

 <p>NEW YORK STATE Adirondack parkagency P.O. Box 99 • Ray Brook, New York 12977 (518) 891-4050 www.apa.ny.gov</p>	<p>APA Project Permit 2013-11</p>
<p>In the Matter of the Application of THE ARTS GUILD OF OLD FORGE, INC.</p> <p>For a permit pursuant to §809 of the Adirondack Park Agency Act and 9 NYCRR Part 578</p>	<p>Date Issued: February 19, 2013</p> <p>To the County Clerk: This permit must be recorded on or before May 20, 2013. Please index this permit in the grantor index under the following names: 1. The Arts Guild of Old Forge, Inc.</p>

SUMMARY AND AUTHORIZATION

The Arts Guild of Old Forge, Inc. is granted a permit, on conditions, authorizing a boardwalk involving wetlands in an area classified Hamlet by the Official Adirondack Park Land Use and Development Plan Map in the Town of Webb, Herkimer County.

This project may not be undertaken, and no transfer deed shall be recorded, until this permit is recorded in the Herkimer County Clerk's Office. This permit shall expire unless so recorded on or before May 20, 2013 in the names of all persons listed on the first page hereof and in the names of all owners of record of any portion of the project site on the recordation date.

This project shall not be undertaken or continued unless the project authorized herein is in existence within four years from the date the permit is recorded. The Agency will consider the project in existence when Phase I of the project is completed.

Nothing contained in this permit shall be construed to satisfy any legal obligations of the applicant to obtain any governmental approval or permit from any entity other than the Agency, whether federal, State, regional or local.

AGENCY JURISDICTION

The project consists of the construction of a boardwalk involving wetlands, a Class A regional project requiring an Agency permit pursuant to §810(1)(a)(1) of the Adirondack Park Agency Act and a regulated activity requiring a wetlands permit pursuant to 9 NYCRR Sections 578.2 and 578.3(n)(1)(i).

PROJECT SITE

The project site is a 7± acre parcel of land located on New York State Route 28 in the Town of Webb, Herkimer County, in an area classified Hamlet on the Adirondack Park Land Use and Development Plan Map. It is identified on Town of Webb Tax Map Section 41.52, Block 1 as Parcel 18. The project site is described in a deed from J. Claude Lecours to The Arts Guild of Old Forge, Inc. dated May 30, 2006 which was recorded May 31, 2006 in the Herkimer County Clerk's Office in Liber 1161 of Deeds at Page 910 (Document 2006-00126741).

PROJECT DESCRIPTION AS PROPOSED

The project as proposed is summarized as the construction of a 439± foot long, 3.9± foot wide (3.3± foot deck width) boardwalk nature trail in three phases. The bottom of the deck stringers will be 1.5 feet off existing grade and the support posts will be 12 feet on center. A proprietary hydraulic machine (Model R2) will be employed to install the 2 inch diameter Techno Metal Post™ helical piles upon which the boardwalk will be constructed. Wetland vegetation located within the area of the boardwalk will be cut flush with grade and two 4 foot by 8 foot work platforms will be "leapfrogged" past one another to provide a stable work platform for the hydraulic machine. The boardwalk is expected to be constructed in three phases as money becomes available. Phase 1 involves a 288± foot long boardwalk, of which approximately 125± feet is not in wetlands. Phase 2 (72± feet in length) and Phase 3 (204± feet in length) are located entirely in wetlands. The boardwalk support structure will be constructed out of pressure-treated lumber while the decking will be constructed out of either pressure-treated or composite decking. The cutting of all pressure-treated lumber will be done outside the wetland and in the area identified "Conc. Pad" on the site plan.

The boardwalk is shown on a drawing entitled "Map of Building Location Lands of Arts Guild of Old Forge, Inc.," drawn by William D. Hollister, P.L.S., and last revised February 5, 2013. A reduced-scale copy of the site plan is attached as a part of this permit for easy reference. The original, full-scale maps and plans referenced in this permit are the official plans for the project.

CONDITIONS

BASED UPON THE FINDINGS BELOW, THE PROJECT IS APPROVED WITH THE FOLLOWING CONDITIONS:

1. The project shall be undertaken as described in the completed application, the Project Description as Proposed and Conditions herein. In the case of conflict, the Conditions control. Failure to comply with the permit is a violation and may subject the applicant, successors and assigns to civil penalties and

other legal proceedings, including modification, suspension or revocation of the permit.

2. This permit is binding on the applicant(s), all present and future owners of the project site and all contractors undertaking all or a portion of the project. Copies of this permit and the site plan map(s) referred to herein shall be furnished by the applicant to all subsequent owners or lessees of the project site prior to sale or lease, and by the applicant or any subsequent owner or lessee undertaking construction to any contractors undertaking any portion of this project. All deeds conveying all or a portion of the lands subject to this permit shall contain references to this permit as follows: "The lands conveyed are subject to Adirondack Park Agency Permit 2013-11 issued March 19, 2013, the terms and conditions of which are binding upon the heirs, successors and assigns of the grantors and all subsequent grantees."
3. The Agency may conduct such on-site investigations, examinations, tests and evaluations as it deems necessary to ensure compliance with the terms and conditions hereof. Such activities shall take place at reasonable times and upon advance notice where possible.

Boardwalk Location, Size, and Construction Methodology

4. This permit authorizes the construction of a 439± foot long boardwalk as designed and in the location shown on the site plan referenced herein. The installation of the boardwalk shall employ helical coil support posts which shall be installed using the proprietary hydraulic machine described herein (R2D Hydraulic Techno Post Installation Machine). Deviation from the approved location, structure design, or installation technique shall require a new or amended permit or letter of approval.
5. The helical coil support posts installed as part of Phase 1 and Phase 2 shall be installed concurrently and, for all phases, post installation shall begin at the furthest point from the upland area (the Eco Gallery) and shall work backward to the start of the boardwalk. To the greatest extent practicable, the R2D Hydraulic Techno Post Installation Machine shall only traverse the wetland within the footprint of the boardwalk approved herein. The temporary work pad for R2D Hydraulic Techno Post Installation Machine described in the application materials shall be employed for any installation except in the event that ground frost is sufficient to completely support the weight of the installation machine without any visible soil compaction.

Wetlands

6. Beyond that authorized herein, no "regulated activity" as defined in the Agency's Freshwater Wetland Regulations (9 NYCRR Part 578) shall occur on the project site without prior Agency approval. Such activities include, but are not limited to, new land use or development in, subdivision of, clearcutting more than three acres within, or dredging or filling of a wetland, or any other activity, whether or not occurring within the wetland, which pollutes it or substantially impairs its functions, benefits or values.

Legal Interests of Others

7. 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 undertake the authorized project or subdivision, nor does it authorize the impairment of any easement, right, title or interest in real or personal property held or vested in any person.

Agency Review of Future Subdivision and Development

8. No further subdivision or land use and development shall occur on the property without first obtaining a jurisdictional determination and, if necessary, a permit from the Agency.

FINDINGS OF FACT

Background/Prior History

1. The project was part of a larger parcel as of May 22, 1973 enactment date of the Adirondack Park Land Use and Development Plan in that the owner at that time also owned a 1.4± acre parcel of land now identified as tax parcel 41.52-1-14.
2. The construction of the Eco Gallery involved land use and development immediately adjacent to a wetland subject to Agency jurisdiction. Furthermore, storm water management facilities which were part of the 2010-2011 Arts Guild building and grounds construction project, discharge treated storm water directly into wetlands subject to Agency jurisdiction. Both activities are regulated wetlands activities pursuant to §810 of the Adirondack Park Agency Act and 9 NYCRR Section 578. In addition to Agency staff's review of the boardwalk approved herein, a review of current site conditions and a review of historic aerial photographs and the storm water prevention plan (which was approved by the New York State Department of Environmental Conservation prior to construction), was undertaken to confirm that the construction project did not adversely affect wetlands.

Existing Environmental Setting

3. The Eco Gallery is a semi-public building constructed to fulfill the mission "to make visual and performing arts an integral and accessible part of the lives of residents and visitors of the Adirondacks, inspired by and reflecting the beauty of the natural environment."
4. The boardwalk approved herein is an integral part of the mission in that it is designed to immerse visitors in a wetland environment. The boardwalk will include interpretive signs and stations where arts can work. The boardwalk will, in part, serve as a connection between exhibits which are housed within the Eco Gallery and the natural environment.
5. The use of the helical coil support posts and the R2D Hydraulic Techno Post Installation Machine will minimize impacts to wetlands since the posts screw into the soil and no excavation spoils will be created.
6. The cutting of pressure-treated lumber on the concrete work pad will minimize the amount of debris which will be deposited into the wetland during construction.
7. The involved wetland is a deciduous forest having a Value of "2"; the approximate boundary of which is shown on the project plans. Note: the plan does not show all wetlands on or adjacent to the project site.

Public Notice and Comment

8. The Agency notified all adjoining landowners and those parties as statutorily required by §809 of the Adirondack Park Agency Act and published a Notice of Complete Permit Application in the Environmental Notice Bulletin. No comments have been received.

Other Regulatory Permits and Approvals

9. The project will require a building permit from the Town of Webb.

PROJECT IMPACTS

Wetlands and Water Resources

10. The use of the helical piles and the use of the R2D Hydraulic Techno Post Installation Machine will minimize the physical disturbance within the wetland. The construction of the boardwalk will not impede the natural flow of water through the wetland nor will it affect the overall function or value of the wetland.
11. The project would result in minimal degradation or destruction of

the wetland or its associated values, and is the only alternative which reasonably can accomplish the applicant's objectives and provides an essential public benefit.

Historic Sites or Structures

12. Since there are no historic structures on the project site and the site is not located within a known archeologically sensitive area, the project as proposed and authorized herein will not cause any change in the quality of "registered," "eligible," or "inventoried" property as those terms are defined in 9 NYCRR Part 426.2 for the purposes of implementing §14.09 of the New York State Historic Preservation Act of 1980.

CONCLUSIONS OF LAW

The Agency has considered all statutory and regulatory criteria for project approval as set forth in §809(10) of the Adirondack Park Agency Act (Executive Law, Article 27) and 9 NYCRR Part 574; §24-0801(2) of the NYS Freshwater Wetlands Act (ECL, Article 24, Title 8) and 9 NYCRR Section 578.10. The Agency hereby finds that the project is approvable and complies with the above criteria, provided it is undertaken in compliance with the conditions herein.

PERMIT issued this day
of , 2013

ADIRONDACK PARK AGENCY

BY: _____
Richard E. Weber III, Deputy Director
(Regulatory Programs)

STATE OF NEW YORK)
) ss.:
COUNTY OF ESSEX)

On the day of in the year 2013, before me, the undersigned, a Notary Public in and for said State, personally appeared Richard E. Weber III, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that they executed the same in their capacity, and that by their signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

REW:LRW:slp:mlr