 42°00'51.5" Longitude: 79°05'08.2"

**Authorized Activity:** The project involves construction of a 34.9 acre C&D landfill and associated amenities at the facility location listed above. Construction of the landfill facility will impact: 5.76 acres of federally jurisdictional wetland; and 2,844 linear feet of federally jurisdictional intermittent drainageway. Construction of the landfill will also include construction of stormwater management discharge structures to Storehouse Run (a.k.a Dodge Creek) and its on-site tributary. To compensate for wetland losses, the permittee will restore and create 13.18 acres of forested, shrub swamp, and emergent wetland on property it owns located in the Town of Ellington (28<sup>th</sup> Creek Road Mitigation Site), along with the preservation of 7.11 acres of existing wetland at this location; and to compensate for the drainageway losses, onsite mitigation consists of creation of a 900 foot long, high value stream/riparian area ecosystem, restoration and enhancement of 160 linear feet of Storehouse Run and 200 linear feet of its tributary, along with enhancing and preserving 1,233 linear feet of intermittent drainageway at the mitigation site.

**Permit Authorizations**

**Water Quality Certification - Under Section 401 - Clean Water Act**

Permit ID 9-0624-00025/00007

New Permit

Effective Date: 5/22/2020

Expiration Date: 5/21/2025

**Stream Disturbance - Under Article 15, Title 5**

Permit ID 9-0624-00025/00011

New Permit

Effective Date: 5/22/2020

Expiration Date: 5/21/2025



**NYSDEC Approval**

**By acceptance of this permit, the permittee agrees that the permit is contingent upon strict compliance with the ECL, all applicable regulations, and all conditions included as part of this permit.**

Permit Administrator: CHARLES D CRANSTON, Deputy Regional Permit Administrator  
Address: NYSDEC Region 9 Allegany Sub-Office  
182 E Union St - Ste 3  
Allegany, NY 14706 -1328

Authorized Signature: Charles D. Cranston Date 5/22/2020

**Distribution List**

NYSDEC Reg. 9 Division of Law Enforcement  
Justin Brewer, NYSDEC Bureau of Fisheries  
Joseph Rowley, USACOE, Buffalo District  
Town of Carroll  
Daigler Engineering, P.C.

**Permit Components**

- NATURAL RESOURCE PERMIT CONDITIONS
- WATER QUALITY CERTIFICATION SPECIFIC CONDITION
- GENERAL CONDITIONS, APPLY TO ALL AUTHORIZED PERMITS
- NOTIFICATION OF OTHER PERMITTEE OBLIGATIONS

**NATURAL RESOURCE PERMIT CONDITIONS - Apply to the Following Permits: WATER QUALITY CERTIFICATION; STREAM DISTURBANCE**

**1. Conformance With Plans** All activities authorized by this permit must be in strict conformance with the approved plans submitted by the applicant or applicant's agent as part of the permit application. Such approved plans were prepared by Daigler Engineering, P.C., consisting of: Wetland and Drainageway Mitigation Plan, dated August 2016; and Application for 6NYCRR Part 608 Protection of Waters Permit, Revised dated July 2016.

**2. Conditions Prevail Over Plans** If any condition of this permit conflicts with the approved plans, the permit condition shall prevail over the plans.



- 3. Permission to Construct** The permittee shall not begin operation of any phase of the C&D Landfill, C&D Processing Operation or Yard Waste Composting, or accept any waste at the facility otherwise authorized by this permit until thirty (30) calendar days after the United States Army Corps of Engineers issues a permit authorizing disturbance of the identified federally regulated wetlands and waters of the United States, and a Water Quality Certification has been issued by this Department. Site preparation activities, however, may commence upon issuance of this permit but such activities shall not disturb or impact in any way the federally regulated wetlands or waters of the United States at or near the permitted facility.
- 4. Notice of Intent to Commence Work** The permittee shall submit a Notice of Intent to Commence Work to the Regional Permit Administrator listed on page 1 of the permit (form enclosed) at least 48 hours in advance of the time of commencement and shall also notify them promptly in writing of the completion of work.
- 5. Mitigation Work** The permittee must undertake and complete the mitigation work specified in plans and reports entitled Wetland and Drainageway Mitigation Plan, prepared by Daigler Engineering, P.C., dated August 2016, and in accordance with approvals issued by the U.S. Army Corps of Engineers.
- 6. Storehouse Run and Tributary Work Prohibition Period** No work shall occur during high water conditions. Construction activities in or on stream banks of Storehouse Run and/or its tributaries, including activities that involve disturbance of vegetation or soils which could cause turbidity in these streams, are prohibited from September 15th through May 31st.
- 7. Siltation Prevention Measures** Siltation prevention measures, such as silt fencing, sediment traps or settling basins, shall be installed and maintained during the project, to prevent movement of silt and turbid waters from the project site into any watercourse, stream, water body or wetland.
- 8. Install Erosion Controls Prior to Work** No site preparation work shall be undertaken until all required erosion control measures have been installed.
- 9. Storage of Materials** Soil and/or excavated materials may not be stored on top of stream banks, where materials could erode into the stream or cause the bank to collapse.
- 10. Dewater Fish Habitat Structure** All work associated with the trench pool/fish habitat structure shall be done by first dewatering the work area.
- 11. No Turbidity From Cofferdam Construction** The temporary cofferdam shall be constructed as to not contribute turbidity or siltation to Storehouse Run.
- 12. Maintain Water Flow During Work** During periods of work activity, sufficient flow of water shall be maintained at all times to sustain aquatic life downstream.
- 13. Turbid Discharges** Visibly turbid discharges from land clearing, grading or excavation activities, or de-watering operations, shall not enter Storehouse Run, Storehouse Run tributaries, or the on-site wetlands which are to be preserved during the construction of the landfill.
- 14. Water Clarity** Stream reaches downstream of construction areas shall always remain as clear (non-turbid) as the reaches upstream of the construction areas.



**15. Concrete and Concrete Leachate** During construction of the cofferdam, no wet or fresh concrete or leachate shall be allowed to escape into Storehouse Run, tributaries to Storehouse Run, or any wetlands or waters of New York State, nor shall washings from ready-mixed concrete trucks, mixers, or other devices be allowed to enter any wetland or surface waters. Wet concrete shall not be poured to displace water within forms.

**16. Seed/Mulch Streambanks** Stream banks must be protected from erosion within two days of stream bank work completion. If the bank protection consists of seeding and mulching, growth of vegetative cover must become successfully established to Department satisfaction. If vegetation fails to successfully establish, the area must be replanted until successful vegetation establishment is achieved.

**17. Seed, Mulch Disturbed Soils** All areas of soil disturbance resulting from this project outside riparian areas shall be seeded with an appropriate perennial grass seed and mulched with straw within one week of final grading.

**18. Use Straw Not Hay** Straw (not hay) shall be used as mulch. Bales used as erosion control devices must also consist of straw, not hay.

**19. Precautions Against Contamination of Waters** 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.

**20. State May Order Removal or Alteration of Work** 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.

**21. State May Require Site Restoration** 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 lawfully 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.

**22. State Not Liable for Damage** 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.



## WATER QUALITY CERTIFICATION SPECIFIC CONDITIONS

**1. Water Quality Certification** The authorized project, as conditioned pursuant to the Certificate, complies with Section 301, 302, 303, 306, and 307 of the Federal Water Pollution Control Act, as amended and as implemented by the limitations, standards, and criteria of state statutory and regulatory requirements set forth in 6 NYCRR Section 608.9(a). The authorized project, as conditioned, will also comply with applicable New York State water quality standards, including but not limited to effluent limitations, best usages and thermal discharge criteria, as applicable, as set forth in 6 NYCRR Parts 701, 702, 703, and 704.

## GENERAL CONDITIONS - Apply to ALL Authorized Permits:

**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.

**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.

**3. Applications For Permit Renewals, Modifications or Transfers** The permittee must submit a separate written application to the Department for permit 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. Submission of applications for permit renewal, modification or transfer are to be submitted to:

Regional Permit Administrator  
NYSDEC Region 9 Allegany Sub-Office  
182 E Union St - Ste 3  
Allegany, NY14706 -1328

**4. Submission of Renewal Application** The permittee must submit a renewal application at least 30 days before permit expiration for the following permit authorizations: Stream Disturbance, Water Quality Certification.



**5. Permit Modifications, Suspensions and Revocations by the Department** The Department reserves the right to exercise all available authority to modify, suspend or revoke this permit. The grounds for modification, suspension or revocation include:

- a. materially false or inaccurate statements in the permit application or supporting papers;
- b. failure by the permittee to comply with any terms or conditions of the permit;
- c. exceeding the scope of the project as described in the permit application;
- d. newly discovered material information or a material change in environmental conditions, relevant technology or applicable law or regulations since the issuance of the existing permit;
- e. noncompliance with previously issued permit conditions, orders of the commissioner, any provisions of the Environmental Conservation Law or regulations of the Department related to the permitted activity.

**6. Permit Transfer** Permits are transferrable unless specifically prohibited by statute, regulation or another permit condition. Applications for permit transfer should be submitted prior to actual transfer of ownership.

## NOTIFICATION OF OTHER PERMITTEE OBLIGATIONS

### **Item A: Permittee Accepts Legal Responsibility and Agrees to Indemnification**

The permittee, excepting state or federal agencies, expressly agrees to indemnify and hold harmless the Department of Environmental Conservation of the State of New York, its representatives, employees, and agents ("DEC") for all claims, suits, actions, and damages, to the extent attributable to the permittee's acts or omissions in connection with the permittee's undertaking of activities in connection with, or operation and maintenance of, the facility or facilities authorized by the permit whether in compliance or not in compliance with the terms and conditions of the permit. This indemnification does not extend to any claims, suits, actions, or damages to the extent attributable to DEC's own negligent or intentional acts or omissions, or to any claims, suits, or actions naming the DEC and arising under Article 78 of the New York Civil Practice Laws and Rules or any citizen suit or civil rights provision under federal or state laws.

### **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.

