

DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENT PERMIT

ISSUED TO:

Clay Township
P.O. Box 429
Clay, MI 48001

Permit No.	10-74-0098-P
Issued	November 16, 2010
Extended	
Revised	
Expires	November 16, 2015

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

- | | |
|--|--|
| <input type="checkbox"/> Part 301 Inland Lakes and Streams | <input type="checkbox"/> Part 315 Dam Safety |
| <input checked="" type="checkbox"/> Part 325 Great Lakes Submerged Lands | <input type="checkbox"/> Part 323 Shorelands Protection and Management |
| <input checked="" type="checkbox"/> Part 303 Wetlands Protection | <input type="checkbox"/> Part 353 Sand Dune Protection and Management |
| <input type="checkbox"/> Part 31 Floodplain/Water Resources Protection | |

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

Permitted Activity:

In accordance with the Clay Township Phragmites Control Plan dated October 27, 2010, cut areas of *Phragmites australis* occurring below the Ordinary High Water Mark of Lake St. Clair on 90 different homeowner parcels scattered over the St. Clair Flats.

Water Course Affected: Lake St. Clair and St. Clair River

Property Location: St Clair County, Clay Township, Section 34

Town/Range 2N, 16E Property Tax No.

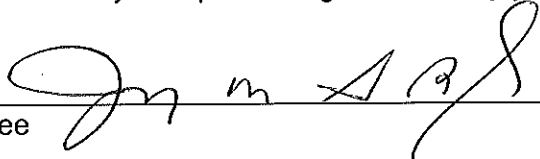
Authority granted by this permit is subject to the following limitations:

- A. Initiation of any work on the permitted project confirms the permittee's acceptance and agreement to comply with all terms and conditions of this permit.
- B. The permittee in exercising the authority granted by this permit shall not cause unlawful pollution as defined by Part 31, Floodplain/Water Resources Protection of the NREPA.
- C. This permit shall be kept at the site of the work and available for inspection at all times during the duration of the project or until its date of expiration.
- D. All work shall be completed in accordance with the plans and the specifications submitted with the application and/or plans and specifications attached hereto.
- E. No attempt shall be made by the permittee to forbid the full and free use by the public of public waters at or adjacent to the structure or work approved herein.
- F. It is made a requirement of this permit that the permittee give notice to public utilities in accordance with Act 53 of the Public Act of 1974 and comply with each of the requirements of that act.
- G. This permit does not convey property rights in either real estate or material, nor does it authorize any injury to private property or invasion of public or private rights, nor does it waive the necessity of seeking federal assent, all local permits or complying with other state statutes.
- H. This permit does not prejudice or limit the right of a riparian owner or other person to institute proceedings in any circuit court of this state when necessary to protect his rights.
- I. Permittee shall notify the MDNRE within one week after the completion of the activity authorized by this permit, by completing and forwarding the attached, preaddressed post card to the office addressed thereon.
- J. This permit shall not be assigned or transferred without the written approval of the MDNRE.
- K. Failure to comply with conditions of this permit may subject the permittee to revocation of permit and criminal and/or civil action as cited by the specific State Act, Federal Act and/or Rule under which this permit is granted.
- L. Work to be done under authority of this permit is further subject to the following special instructions and specifications:

1. Authority granted by this permit does not waive any jurisdiction of the United States Army Corps of Engineers or the need for a federal permit, if required.
2. This permit does not authorize any cutting of *Phragmites australis* on Mr. Joseph Simasko's property at 7200 Middle Chanel Drive, Harsens Island, MI 48028 until the United States Army Corps of Engineers has granted written permission to cut within the restricted areas. This permit may be modified to add Mr. Simasko at a later date prior to the expiration of this permit.
3. **Mowing of *Phragmites australis* is limited to once per, year per parcel, and to shall occur between the dates of November 1 and April 15 to protect native plant species and Threatened and Endangered Species.**
4. Care should be taken to cut only target the invasive *Phragmites australis* and avoid all other plant species.
5. No fill, excess soil, or other material shall be placed in any wetland or surface water area not specifically authorized by this permit, its plans, and specifications.
6. Construction pads, haul roads, temporary structures, or other structural appurtenances to be placed on or over bottomlands and/or wetlands are not authorized by this permit and shall not be constructed unless authorized by separate permit or permit revision granted in accordance with applicable law.
7. Alteration of the natural lakeshore contours, including excavation of basins, formation of new upland areas, and relocation of the natural shoreline location is not authorized.
8. In issuing this permit, the DNRE has relied on the information and data that the permittee has provided in connection with the permit application. If, subsequent to the issuance of this permit, such information and data prove to be false, incomplete, or inaccurate, the DNRE may modify, revoke, or suspend the permit, in whole or in part, in accordance with the new information.
9. The authority to conduct the activity as authorized by this permit is granted solely under the provisions of the governing act as identified above. This permit does not convey, provide, or otherwise imply approval of any other governing act, ordinance, or regulation, nor does it waive the permittee's obligation to acquire any local, county, state or federal approval or authorization, necessary to conduct the activity.
10. The permittee shall indemnify and hold harmless the State of Michigan and its departments, agencies, officials, employees, agents and representatives for any and all claims or causes of action arising from acts or omissions of the permittee, or employees, agents, or representatives of the permittee, undertaken in connection with this permit. This permit shall not be construed as an indemnity by the State of Michigan for the benefit of the permittee or any other person.
11. If any change or deviation from the permitted activity becomes necessary, the permittee shall request, in writing, a revision of the permitted activity and/or mitigation plan from the DNRE. Such revision requests shall include complete documentation supporting the modification and revised plans detailing the proposed modification. Proposed modifications must be approved, in writing, by the DNRE prior to being implemented.
12. This permit is being issued for the maximum time allowed under Part 325, Great Lakes Submerged Lands, of the Natural Resources and Environmental Protection Act, PA 451 of 1994, as amended, including all permit extensions allowed under the administrative rule R322.1011(f), as determined by the DNRE. Therefore, no extensions of this permit will be granted. Initiation of the construction work


authorized by this permit indicates the permittee's acceptance of this condition. The permit, when signed by the DNRE, will be for a five-year period beginning at the date of issuance.

- 13. The permittee is responsible for acquiring all necessary easements or rights-of-way before commencing any work authorized by this permit. All construction operations relating to or part of this project shall be confined to the existing right-of-way limits or other acquired easements.
- 14. Authority granted by this permit does not waive permit requirements under Part 33, Aquatic Nuisance Control, of the NREPA, or the need to acquire applicable permits from the MDNRE Water Bureau. Contact the ANC at 517-241-7734 and reference COC 10-98-2204-0.
- 15. Dredging is not authorized by this permit.
- 16. All thatch generated from the cutting or mowing of *Phragmites australis* must be disposed of properly in an upland (non-wetland) location or burned on-site.
- 17. All work shall be done in accordance with the attached Clay Township Phragmites Control Plan.
- 18. This permit shall become effective on the date of the DNRE representative's signature. Upon signing by the permittee named herein, this permit must be returned to the DNRE's Water Resources Division, 27700 Donald Court, Warren, MI 48092 for final execution.
- 19. Permittee hereby accepts and agrees to comply with the terms and conditions of this permit.

X 
 Permittee _____ Date 11-8-10

X Jay M. DeBoyer Supervisor
 Printed Name and Title of Permittee _____

Rebecca A. Humphries, Director
 Michigan Department of Natural Resources and Environment

By 
 David R. Dortman
 Water Resources Division

cc: USACE
 Clay Township Clerk
 Mr. Charles Miller, Clay Township Phragmites Control Board
 Ms. Anne Hokanson, DNRE

Clay Township Phragmites Control Plan - October 27, 2010

Prepared by: Clay Township Phragmites Advisory Board

Contact Person: Charles Miller, Project Coordinator
Address - 5178 Green Dr., Harsens Island, MI 48028
Phone - 810-512-4022

Description of Clay Township Phragmites Management Program:

The Phragmites Advisory Board (PAB) was established on April 5, 2010 by a Clay Township Board of Trustees Resolution for the purpose of developing a Phragmites Management Plan for the Township. The Clay Township Phragmites Management Plan was approved by the Clay Township Board of Trustees on June 7, 2010. Part of the Plan included having an annual action program, The Clay Township Phragmites Management Program, to assist property owners with the control of Phragmites.

Some of the major components of the Program include:

- A. Survey phragmites status
- B. Establishing priority treatment areas
- C. Communications with property owners and agencies.
- D. Educating the public
- E. Permitting assistance to property owners
- F. Treatment assistance to property owners
- G. Investigating funding opportunities

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The Plan and Program are available online at
<http://www.claytownship.org/phragmites/docs/PhragmitesManagementPlan.pdf>) and
<http://www.claytownship.org/phragmites/docs/PhragmitesManagementProgram2010.pdf>

Specific properties included in this control plan: All properties registered in the Clay Township Phragmites Management Program 2010.

Number of properties: 161
Total acreage included: 205 acres
Site Plans: See permit submittal.

Areas to be cut: Only the areas of permitted sites with Phragmites are proposed to be cut under this plan. Other plant species are not to be treated, cut or removed. Each property owner under this program attends a Phragmites control workshop sponsored by Clay Township to educate them on native vs. invasive plant identification and each property owner has access to a Clay Township trained volunteer who inspects the property and advises the property owner prior to any work on the site.

Density of Phragmites: Phragmites density in areas covered under this plan are generally 95 to 100% coverage.

Description of conditions: Conditions range from dry ground to water up to 36" deep.

Equipment to be used for cutting: Weed whips, hand-held sickle bar cutters, mowers, brush hogs, hand tools and rakes. Larger mechanical equipment such as brush hogs will only be used where the Phragmites is not in water or where the water is frozen. Trained volunteers will assess each site to assure that equipment to be used will not cause any soil disruption. A Marshmaster track vehicle with brush hog attachment as used by the MDNRE at St. Johns Marsh is proposed to be used in both wet and dry sites.

Proposed cutting height: No lower than four inches from the ground or water level. In any areas with native vegetation mixed in with Phragmites the cutting will be no lower than six inches from the ground or water level and depending on the height of native vegetation may be as high as 12 inches. In some locations where only Phragmites is present, hand held and boat mounted cutters may be used to cut the phragmites below the waterline to further retard its growth during the following growing season.

Disposal of cuttings: All cuttings will be collected and moved to an upland location or burned on site. Any burning will be done under the auspices of the Clay Township Fire Department. In areas of very dense Phragmites, where a second year of broadcast spraying is anticipated, the cuttings might be left in place in the first year to retard the return of native plants which would be killed during the second year of treatment. In that case cuttings would be removed following the second year of treatment.

Treatment schedule:

Mow or burn annually between November 1 and April 15. (Not sooner than two weeks following the completion of herbicide treatment.) When mechanically cutting on wet sites work should be done while the ground is frozen to minimize soil disruption.

Herbicide treat annually between September 1 and September 30. This spraying period may be extended until the first killing frost if needed to cover all properties included. Broadcast spraying is anticipated to be used for the first two years and spot spraying is expected to be appropriate beginning in the third year.

Herbicide to be used: Glyphosate with a non-ionic surfactant as recommended and approved by the Michigan DNRE ANC under a separate permit. All products used will be State of Michigan DNRE approved.

Length of treatment: It is anticipated that annual chemical treatments will be needed on sites with dense stands for at least three years with ongoing spot treatments to continue in succeeding years. Cutting and/or burning is anticipated every year.

end

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