

Wetlands Bureau Decision Report

Decisions Taken
12/10/2007 to 12/16/2007

DISCLAIMER:

This document is published for information purposes only and does not constitute an authorization to conduct work. Work in jurisdiction may not commence until the applicant has received a posting permit.

Decisions are subject to appeal, and are reviewed by the federal agencies for compliance with Section 404 of the Federal Clean Water Act.

APPEAL:

I. Any affected party may ask for reconsideration of a permit decision in accordance with RSA 482-A:10,II within 20 days of the Department's issuance of a decision. Requests for reconsideration should:

- 1) describe in detail each ground for complaint. Only grounds set forth in the request for reconsideration can be considered at subsequent levels of appeal;
- 2) provide new evidence or information to support the requested action;
- 3) Parties other than the applicant, the town, or contiguous abutters must explain why they believe they are affected; and
- 4) Be mailed to the DES Wetlands Bureau, PO Box 95, Concord, NH 03302-0095.

II. An appeal of a decision of the department after reconsideration may be filed with the Wetlands Council in accordance with RSA 482-A:10, IV within 30 days of the department's decision. Filing of the appeal must:

- 1) be made by certified mail to Lawrence E. Morse, Chairperson, Wetlands Council, PO Box 95, Concord, NH 03302-0095 (a copy should also be sent to the DES Wetlands Bureau);
- 2) contain a detailed description of the land involved in the department's decision; and
- 3) set forth every ground upon which it is claimed that the department's decision is unlawful or unreasonable.

MAJOR IMPACT PROJECT

2004-02841 MCCOY, PAUL & JOSEPHINE
RAYMOND Unnamed Wetland

Requested Action:

Request for Reconsideration received in April 11, 2007 of Bureau denial issued on August 5, 2006

DENY RECONSIDERATION:

Deny reconsideration.

With Findings:

A. Grounds for Reconsideration

The request for reconsideration asserts the following as the basis for the request:

1. The application was actually received by DES on November 24, 2004.
2. The project team believes that need has been demonstrated for all the wetland impacts for access and road construction. The project has been minimized from 53,038 sq.ft. to 41,500 sq.ft.
3. The Raymond Conservation Commission did request that the applicant reduce the number of buildable lots but there is nothing in the current Town zoning that warrants a reduction in lots.
4. The applicant is concerned about the lack of value DES placed on the preapplication meeting held during August 2003 with Chris Williams.
5. The two points of access are required and the only other available frontage is from Smith Pond Road, the project cannot avoid wetland impacts off of Smith Pond Road without a waiver to current Town regulations.
6. The applicant formally requests that the reconsideration decision be postponed until it is determined whether the necessary waivers for the Conservation subdivision can be obtained.

B. Standards and Process for Review

1. RSA 482-A:10, II requires a request for reconsideration to describe in detail each ground for complaint. No ground not set forth in the request for reconsideration can be considered by the Wetlands Council or the Superior Court (if further appeal is taken), except as provided in paragraph VIII of that section.
2. RSA 482-A:10, III provides that on reconsideration, DES will receive and consider any new and additional evidence presented, and make findings of fact and rulings of law in support of its decision after reconsideration.
3. RSA 482-A:10, V provides that the burden of proof is on the party seeking to set aside DES's decision to show that the decision is unlawful or unreasonable.
4. If DES is persuaded by a request for reconsideration of a permit denial was erroneous, the result is that the permit originally requested would be granted.
5. RSA 482-A:10 provides that a request for reconsideration shall be filed with the department within 20 days of the issuance of the department's decision or order. The request shall describe in detail each ground for complaint.

C. Findings of Fact and Rulings of Law

1. RSA 482-A:3, XIV establishes the process that DES must follow when processing applications and establishes deadlines by which decisions must be made.
2. On August 5, 2005 DES issued a denial for the subject application.
3. On August 25, 2005 DES received a motion for reconsideration from the applicant.
4. On October 5, 2005 DES issued a letter to the McCoys which DES agreed to suspend action on the request for reconsideration for 120 days in order to provide the applicant the opportunity to pursue the necessary waivers for subdivision redesign.
5. On June 30, 2006 DES met with the applicant to review the progress of the application. At that meeting DES had been told that new plans and information would be forthcoming within the next few months.
6. On October 11, 2007 DES received a new application amendment with a reduced impact of 28,107 square feet.
7. Between June 30, 2006 and October 11, 2007 468 days had passed.
8. The DES time extension for applicant submittal had expired.
9. The applicant appears to agree with the DES decision in part by proposing to extend the review time to seek a reduction in impacts with Town input.

D. Decision:

DES hereby reaffirms its denial and findings.

**2006-02310 DEPAOLO, MICHAEL & BARBARA COMAN
BERLIN Unnamed Wetland**

Requested Action:

United States Department of Justice Federal Bureau of Prisons requests an amendment to permit conditions #33-41.

Conservation Commission/Staff Comments:

Public hearing held 11-16-06

Cons. Comm. no comment.

Inspection Date: 12/09/2004 by Gino E Infascelli

Inspection Date: 11/17/2006 by Gino E Infascelli

APPROVE AMENDMENT:

Approve amended permit conditions and approve as follows:

Construct a medium-security Federal Correctional Institution including several related facilities and the infrastructure needed to support them on 700 acres impacting a total of 16.72 acres of riverine and palustrine wetlands and mitigate by restoring and enhancing approximately 8 acres of stream channels and wetlands, constructing vernal pools and preserving approximately 493 acres of property.

With Conditions:

With amended conditions renumbered as follows:

1. All work shall be in accordance with plans and application by The Louis Berger Group, Inc. received by the Department on

September 5, 2006, April 9, 2007 (dated March 20, 2007) and as conditioned below.

2. This permit is contingent upon the submission of project specific stream diversion and erosion control plans to the NHDES Wetlands Bureau for review and approval. Those plans shall detail the timing and method of stream flow diversion during construction, and shall show the temporary siltation, erosion and turbidity control measures to be implemented.
3. This permit is contingent on approval by the NHDES Alteration of Terrain Program and the same plan set to be submitted to the NHDES Wetlands Bureau file.
4. This permit is contingent on approval by the NHDES Dam Safety Program.
5. Dredged material shall be placed out of the DES Wetlands Bureau jurisdiction unless otherwise approved for use in the wetland restoration areas.
6. Construction equipment shall not be located within surface waters.
7. Discharge from dewatering of work areas shall be to sediment basins that are: a) located in uplands; b) lined with hay bales or other acceptable sediment trapping liners; and c) set back as far as possible from wetlands and surface waters, in all cases with a minimum of 20 feet of undisturbed vegetated buffer.
8. Appropriate siltation/erosion/turbidity controls shall be in place prior to construction, shall be maintained during construction, and shall remain until the area is stabilized.
9. Within three days of final grading in an area that is in or adjacent to wetlands or surface waters, all exposed soil areas shall be stabilized by seeding and mulching during the growing season, or if not within the growing season, by mulching with tack or netting and pinning on slopes steeper than 3:1.
10. Where construction activities have been temporarily suspended within the growing season, all exposed soil areas shall be stabilized within 14 days by seeding and mulching.
11. Where construction activities have been temporarily suspended outside the growing season, all exposed areas shall be stabilized within 14 days by mulching and tack. Matting and pinning shall stabilize slopes steeper than 3:1.
12. The contractor responsible for completion of the work shall utilize techniques described in the DES Best Management Practices for Urban Stormwater Runoff Manual (January, 1996) and the Stormwater Management and Erosion and Sediment Control Handbook for Urban and Developing Areas in New Hampshire (August, 1992).
13. Extreme precautions to be taken within riparian areas to limit unnecessary removal of vegetation during road construction and areas cleared of vegetation to be revegetated as quickly as possible.
14. There shall be no further alteration to wetlands or surface waters without amendment of this permit.
15. Standard precautions shall be taken to prevent import or transport of seed stock from nuisance and invasive species such as purple loosestrife (*Lythrum salicaria*) and common reed (*Phragmites australis*).
16. A copy of the deed(s) shall be submitted to the DES Wetlands Bureau following the applicant's purchase of the property. The Wetlands Bureau shall be notified of subsequent transfers of the property to another agency that has been retained for management purposes.
17. The final mitigation plans, including a planting schedule and deadlines for completion for the restoration and enhancement of approximately 8 acres of stream channels and wetlands and construction of vernal pools, shall be submitted to the Wetlands Bureau for review and approval.
18. The schedule for mitigation construction shall be submitted to the Wetlands Bureau for review.
19. Wetland soils from areas vegetated with purple loosestrife shall not be used in the wetland construction site. In other areas the permittee considers spreading the spoils, the potential for the establishment of the invasive species should be considered to limit its further establishment.
20. Wetland restoration, enhancement and construction areas shall have at least 75% successful establishment of wetlands vegetation after two (2) growing seasons, or it shall be replanted and re-established until a functional wetland is replicated in a manner satisfactory to the DES Wetlands Bureau.
21. Wetland restoration, enhancement and construction areas shall be properly constructed, landscaped, monitored and remedial actions taken that may be necessary to create functioning wetland areas similar to those of the wetlands destroyed by the project. Remedial measures may include replanting, relocating plantings, removal of invasive species, changing soil composition and depth, changing the elevation of the wetland surface, and changing the hydraulic regime.
22. The permittee shall monitor the initial construction of the mitigation area to assure the work is accomplished in accordance with the plan, and that the necessary soil, water and vegetation is present upon completion of work. Site monitoring shall include a plan for removing invasive species and shall be reviewed by the Wetlands Bureau prior to implementation.
23. The permittee shall conduct a follow-up inspection after the first growing season, to review the success of the mitigation area and schedule remedial actions if necessary. A report outlining these follow-up measures and a schedule for completing the remedial work shall be submitted by December 1 of that year. Similar inspections, reports and remedial actions shall be undertaken in at least the second and third years following the initial completion of each mitigation site. After at least five full growing seasons, the

permittee shall delineate the wetlands within the mitigation site and document the delineation with data forms and depict the delineation as an overlay of the final as built plans.

24. Areas indicated as temporary impacts shall not be stumped or regraded leaving the original soil intact and all fill material shall be placed on fabric. The impacts associated with the temporary work shall be remediated immediately following construction.

25. At least 48 hours prior to the start of each construction contract, a pre-construction meeting shall be held with NHDES Land Resources Management Program staff at the project site or at the DES Office in Concord, N.H. to review the conditions of this NHDES wetlands permit, the NHDES Alteration of Terrain permit, the NHDES Water Quality Certificate, and any environmental commitments stated in the approved documents. It shall be the responsibility of the permittee to schedule the pre-construction meeting, and the meeting shall be attended by the permittee, the contract administrator(s), wetlands scientist(s), wildlife professional, and the contractor(s) responsible for performing the work.

Wetland construction:

26. This permit is contingent upon the restoration of approximately 8 acres of wetlands in accordance with plans received September 5, 2006 and further detailed plans including existing and proposed site conditions, grading and planting specification, soil erosion and sediment controls details, and cross sections as stated in the application on Page III-43.

27. The schedule for mitigation construction shall coincide with site development unless otherwise considered and authorized by the Wetlands Bureau to occur subsequent to site construction.

28. The acreage of wetland construction, enhancement, wetland preservation, and upland preservation for the selected sites shall be consistent with that described in the application received on September 5, 2006.

29. The permittee shall designate a qualified professional who will be responsible for monitoring and ensuring that the mitigation areas are constructed in accordance with the mitigation plans. Monitoring shall be accomplished in a timely fashion and remedial measures taken if necessary. The Wetlands Bureau shall be notified in writing of the designated professional prior to the start of work and if there is a change of status during the project.

30. The mitigation areas shall be properly constructed, monitored, managed in accordance with approved final mitigation plans, and the entire mitigation area shall be preserved from future development.

31. The applicant shall attempt to control invasive, weedy species such as purple loosestrife (*Lythrum salicaria*) and common reed (*Phragmites australis*) by measures agreed upon by the Wetlands Bureau if the species is found in the mitigation areas during construction and during the early stages of vegetative establishment.

32. Areas indicated as temporary impacts shall not be stumped or regraded leaving the original soil intact and all fill material shall be placed on fabric. All temporary fill material shall be removed as soon as possible.

Wetland preservation:

33. DES anticipates developing an alternative legal mechanism with the U.S. Bureau of Prisons for the purpose of the protection and preservation of the 220 acre "On-site Preservation Area" as depicted on Exhibit 12 (Page III-41) of the application received September 5, 2006, and as referenced in the Memorandum of Understanding between DES and the U.S. Bureau of Prisons, dated September 11, 2007.

34. This permit is contingent on the payment by the U.S. Bureau of Prisons to DES of a Mitigation Permit Fee, as referenced in the Memorandum of Understanding between DES and the U.S. Bureau of Prisons, dated September 11, 2007, in the amount of \$25,000.

35. The On-site Preservation Area:

- a. shall be marked by stakes and signs indicating the location and restrictions of the area prior to construction; and
- b. shall be surveyed by a licensed surveyor, and marked by permanent markers/signs for purposes of monitoring; and

36. There shall be no removal of the existing vegetative undergrowth within the On-site Preservation Area and the placement of fill, construction of structures, and storage of vehicles or hazardous materials in the On-site Preservation Area is prohibited.

37. Activities in contravention of the restrictions contained in paragraphs 35 and 36, above, or in contravention of the anticipated alternative legal mechanism referenced in paragraph 33, above, shall be construed as a violation of RSA 482-A, and those activities shall be subject to the enforcement powers of the DES (including remediation and fines).

38. Failure to execute the alternative legal mechanism referenced in paragraph 33, above, in a timely or successful manner may result in permit revocation and restoration of permitted impact area.

With Findings:

Reaffirm findings #1-19 and additional findings as follows:

20. The proposed amended conditions provide details for the preservation areas that were not clarified at the time of permit issuance.

21. Through the completion of the Memorandum of Understanding and acquisition of the 273 acre property by a state agency, the necessary measures to provide long term protection of the areas will be satisfied in terms of this project.

2007-00265 GRIFFEY SEABROOK LLC
SEABROOK Unnamed Wetland

Requested Action:

Dredge and fill a total of 53,100 sq. ft. of palustrine forested/ scrub-shrub wetlands for the construction of a retail development with associated parking, drainage structures and storm water management facility. This project is a second phase of development, DES permit #2004-90, that included 60,050 sq.ft. of wetland impacts on the abutting property. Compensatory mitigation includes commitment of funds to the Seabrook Conservation Commission for the purchase of protection easements or for habitat restoration efforts within the Cain's Brook and Mill Creek watershed as a continued effort that was developed during the first phase of this development. Native vegetation will be planted near detention pond to provide habitat enhancement to Mary's Brook.

Conservation Commission/Staff Comments:

The Seabrook Conservation Commission has been proactive in all phases of the review of this project proposal and supports the application with the understanding that the mitigation component will be implemented.

Inspection Date: 11/09/2007 by Frank D Richardson

APPROVE PERMIT:

Dredge and fill a total of 53,100 sq. ft. of palustrine forested/ scrub-shrub wetlands for the construction of a retail development with associated parking, drainage structures and storm water management facility. This project is a second phase of development, DES permit #2004-90, that included 60,050 sq.ft. of wetland impacts on the abutting property. Compensatory mitigation includes commitment of funds to the Seabrook Conservation Commission for the purchase of protection easements or for habitat restoration efforts within the Cains Brook and Mill Creek watershed as a continued effort that was developed during the first phase of this development. Native vegetation will be planted near detention pond to provide habitat enhancement to Mary's Brook.

With Conditions:

1. All work shall be in accordance with plans by Jones & Beach Engineers, Inc. dated 11/20/06 (last revised 11/15/07), as received by DES on December 12, 2007.
2. This permit is contingent on approval by the DES Alteration of Terrain Program.
3. At least 48 hours prior to the start of construction, a pre-construction meeting shall be held with NHDES Land Resources Management Program staff at the project site or at the DES Pease Field Office in Portsmouth, N.H. to review the conditions of this wetlands permit and the DES Alteration of Terrain Permit. It shall be the responsibility of the permittee to schedule the pre-construction meeting, and the meeting shall be attended by the permittee, the professional engineer(s), wetlands scientist(s), and the contractor(s) responsible for performing the work.
4. There shall be no further alteration of wetlands for lot development, building expansion, additional site work or other construction activities.
5. Orange construction fencing shall be placed at the limits of construction to prevent accidental encroachment on wetlands.
6. Appropriate siltation/erosion/turbidity controls shall be in place prior to construction, shall be maintained during construction, and remain in place until the area is stabilized. Silt fence(s) must be removed once the area is stabilized.
7. Exceptional precautions shall be taken to assure that siltation/erosion/turbidity controls are properly installed and maintained along the portion of the property adjacent to Mary's Brook and existing trees beyond the proposed retaining wall remain undisturbed.
8. Culvert outlets shall be protected in accordance with the DES Best Management Practices for Urban Stormwater Runoff Manual (January 1996) and the Stormwater Management and Erosion and Sediment Control Handbook for Urban and Developing Areas in New Hampshire (August 1992).

9. Within three days of final grading in an area that is in or adjacent to wetlands or surface waters, all exposed soil areas shall be stabilized by seeding and mulching during the growing season, or if not within the growing season, by mulching with tack or netting and pinning on slopes steeper than 3:1.
10. Where construction activities have been temporarily suspended within the growing season, all exposed soil areas shall be stabilized within 14 days by seeding and mulching.
11. Where construction activities have been temporarily suspended outside the growing season, all exposed areas shall be stabilized within 14 days by mulching and tack. Slopes steeper than 3:1 shall be stabilized by matting and pinning.
12. DES Wetlands Bureau Southeast Region staff and the Seabrook Conservation Commission shall be notified in writing prior to commencement of work and upon its completion.
13. The proposed detention pond shall be constructed and vegetated with native plants in accordance with plans (sheet no.L4)received November 15, 2007.
14. A post construction report and photographs shall be submitted to the DES Wetlands Bureau and Seabrook Conservation Commission that documents site stabilization, the vegetated buffer along Mary's Brook has been maintained and the detention pond plantings are completed.
15. The detention pond shall be properly constructed, landscaped with native plantings, monitored and remedial actions taken that may be necessary to provide a vegetated area to prevent potential thermal pollution impacts to Mary's Brook. Remedial measures may include replanting and or relocating plantings.
16. The permittee shall designate a qualified professional who will be responsible for monitoring and ensuring that the detention area is constructed in accordance with the plan. Monitoring shall be accomplished in a timely fashion and remedial measures taken if necessary. The Wetlands Bureau shall be notified in writing of the designated professional prior to the start of work and if there is a change of status during the project.
17. The permittee or a designee shall conduct a follow-up inspection after the first growing season, to review the success of the plantings near the detention area and schedule remedial actions if necessary. A report outlining these follow-up measures and a schedule for completing the remedial work shall be submitted by December 1 of that year. Similar inspections, reports and remedial actions shall be undertaken in at least the second year following the completion of the site.
18. Approval of this project is contingent upon the implementation of an "Agreement" between the permittee, Griffey Seabrook, LLC and the Town of Seabrook whereby Griffey Seabrook, LLC is contributing to the enhancement and improvement of the Cain's Brook Watershed by:
 - (a) working with the Town of Seabrook to procure land or an easement(s), to be held by the Town, from third parties as the owners of lands within the Cain's Brook Watershed and
 - (b) by donating \$142,000.00 to the Town of Seabrook Conservation Fund.
19. The final "Agreement" document shall be reviewed and approved by the DES prior to the start of construction.
20. The approved "Agreement" document shall be recorded with the Rockingham County Registry of Deeds and a copy provided to the DES prior to the start of construction.
21. A water quality monitoring plan following the protocol set forth in the "Revised Sampling and Analysis Plan - Mary's Brook - Seabrook, New Hampshire" prepared by NHSC, Inc. Environmental Consultants dated July 2007 (received by the DES July 30, 2007) shall be undertaken.
22. The permittee shall notify the DES Wetlands Bureau and the Seabrook Conservation Commission with the name of the qualified professional and/or company retained to perform the water quality monitoring sampling and analysis at least 30 days prior to the initiation of site work and provide the date on which the Baseline Sampling will occur.
23. The results of the sampling events shall be documented in a report for each sampling event. These reports will be submitted to the DES Wetlands Bureau and the Seabrook Conservation Commission within 30 days of each sampling event.
24. If the data provided through the Sampling and Analysis Plan shows significant changes in water quality parameters of concern that may compromise state and federal water quality standards, remediation may be required.

With Findings:

1. This is a major impact project per Administrative Rule Env-Wt 303.02(c), projects that involve alteration of nontidal wetlands, nontidal surface waters, and banks adjacent to nontidal surface waters in excess of 20,000 square feet in the aggregate.
2. The need for the proposed impacts has been demonstrated by the applicant per Env-Wt 302.01. 3. The applicant has provided evidence which demonstrates that this proposal is the alternative with the least adverse impact to areas and environments under the department's jurisdiction per Env-Wt 302.03.
4. The applicant has demonstrated by plan and example that each factor listed in Env-Wt 302.04(a), Requirements for Application

Evaluation, has been considered in the design of the project.

5. DES Staff conducted a field inspection of the proposed project on November 09, 2007. Field inspection with the applicant (S. Mitchell), the Seabrook Cons Com (Sue Foote), Waterfront Engineers (D. Mellor) NHSC, Inc. Environmental Consultants (A. Fiorillo), Jones & Beach Engineers (E. Saari), ACOE (M. Hicks) NMFS (M. Johnson), DES (L. Sommer and F. Richardson) reviewed aspects of proposed site work especially in relation to Mary's Brook and its environs. The cumulative impact of this project as proposed together with the adjacent existing Lowe's will be significant, but storm water management facilities when properly installed and maintained will provide treatment of site runoff prior to entering this tributary to Cains Brook and the downstream estuarine environment.
6. The applicant has provided a waiver request per Env-Wt 204.03, to waive the written abutter permission requirement for projects within 20 feet of abutting property lines, as required by Env-Wt 304.04(a).
7. The applicant has made numerous attempts to contact the abutting property owner tax map/lot 407/2, including letters sent via certified mail.
8. The abutter did respond, in part, to requests for concurrence but did not provide a signed response.
9. The proposed detention system outflow and site improvements will not enter the abutting property.
10. There will be no adverse effect to the environment or natural resources of the state, public health, or public safety; or on abutting properties that is more significant than that which would result from complying with the Env-Wt 304.04.
11. The waiver is granted in accordance with Env-Wt 204.04(b), as strict compliance with the rule will provide no benefit to the public and will cause an operational or economic hardship to the applicant.
12. The principal functions to the wetlands to be impacted include groundwater discharge and sediment/toxicant retention, and limited floodflow alteration and wildlife habitat.
13. The funds made through the Agreement contribute to the protection of the quality of groundwater and surface water resources, and proposed watershed improvements to Cains Brook.
14. The components of the mitigation proposal add to a comprehensive review taken by the Seabrook Conservation Commission of watershed resources, threats and opportunities and has resulted in a detailed watershed action plan as noted in letter dated September 24, 2007 from the Commission.
15. The funds provided to the Seabrook Conservation Commission will be added to other funds provided by EPA 319 grants and secured by the Conservation Commission for implementing the management plan.
16. The compensatory mitigation provided by this project adequately addresses the loss of similar functions from the project.

2007-00420 BULLSGAP DEVELOPMENT CORP
BARRINGTON Unnamed Wetland

Requested Action:

Impact 2,120 sq. ft. of uplands adjacent to Barrington Designated Prime Wetlands for construction of a septic system and a portion of house footprint; dredge and fill 641 sq. ft. of non-prime wetlands to install a 12" x 20' culvert for driveway crossing to single family house lot.

Inspection Date: 11/01/2007 by Dori A Wiggin

APPROVE PERMIT:

Impact 2,120 sq. ft. of uplands adjacent to Barrington Designated Prime Wetlands for construction of a septic system and a portion of house footprint; dredge and fill 641 sq. ft. of non-prime wetlands to install a 12" x 20' culvert for driveway crossing to single family house lot.

With Conditions:

1. All work shall be in accordance with plans by RSL Layout and Design Inc. dated 9/17/2007, as received by the Department on 10/15/2007.
2. The deed for Tax Map 102, lot 22 shall include the conditions of this permit.
3. This permit is contingent on approval by the DES Subsurface Systems Bureau.
4. No fill shall be done to achieve septic setback and no dredging shall take place that would contradict the DES Subsurface Systems Bureau rules.
5. There shall be no further alteration of wetlands for lot development, driveways, or additional culverts.
6. The 50 foot buffer around the designated prime wetlands shall be left in its natural state, except for required grading associated

with septic system construction. Graded area shall be revegetated with natural vegetation immediately following system construction.

7. The boundaries of the wetland buffer shall be clearly marked prior to construction, shall be remain marked until construction is complete and the area is fully stabilized.
8. Orange construction fencing shall be placed at the limits of construction; siltation/erosion controls shall be installed prior to construction, shall be maintained during construction, and shall remain until the area is stabilized.
9. Erosion control and construction sequence notes on the approved plans shall be explicitly followed.
10. A professional engineer shall inspect the project to insure compliance with approved plans and permit conditions.
11. Proper headwalls shall be constructed within seven days of culvert installation.
12. Culvert outlets shall be properly rip rapped.
13. Dredged material shall be placed outside of the jurisdiction of the DES Wetlands Bureau.
14. Within three days of final grading or temporary suspension of work in an area that is in or adjacent to wetlands or surface waters, all exposed soil areas shall be stabilized by seeding and mulching during the growing season, or if not within the growing season, by mulching with tack or netting and pinning on slopes steeper than 3:1.
15. Work shall be done during low flow.

With Findings:

1. This is a major impact project per Administrative Rule Env-Wt 303.02(f), projects in or adjacent to prime wetlands designated under RSA 482-A:15.
2. A prime wetlands public hearing was held in accordance with RSA 482-A:11 on 8/9/2007.
2. The need for the proposed impacts has been demonstrated by the applicant per Env-Wt 302.01. The applicant must cross wetlands to reach the upland portion of the lot; the house and septic location is within 100' of the prime wetlands boundary but in an otherwise developable upland portion of the lot.
3. The applicant has provided evidence which demonstrates that this proposal is the alternative with the least adverse impact to areas and environments under the department's jurisdiction per Env-Wt 302.03.
4. The applicant has demonstrated by plan and example that each factor listed in Env-Wt 302.04(a), Requirements for Application Evaluation, has been considered in the design of the project. There were no species of concern reported by the NH Heritage Bureau for this site.
5. Testimony was provided at the 8/9/2007 hearing by an abutter regarding flooding as a potential issue related to this application. The abutter, Darlene King, was to have submitted a copy of her septic design and well location to the record following the hearing. The materials were never received by DES. The flooding issue was investigated during field inspection by DES on 11/1/2007, and it was determined that the proposal would not be located in an area which currently provides flood storage, thus would not increase the potential for flooding in the area.
6. On 12/10/2007 DES received email correspondence from the DES Subsurface Bureau indicating that the septic design proposed to be located in the 100' prime wetland setback met all subsurface design requirements for the proposed location and required no waivers for construction. Based on this information, DES finds that the system does not represent a threat to the prime wetland.
7. The Barrington Conservation Commission commented in a letter dated 2/8/2007, received by DES on 3/2/2007, that they wished to see the proximity of the prime wetlands on the lot clarified; and that they felt that there was a possibility that the driveway could minimize impacts further. The applicant has clarified the location of the wetlands line on the approved plan; DES field inspection found that the driveway could not be further minimized.
8. The erosion controls, stabilization methods, culvert sizing and invert elevations will protect the ability of the wetlands to retain floodwaters and silt.
9. The approved plans and conditions of the permit provide for a 50 foot buffer around the Prime Wetland area.
10. The project as approved and constructed in adherence to the provided construction sequence, erosion controls, water treatment system and maintenance program offsets impact from any increased runoff created by the development.
11. Based on the inspection conducted on 11/1/2007 by DES personnel, the project involves minor environmental impacts.
10. Based on findings #1-9 above, there is clear and convincing evidence this proposal will have no significant loss of values to the prime wetlands as set forth in RSA 482-A:1, and the project meets the criteria set forth in Rule Env-Wt 703.01 Criteria for Approval.

Any party may apply for reconsideration with respect to any matter determined in this action within 28 days from the date of this notification. A motion for reconsideration must specify all grounds upon which future appeals may be based, and should

include information not available to the Department when the decision was made. The Department may grant reconsideration if, in its opinion, good reason is provided in the motion.

**2007-00627 NH DEPT OF TRANSPORTATION
WALPOLE Cold River**

Requested Action:

Request to amend the permit modifying the bridge style, lengthening the span by 3 feet and reducing overall jurisdictional impacts by 604 sq. ft.

Conservation Commission/Staff Comments:

Cons. Comm. - no comment

Inspection Date: 11/05/2005 by Gino E Infascelli

APPROVE AMENDMENT:

AMENDMENT

Construct a 105-foot single span concrete butted box beam bridge to replace the former twin arch bridge impacting 20,072 sq. ft. of river and banks (9,055 sq. ft. temporary). NHDOT project #14540U.

With Conditions:

1. All work shall be in accordance with plans by NHDOT Bureau of Highway Design dated 4-OCT-07, as received by the Department on October 17, 2007.
2. This permit is contingent upon the submission of a project specific stream diversion and erosion control plans to the DES Wetlands Bureau. Those plans shall detail the timing and method of stream flow diversion during construction, and shall show the temporary siltation, erosion and turbidity control measures to be implemented.
3. This permit is contingent upon the submission of stamped engineering plans in accordance with and specific to Rule Wt 404.04.
4. Dredged material shall be placed out of the DES Wetlands Bureau jurisdiction.
5. Unconfined work within the brook, exclusive of work associated with installation of a cofferdam, shall be done during periods of low flow.
6. Cofferdams shall not be installed during periods of high flow, whether due to seasonal runoff or precipitation. Once a cofferdam is fully effective, confined work can proceed without restriction.
7. Prior to commencing work on a substructure located within surface waters, a cofferdam shall be constructed to isolate the substructure work area from the surface waters.
8. Temporary cofferdams shall be entirely removed immediately following construction.
9. Construction equipment shall not be located within surface waters.
10. Discharge from dewatering of work areas shall be to sediment basins that are: a) located in uplands; b) lined with hay bales or other acceptable sediment trapping liners; and c) set back as far as possible from wetlands and surface waters, in all cases with a minimum of 20 feet of undisturbed vegetated buffer.
11. Appropriate turbidity controls shall be installed prior to construction, shall be maintained during construction such that no turbidity escapes the immediate dredge area, and shall remain until suspended particles have settled and the water at the work site has returned to normal clarity.
12. Within three days of final grading in an area that is in or adjacent to wetlands or surface waters, all exposed soil areas shall be stabilized by seeding and mulching during the growing season, or if not within the growing season, by mulching with tack or netting and pinning on slopes steeper than 3:1.
13. Where construction activities have been temporarily suspended within the growing season, all exposed soil areas shall be stabilized within 14 days by seeding and mulching.
14. Where construction activities have been temporarily suspended outside the growing season, all exposed areas shall be stabilized within 14 days by mulching and tack. Matting and pinning shall stabilize slopes steeper than 3:1.
15. The contractor responsible for completion of the work shall utilize techniques described in the DES Best Management Practices for Urban Stormwater Runoff Manual (January, 1996) and the Stormwater Management and Erosion and Sediment Control Handbook for Urban and Developing Areas in New Hampshire (August, 1992).

- 16. Extreme precautions to be taken within riparian areas to limit unnecessary removal of vegetation during road construction and areas cleared of vegetation to be revegetated as quickly as possible.
- 17. There shall be no further alteration to wetlands or surface waters without amendment of this permit.
- 18. Standard precautions shall be taken to prevent import or transport of soil or seed stock from nuisance, invading species such as purple loosestrife or Phragmites.
- 19. The impacts associated with the temporary work shall be restored immediately following construction.

With Findings:

- 1. This is a major impact project per Administrative Rule Env-Wt 303.02(c) and (i), disturbance of more than 20,000 sq. ft. of nontidal wetlands or banks and more than 200 linear feet of impacts to a stream.
- 2. The need for the proposed impacts has been demonstrated by the applicant per Env-Wt 302.01.
- 3. The applicant has provided evidence which demonstrates that this proposal is the alternative with the least adverse impact to areas and environments under the department's jurisdiction per Env-Wt 302.03.
- 4. The applicant has demonstrated by plan and example that each factor listed in Env-Wt 302.04(a), Requirements for Application Evaluation, has been considered in the design of the project.
- 5. DES Staff conducted a field inspection of the project area on November 8, 2005. Field inspection determined that the October flooding scoured the wetlands, waterways, and banks causing significant damage to the highways, roadways, bridges and culverts in the watershed.
- 6. As a result of the widespread damage the DES determined that the mitigation rules would not pertain to restoration of this roadway system.
- 7. The project will replace a previously existing structure and will improve public safety.
- 8. Numerous meetings and consultations were held to coordinate projects within the watershed.
- 9. DES Staff finds that this project will not have a significant impact on these palustrine and riverine resources and are not at areas of substantial public interest where issues have been raised pursuant to RSA 482-A:1, therefore, a public hearing is not required.
- 10. The amendment reduces the overall jurisdictional impacts by 604 sq. ft.

2007-00699 BINDLEY, JANE
HOLDERNESS Squam Lake

Requested Action:

Deny amendment request to construct an approximately 900 sq ft patio, approximately 130 linear feet of granite ramp, a 32 sq ft granite landing on the lakebed, construct walls to terrace the frontage and install a set of stairs in the bank on Squam Lake, Holderness.

DENY AMENDMENT:

Deny amendment request to construct an approximately 900 sq ft patio, approximately 130 linear feet of granite ramp, a 32 sq ft granite landing on the lakebed, construct walls to terrace the frontage and install a set of stairs in the bank on Squam Lake, Holderness.

With Findings:

Standards for Approval

- 1. In accordance with RSA 482-A:3, Excavating and Dredging Permits, "[n]o person shall excavate, remove, fill, dredge or construct any structures in or on any bank, flat, marsh, or swamp, or in an adjacent to any waters of the state without a permit from the department."
- 2. In accordance with Rule Env-Wt 302.04(a), Requirements for Application Evaluation, the applicant is required to demonstrate "the need for the proposed impact."
- 3. Rule Env-Wt 302.04(d) states that the Department shall not grant a permit if "(1) [t]here is a practicable alternative that would have a less adverse impact on the area and environments under the department's jurisdiction."
- 4. Pursuant to Rule Env-Wt 302.01 "for nontidal wetlands, need shall be demonstrated by the applicant prior to department approval of any alteration of nontidal wetlands."

- 5. In accordance with RSA 483-B:9,(c) Accessory structure, "means a structure, as defined in paragraph XXII of this section, on the same lot and customarily incidental and subordinate to the primary structure, as defined in paragraph XIV of this section; or a use, including but not limited to paths, driveways, patios, any other improved surface, pump houses, gazebos, woodsheds, garages, or other outbuildings."
- 6. In accordance with Rule Env-Wq 1405.03, Accessory structures shall: (a) Not exceed 20 feet in height; (b) Have a footprint no larger than 150 square feet;
- 7. In accordance with Rule Env-Wq 1405.04, Setback for Accessory Structures, "all accessory structures built after November 26, 1996 shall be set back at least 20 feet from the reference line."
- 8. In accordance with Rule Env-Wq 1405.05 and Rule Env-Wq 1405.08, no accessory structure or water dependent structure shall be built on land having greater than 25% slope.

Findings of Fact

- 9. On August 31, 2007, the Wetlands Bureau issued a permit to replace existing stairs in the bank to access an existing dock and boathouse, install 5 ft wide access stairs over the bank to access the waterbody with 5 ft wide seasonal steps reaching no more than 4-feet into the waterbody, replant and stabilize the existing slope, remove the existing timber edge and add plantings to the frontage on Squam Lake, Holderness.
- 10. On October 29, 2007, the Wetlands Bureau received a request to amend the permit to construct an approximately 900 sq ft patio, approximately 130 linear feet of granite ramp, a 32 sq ft granite landing on the lakebed, construct walls to terrace the frontage and install a set of stairs in the bank on Squam Lake, Holderness.
- 11. The proposed amendment is a significant modification of an existing permit and a significant environmental impact. The proposed impacts would require a new Wetlands application to address all of the requirements of Env-Wt 100-800 and RSA 483-B.

Rulings in Support of Denial

- 12. The applicant did not submit information to the file indicating the proposed project is the least impacting alternative pursuant to Rule Env-Wt 302.04, therefore, the amendment request is denied in accordance with Rule Env-Wt 302.04 (d).
- 13. The applicant did not submit information pursuant to Rule Env-Wt 302.01 to address the need, therefore, the amendment request is denied in accordance with Rule Env-Wt 302.04 (d).
- 14. The proposed structure does not meet the requirements of Rule Env-Wq 1405.03, Rule Env-Wq 1405.04 and Rule Env-Wq 1405.05 and, therefore, the amendment request is denied.

2007-00826 WOLFEBORO CONSERVATION COMMISSION
WOLFEBORO Prime Wetland #39

Requested Action:

Repair the existing bridge, boardwalk and wildlife viewing platform to the exact pre-existing dimensions, within the Ryfield Brook Prime Wetland nature walk system.

APPROVE PERMIT:

Repair the existing bridge, boardwalk and wildlife viewing platform to the exact pre-existing dimensions, within the Ryfield Brook Prime Wetland nature walk system.

With Conditions:

- 1. All work shall be in accordance with plans and construction sequencing, as received by the Department on September 18, 2007.
- 2. Any future work on this property that is within the jurisdiction of the DES Wetlands Bureau as specified in RSA 482-A will require a new application and approval by the Bureau.
- 3. All work shall be done under frozen conditions.
- 4. Appropriate siltation/erosion controls shall be in place prior to construction, shall be maintained during construction, and remain until the area is stabilized. Silt fence(s) must be removed once the area is stabilized.
- 5. Equipment used shall be designed to have low ground contact pressure or placed on temporary swamp mats so as to minimize

rutting of the soils. Swamp mats shall be removed immediately upon completion of work in a particular area so as not to result in permanent impacts.

6. Prior to the installation; swamp mats shall be inspected for and any/all vegetative matter shall be removed.
7. The contractor shall have appropriate oil spill kits on site and readily accessible at all times during construction and each operator shall be trained in its use.
8. All refueling of equipment shall occur 100 feet away from surface waters or wetlands during construction.
9. Construction shall be inspected by a qualified professional such as a wetland scientist, or erosion control specialist, to ensure that appropriate protective measures are properly implemented, including those outlined in the plans and documents supporting this permit application and the conditions of this authorization.
10. All temporary impacts to wetlands shall be restored to natural grade, stabilized, and replanted with native vegetation where necessary.
11. Mulch within the restoration areas shall be straw or seedless hay.
12. Seed mix within the restoration areas shall be a wetland seed mix appropriate to the area and shall be applied in accordance with manufacturer's specifications.
13. Where construction activities have been temporarily suspended outside the growing season, all exposed areas shall be stabilized within 14 days by mulching and tack. Slopes steeper than 3:1 shall be stabilized by matting and pinning.
14. The work areas shall be monitored at the end of construction and a written report documenting its condition shall be submitted to the DES Wetlands Bureau by July 15 of the year following project completion. The report shall include photographic documentation. The DES Wetlands Bureau shall require subsequent monitoring and may require corrective measures if the work area is not adequately stabilized and restored to pre-existing conditions.

With Findings:

1. This is a major impact project per Administrative Rule Env-Wt 303.02(f), projects located in or adjacent to designated prime wetlands under RSA 482-A:15.
2. The existing boardwalk and bridge are in poor condition and are a safety hazard.
3. The need for the proposed impacts has been demonstrated by the applicant per Env-Wt 302.01. 4. The proposal is to repair and replace the existing rotten portions of the boardwalk by hand.
5. The proposal is to replace the bridge in kind under frozen conditions.
6. The applicant has provided evidence which demonstrates that his/her project, as approved and conditioned, is the alternative with the least adverse impact to areas and environments under the department's jurisdiction per Env-Wt 302.03.
7. The applicant has demonstrated by plan and example that each factor listed in Env-Wt 302.04(a), Requirements for Application Evaluation, has been considered in the design of the project.
8. The plans accurately locate the boundary of the wetlands and prime wetlands.
9. The project as approved and constructed in adherence to the provided construction sequence, erosion controls, plans will not impair the functions and values of the wetland system.
10. Based on the inspection conducted on June 7, 2006, by NHDES Wetlands Staff, the project involves minor environmental impacts.
11. Based on findings above, there is clear and convincing evidence this proposal will have no significant loss of values to the prime wetlands as set forth in RSA 482-A:1, and the project meets the criteria set forth in Rule Env-Wt 703.01 Criteria for Approval.

Any party may apply for reconsideration with respect to any matter determined in this action within 28 days from the date of this notification. A motion for reconsideration must specify all grounds upon which future appeals may be based, and should include information not available to the Department when the decision was made. The Department may grant reconsideration if, in its opinion, good reason is provided in the motion.

2007-01174 **HUGHES, WILLIAM**
RINDGE Emerson Pond

Conservation Commission/Staff Comments:

Received on 10/11/07 Motion for Reconsideration on 10/1/07 denial issued to William Hughes.

With Findings:

A. Grounds for Reconsideration

The request for reconsideration asserts the following as the basis for the request:

1. In a DES Notice of Administrative Completeness letter dated August 20, 2007 states that "an assigned permitting inspector will conduct a detailed technical evaluation of the application within 75 days of this letter...In the event that more information is needed to complete the application you will receive a written request outlining the specific items required." Therefore the letter of denial dated October 1, 2007 comes as a great surprise to me.
2. Apparently the file was reassigned to Chris Brison without notification to the applicant.
3. During the period of August 20, 2007 until receipt of the October 1, 2007 the applicant has NOT received any written request outlining ANY specific items that were require [sic] to be addressed. Now in the "denial letter" apparently there are some 27 items with which the DES has issue. I believe an explanation is in order.
4. With respect to DES item # 22, the issue of non-contiguous property, I can only repeat the need for a reasonable explanation of the conclusion drawn by DES based on the submitted material.
5. The basis for the DES denial is not accurate. Per Ms. Burnes's requests the applicant included the tax map of Mary Roma and William and Barbara Hughes.
6. The need for the project has been demonstrated in the application under Purpose and Description.
7. The applicant believes the evidence demonstrating that their alternative is the least adverse impacting as the channel is minimal in width allowing safe passage of a watercraft with a 6 foot beam.
8. The applicant feels the reference to Env Wt 302.04(d) is a repeat of the intent of items #3 and has been demonstrated by the applicants within the scope of their submitted application.
9. The applicant believes they have met the requirement of Env Wt 302.04(e)(2) and Env Wt 302.03.
10. The applicant believes they have shown the shoreline frontage has been demonstrated with in the "Construction Maps".
11. The applicant submits that their 15 foot party craft pontoon boat with 15 hp motor is presently at the shoreline of the project got there at normal high water and is presently unable to navigate the plant debris clogging its pathway.
12. The properties are contiguous and individually owned.
13. Env Wt 501.02, (a) (f) & (g) (items 9-12) have been more than satisfied in their Construction Topographic maps and Photo maps supplied by the applicants in their application.
14. DES finding 13 is grammatically incorrect and cannot be addressed by the applicant.
15. DES finding 14 is redundant, erroneous and incorrect has been addressed in the rebuttal of this motion.
16. The applicant submitted with the application a copy of a map entitled Emerson Pond with 5 foot contours marked in the lower right hand corner.
17. Finding #18 is redundant and ahs been addressed by rebuttal of item 12.
18. A rebuttal of item 13 needs to be supplied in order for the applicants to rebut.
19. The application fee was determined using Worksheet B.
20. The LOD has been resolved.

21. The violations have been resolved as rebutted in DES item #21 and DES #22.
22. Item #24 has been addressed by the applicant in their rebuttal of DES item #3, #7 and DES #17.
23. The applicant submits that the application including all its various components show a concern and willingness to provide minimal impact to the environment balanced against the legitimate needs of the property owners.
24. The Conservation Commission indicates they have reviewed the project on site and are not opposed to its approval.
25. The plans as submitted show the dredge of an unknown amount (plan is not to scale) in front of the properties of Kenneth and Joeleen Little, with a dock construction and associated dredging in the lake in front of and extending from the property of Al and Mary Roma and dock construction and associated dredging in front of and extending from the property of William and Barbara Hughes. Additionally the proposed 10 foot channel is proposed in front of the property of Sarah McCaigue.

B. Standards for Approval and Process for Review

1. RSA 482-A:10, II requires a request for reconsideration to describe in detail each ground for complaint. No ground not set forth in there request for reconsideration can be considered by the Wetlands Council or the Superior Court (if further appeal is taken), except as provided in paragraph VIII of that section.
2. RSA 482-A:10, III provides that on reconsideration, the Department will receive and consider any new and additional evidence presented, and make findings of fact and ruling of law in support of its decision after reconsideration.
3. RSA 482-A:10, V provides that the burden of proof is on the party seeking to set aside the Department's decision to show that the decision is unlawful or unreasonable.
4. If the Department is persuaded by the request for reconsideration of a permit denial was erroneous, the result is that the permit originally requested would be granted.
5. RSA 482-A:3, XIV provides time limits in the process of an application for permit under this chapter and subparagraph (d) allows the Department to deny an application without requesting information.
6. Env Wt 302.04(d) provides that the department shall not grant a permit if the applicant fails to document that the proposed alternative is one with the least adverse impact to areas and environments under the department's jurisdiction, or if the applicant proposes unnecessary destruction of wetlands.
7. The applicant must provide evidence which demonstrates that his/her proposal is the alternative with the least adverse impact to areas and environments under the department's jurisdiction per Env Wt 302.03.
8. RSA 482-A:1 provides that it is for the public good and welfare of the state to protect and preserve its wetlands from despoliation and unregulated alteration because to the adverse affect the value of such areas - it will damage or destroy habitats and reproduction areas for plants, fish and wildlife of importance..will adversely affect stream channels and their ability to handle runoff of waters, and will disturb and reduce the natural ability of wetlands to absorb flood waters and thus increase general flood damage and silting of open water channels.
9. Env Wt 101.05 "applicant" means a person having an interest in the land on which a project is to be located that is sufficient for the person to legally proceed with the project who has applied for a permit.
10. Env Wt 304.04 (a) "Setback from Property Lines" requires that the department limit the location of a project to at least 20 feet from an abutting property line or imaginary extension thereof over surface water unless it receives written agreement from the affected abutter concurring with any impact that may result relative to the abutter's interest.
11. Each property owner shall be required to file a separate application for work on their property.

12. The applicant proposes to convert a vegetated wetland to provide for navigable frontage.

C. Findings of Fact and Rulings of Law

1. On June 12, 2007 DES inspected the Hughes/Roma property and found approximately 50 linear feet of shoreline had been impacted by dredging. Approximately 15 linear feet of bank had been removed and was observed with the shrubs and roots in the trees. The dredge area was approximately 50 linear feet long and 20 feet deep. The shrubs and ground cover had been removed from the shoreline during the dredging. The dredged material had been stockpiled adjacent to the lake.
2. On June 22, 2007 DES issued a Letter of Deficiency ("LOD") to William Hughes documenting the following deficiencies:
 - a. Shrubs and vegetation were removed from the shoreline for a distance of approximately 50 linear feet.
 - b. A portion of the bank, measuring approximately 15 linear feet was removed and placed in the treed portion of the lot.
 - c. Approximately 1000 square feet of lakebed had been dredged. The dredge spoils were placed adjacent to the shoreline in a stockpile.
 - d. Approximately 10 linear feet of stream bank had been impacted and bare soils were visible.
3. The LOD requested Mr. Hughes submit a restoration plan within 30 days, retain a wetland scientist, and implement the restoration plan.
4. On July 2, 2007 DES received an application from William D. Hughes to dredge approximately 2,000 sq.ft. of wetlands and removal of approximately 75 cubic yards.
5. On July 9, 2007 DES issued a notice of administrative incompleteness to Mr. Hughes.
6. On July 23, 2007 DES received a revised "construction map" as requested by the Rindge Conservation Committee (more detailed measurements).
7. On July 18, 2007 Mr. Hughes followed up his telephone conversation with DES personnel by enclosing a list of abutter and their locations with a copy of the Town tax map highlighted with ownership information shown.
8. On October 1, 2007 DES denied Mr. Hughes application.
9. The permit application fee is set by RSA 482-A:3, I.
10. RSA 482-A:3, I requires that applications shall be submitted by the applicant through the Town where the project is located.
11. In this case, many other properties are affected by the proposed project besides that of the applicant's.
12. The application as proposed would violate Env Wt 304.04 (a), the setback rule.
13. The application as proposed would not be permitted even if all of the details in Env Wt 501.02 had been met.
14. The application as proposed is more properly severed with each individual property owner filing their own application.
15. The applicant proposes to dredge a vegetated wetland and associated vegetated shoreland that serves important function of water quality attenuation. The applicant has not demonstrated how their private dredged channel project and associated docks would mitigate for the loss of this important function.
16. The applicant has not met their burden of proof to set aside the Department's decision to show that the decision is unlawful or unreasonable.

2007-01184 **NEWINGTON, TOWN OF**
NEWINGTON Little Bay

Requested Action:

Conduct necessary repair/reconstruction at the Newington Town Landing including 1) reconstruct existing deteriorated boat ramp

measuring 84' long x 12' wide (1,008 sq. ft.) by replacing deteriorated surface with concrete planks; 2) repair in-kind at total of 188 linear ft. of existing granite seawall, including cutting back 1,200 sq. ft. (30 linear ft. of the total) in one section of eroded fill extension in the upland tidal buffer zone (remanants of the approach to a long-disappeared 19th century bridge), and resetting all existing granite; and 3) install 95 linear ft. (1,850 sq. ft.) of new rip-rap to stabilize and protect eroded and undercut natural shoreline and to prevent further erosion and loss of mature trees critical as habitat for wintering bald eagles.

Inspection Date: 10/09/2007 by Dori A Wiggin

APPROVE PERMIT:

Conduct necessary repair/reconstruction at the Newington Town Landing including 1) reconstruct existing deteriorated boat ramp measuring 84' long x 12' wide (1,008 sq. ft.) by replacing deteriorated surface with concrete planks; 2) repair in-kind at total of 188 linear ft. of existing granite seawall, including cutting back 1,200 sq. ft. (30 linear ft. of the total) in one section of eroded fill extension in the upland tidal buffer zone (remanants of the approach to a long-disappeared 19th century bridge), and resetting all existing granite; and 3) install 95 linear ft. (1,850 sq. ft.) of new rip-rap to stabilize and protect eroded and undercut natural shoreline and to prevent further erosion and loss of mature trees critical as habitat for wintering bald eagles.

With Conditions:

1. All work shall be in accordance with revised plans by Waterfront Engineers LLC dated 9/11/2007, as received by the Department on 9/21/2007.
2. Any further alteration of areas on this property that are within the jurisdiction of the DES Wetlands Bureau will require a new application and further permitting by the Bureau.
3. Work shall be conducted in a manner that avoids excessive discharges of sediments to fish spawning areas. All work in the dry shall occur between September 15 and April 15, to protect common tern nesting on adjacent Nanny's Island, and fisheries, per correspondence from NH Fish and Game Dept. dated 3/15/2007, received 5/30/07. Work which can not be conducted in the dry shall occur within the dredge window of November 15 to March 15.
4. All mature trees over 8" dbh shall be maintained to protect habitat of wintering bald eagles.
5. Appropriate siltation/erosion/turbidity controls shall be in place prior to construction, shall be maintained during construction, and shall remain until the area is stabilized. Silt fence(s) must be removed once the area is stabilized.
6. Appropriate turbidity controls shall be installed prior to construction, shall be maintained during construction such that no turbidity escapes the immediate dredge area, and shall remain until suspended particles have settled and the water at the work site has returned to normal clarity. Work shall be conducted in a manner so as to minimize turbidity and sedimentation to surface waters and wetlands.
7. Work shall be done during low tide.
8. Within three days of final grading or temporary suspension of work in an area that is in or adjacent to wetlands or surface waters, all exposed soil areas shall be stabilized by seeding and mulching during the growing season, or if not within the growing season, by mulching with tack or netting and pinning on slopes steeper than 3:1.8
9. Construction equipment shall be inspected daily for leaking fuel, oil and hydraulic fluid prior to entering surface waters or wetlands.
10. Faulty equipment shall be repaired prior to entering jurisdictional areas.
11. The contractor shall have appropriate oil spill kits on site and readily accessible at all times during construction and each operator shall be trained in its use.
12. All refueling of equipment shall occur outside of surface waters or wetlands during construction.

With Findings:

1. This is a major impact project per Administrative Rule Env-Wt 303.02(a), projects in tidal wetlands.
2. The need for the proposed impacts has been demonstrated by the applicant per Env-Wt 302.01. The existing wall is experiencing on-going erosion, resulting in wall failure in some locations, development of sink holes in the roadway immediately adjacent to the wall. The natural shoreline beyond the granite wall is undercut and eroded to the degree that mature trees which represent habitat for wintering bald eagles are threatened. The boat ramp is severely deteriorated and breaking away into the inter-tidal areas.
3. The applicant has provided evidence which demonstrates that this proposal is the alternative with the least adverse impact to areas and environments under the department's jurisdiction per Env-Wt 302.03. The applicant is re-setting existing granite where

possible, including cutting back historic fill to remove unstable material and reset the stone properly; installing limited rip rap where vegetative stabilization has failed, and is replacing the broken paved boat ramp with concrete logs.

4. The applicant has demonstrated by plan and example that each factor listed in Env-Wt 302.04 (c), Requirements for Application Evaluation, has been considered in the design of the project, as follows:

a. the common tern was reported by the NH Natural Heritage Bureau as present nesting on Nanny's Island, immediately adjacent to the site, and the approval conditions incorporate the time limitations of 9/15 to 4/15 specified by NH Fish and Game Department ("NHFG") to protect the species;

b. protection of the large mature trees present at the shoreline as critical habitat for wintering bald eagles is an element of the purpose of the project, and will be accomplished by the shoreline stabilization proposed; the approval has been further conditioned to prevent removal of these trees per comments of NHFG;

b. NHFG Marine Fisheries Division stated that fisheries concerns will be addressed by confining work in the dry to the above-referenced time frame, and by confining work in the water to the dredge window of 11/15 to 3/15.

c. survey of inter-tidal area by CWS Lenoard Lord conducted on 10/22/2007 found that there were no eelgrass beds present to be impacted by installation of the new rip rap, per correspondence received by DES on 10/23/2007.

5. The Newington Conservation Commission recommends approval.

6. DES personnel inspected the project on 10/9/2007 and found that the application materials accurately depicted site conditions, but questioned the possible presence of eel grass, which was later answered by field survey referenced in finding 4.c. above.

7. This project represents repair of existing structures (the boat ramp and seawall), and installation of the new rip rap for shoreline stabilization will protect existing infrastructure (the Town's landing access road), and therefore is not required to provide compensatory mitigation per Env-Wt 302.03(c)(2)c.

-Send to Governor and Executive Council-

**2007-01909 NH DEPT OF TRANSPORTATION
WARNER Unnamed Wetland**

Requested Action:

Request to Amend permit condition #15 to allow the cutting of three trees.

Conservation Commission/Staff Comments:

No comments from Cons. Commissions.

APPROVE AMENDMENT:

AMENDMENT

Construct a new crossing and improve an existing crossing for emergency vehicles; remove debris and sediment from outlet pipes due to past beaver activity and slope failures and construct headwalls impacting 8,603 sq. ft. of palustrine and riverine wetlands (402 sq. ft. temporary). NHDOT project #14511.

With Conditions:

1. All work shall be in accordance with plans by NHDOT Bureau of Highway Design:

a. Dated 7-07, sheets 1-7 (impact areas A-Q) as received by the Department on August 9, 2007 and

b. Dated 9-07, sheets 1-8 (impact areas R-Z, A1, B1) as received by the Department on September 21, 2007.

2. This permit is contingent upon the submission of a project specific stream diversion and erosion control plans to the DES Wetlands Bureau. Those plans shall detail the timing and method of stream flow diversion during construction, and shall show the temporary siltation, erosion and turbidity control measures to be implemented.

3. Dredged material shall be placed out of the DES Wetlands Bureau jurisdiction.

4. Construction equipment shall not be located within surface waters.

5. Discharge from dewatering of work areas shall be to sediment basins that are: a) located in uplands; b) lined with hay bales or other acceptable sediment trapping liners; and c) set back as far as possible from wetlands and surface waters, in all cases with a minimum of 20 feet of undisturbed vegetated buffer.

6. Appropriate siltation/erosion/turbidity controls shall be in place prior to construction, shall be maintained during construction,

and shall remain until the area is stabilized.

7. Within three days of final grading in an area that is in or adjacent to wetlands or surface waters, all exposed soil areas shall be stabilized by seeding and mulching during the growing season, or if not within the growing season, by mulching with tack or netting and pinning on slopes steeper than 3:1.
8. Where construction activities have been temporarily suspended within the growing season, all exposed soil areas shall be stabilized within 14 days by seeding and mulching.
9. Where construction activities have been temporarily suspended outside the growing season, all exposed areas shall be stabilized within 14 days by mulching and tack. Matting and pinning shall stabilize slopes steeper than 3:1.
10. The contractor responsible for completion of the work shall utilize techniques described in the DES Best Management Practices for Urban Stormwater Runoff Manual (January, 1996) and the Stormwater Management and Erosion and Sediment Control Handbook for Urban and Developing Areas in New Hampshire (August, 1992).
11. Extreme precautions to be taken within riparian areas to limit unnecessary removal of vegetation during road construction and areas cleared of vegetation to be revegetated as quickly as possible.
12. There shall be no further alteration to wetlands or surface waters without amendment of this permit.
13. Standard precautions shall be taken to prevent import or transport of soil or seed stock from nuisance, invading species such as purple loosestrife or Phragmites.
14. The impacts associated with the temporary work shall be restored immediately following construction.
15. No trees shall be cut within the exemplary natural community and the removal of sediment deposits near this area shall not disturb the underlying soils with the exception of the removal of 3 trees under 8 inches dbh per the December 11, 2007 e-mail from DRED Natural Heritage Bureau as long as the stump and root systems are left in tact.

With Findings:

1. This is a major impact project per Administrative Rule Env-Wt 303.02(i), alteration of more than 200 linear feet of stream bank and channel.
2. The permit was issued with conditions on November 30, 2007.
3. On December 11, 2007 the NHDOT requested the permit conditions be amended to allow the cutting of three trees as agreed to per the December 11, 2007 e-mail from the DRED Natural Heritage Bureau.
4. This amendment modifies condition #15 allowing a minimal impact to the exemplary natural community.

2007-02045 WHITNEY, STEVEN & REBECCA
OSSIPEE Ossipee Lake

Requested Action:

Applicant requests to construct 90 linear feet of retaining wall below elevation 410 and fill 1216 sq ft landward of the proposed wall in Ossipee Lake, Ossipee.

Conservation Commission/Staff Comments:

Ossipee Con Comm requests no action be taken on this per report rec'd 10/4/07 -np

DENY PERMIT:

Applicant requests to construct 90 linear feet of retaining wall below elevation 410 and fill 1216 sq ft landward of the proposed wall in Ossipee Lake, Ossipee.

With Findings:

Standards for Approval

1. In accordance with RSA 482-A:3, Excavating and Dredging Permits, "[n]o person shall excavate, remove, fill, dredge or construct any structures in or on any bank, flat, marsh, or swamp, or in an adjacent to any waters of the state without a permit from the department."
2. This project is classified as a major impact project per Rules Env-Wt 303.02(e), construction or modification of retaining walls lakeward of the natural shoreline and below the natural mean high water level of great ponds, and Env-Wt 303.02 (n), fill in public waters for the purpose of making land.

3. In accordance with Env-Wt 402.17 Ownership, "(a) An applicant for a shoreline structure defined as major shall be the owner in fee of the affected frontage, unless the applicant has leased the property from the state pursuant to RSA 228:57-a."
4. In accordance with Env-Wt 404.01 "shoreline stabilization shall be by the least intrusive but practical method."
5. In accordance with Env-Wt 404.05 Walls (a)" the following requirements relative to walls shall apply to nontidal waters: (1) Walls shall be permitted only where lack of space or other limitations of the site make alternative stabilization methods impractical;... (3) Walls on great ponds or water bodies where the state holds fee simple ownership shall be located on the shoreward side of the normal high-water shoreline; (4) Applications for walls adjacent to great ponds or water bodies where the state holds fee simple ownership shall include a stamped surveyed plan showing the location of the normal high water shoreline and the footprint of the proposed project."
6. In accordance with Rule Env-Wt 302.04 (d) the department shall not grant a permit is the is a less impacting alternative available.

Findings of Fact

1. On August 28, 2007, the Wetlands Bureau received an application for surface water, bed and bank impacts, on the lot identified as Ossipee tax map 37, lot 14, to construct 90 linear feet of retaining wall below elevation 410 and fill 1216 sq ft landward of the wall on Ossipee Lake, Ossipee.
2. The limit of state ownership of Ossipee Lake is defined as elevation 410 ft above sea level.
3. The stamped surveyed plan submitted with the application showed a proposed wall to be constructed below elevation 410 and within public waters. The proposal included placing fill to make land behind the wall, thus taking public waters for private use.
4. The photographs submitted with application indicate all of the natural vegetation has been removed from the frontage. The remaining manicured vegetation is insufficient to slow surface run-off or hold soils along the frontage.
5. On October 01, 2007, the Wetlands Bureau received comments of concern from a nearby property owner with regards to the proposed project alleging that the applicant does not on frontage on Ossipee Lake.
6. On October 15, 2007, the Wetlands Bureau received comments from Berry Surveying and Engineering with an attached plan of the right-of-way from White Mountain Survey Co dated December 03, 2002. This plan confirms roadway location as shown on the plans by Berry Surveying and Engineering dated August 09, 2007.
7. None of the plans submitted by the Applicant properly identify elevation 410 as the normal high water line and limit of state ownership.

Rulings in Support of Denial

1. The Applicant has failed to submit plans identifying elevation 410 as the normal high water line, which is the limit of state ownership, as required per Rule Env-Wt 404.05.
2. The Applicant's proposal to construct a wall lakeward of the normal high water line fails to meet the requirements of Rule Env-Wt 404.05.
3. The construction of a wall and taking of approximately 1,216 sq ft of public lands for private use is not the least impacting alternative and, therefore, this application is denied per Rule Env-Wt 302.04.

2007-02628 EPSOM, TOWN OF
EPSOM Blakes Brook

Requested Action:

Permanently remove the existing bridge and associated abutments from jurisdiction and dredge and fill 3,750 square feet in riverine wetlands and within the banks of Blake Brook to upgrade the Center Hill Road Bridge. Work within jurisdiction consists of the construct of abutments, a new bridge deck, widening of the roadway and stream channel and bank stabilization.

Inspection Date: 04/18/2007 by Jocelyn S Degler

APPROVE PERMIT:

Permanently remove the existing bridge and associated abutments from jurisdiction and dredge and fill 3,750 square feet in riverine wetlands and within the banks of Blake Brook to upgrade the Center Hill Road Bridge. Work within jurisdiction consists of the

construct of abutments, a new bridge deck, widening of the roadway and stream channel and bank stabilization.

With Conditions:

1. All work shall be in accordance with plans by The Louis Berger Group, Inc.: Dredge and Fill plan sheet dated October 2007, as received by DES on November 2, 2007, Bridge Sheets 2 and 3 of 7, dated October 2007, and cross section sheets 3 and 4 of 5 as received by DES on November 9, 2007.
2. This permit is contingent on review and approval, by the DES Wetlands Bureau, of final stream diversion/erosion control plans. Those plans shall detail the timing and method of stream flow diversion during construction, and show temporary siltation/erosion/turbidity control measures to be implemented.
3. The applicant shall notify DES and the local conservation commission in writing of their intention to commence construction no less than 5 business days prior to construction.
4. Work shall be done during low flow.
5. There shall be no excavation or operation of construction equipment in flowing water.
6. No equipment shall be staged in jurisdiction all staging areas shall be above the top of the bank.
6. Appropriate siltation/erosion controls shall be in place prior to construction, shall be maintained during construction, and remain until the area is stabilized. Silt fence(s) must be removed once the area is stabilized.
7. Appropriate turbidity controls shall be installed prior to construction, shall be maintained during construction such that no turbidity escapes the immediate dredge area, and shall remain until suspended particles have settled and the water at the work site has returned to normal clarity.
8. This permit is contingent upon review and coordination with the DES Watershed Management Bureau's Water Quality Planning Section.
9. All work shall be conducted in a manner that minimizes the duration of construction in the watercourse.
10. Extreme precautions shall be taken within riparian areas to limit unnecessary removal of vegetation during access road construction and areas cleared of vegetation to be revegetated within three days of the completion of this project.
11. Work shall be conducted in a manner so as to minimize turbidity and sedimentation.
12. The Permittee shall monitor the weather and will not commence work within flowing water, including the installation of cofferdams, when rain is in the forecast.
13. Areas from which vegetation has been cleared to gain access to the site shall be replanted with like native species.
14. Prior to commencing work within surface waters, a temporary cofferdam shall be constructed to isolate the substructure work area from the surface waters.
15. Temporary cofferdams shall not be installed during periods of high flow, whether due to seasonal runoff or precipitation. Once a temporary cofferdam is fully effective, confined work can proceed without restriction.
16. Temporary cofferdams shall be entirely removed immediately following construction.
17. Discharge from dewatering of work areas shall be to sediment basins that are: a) located in uplands; b) lined with hay bales or other acceptable sediment trapping liners; c) set back as far as possible from wetlands and surface waters, in all cases with a minimum of 20 feet of undisturbed vegetated buffer.
18. Dredged material shall be placed out of any area that is within the jurisdiction of the DES Wetlands Bureau
19. Within three days of final grading or temporary suspension of work in an area that is in or adjacent to wetlands or surface waters, all exposed soil areas shall be stabilized by seeding and mulching during the growing season, or if not within the growing season, by mulching with tack or netting and pinning on slopes steeper than 3:1.
20. The contractor responsible for completion of the work shall utilize techniques described in the DES Best Management Practices for Urban Stormwater Runoff Manual (January, 1996) and the Stormwater Management and Erosion and Sediment Control Handbook for Urban and Developing Areas in New Hampshire (August, 1992).
21. A post-construction report documenting the status of the restored streambed and banks shall be submitted to the Wetlands Bureau within 60 days of the completion of construction.

With Findings:

1. This is a major impact project per Administrative Rule Env-Wt 303.02(i), projects that alter the course of or disturb 200 or more linear feet of an intermittent or perennial nontidal stream or river channel or its banks. For intermittent streams, the distance shall be measured along the thread of the channel. For perennial streams or rivers, the total disturbance shall be calculated by summing the lengths of disturbances to the channel and the banks
2. The need for the proposed impacts has been demonstrated by the applicant per Wt 302.01.
3. The applicant has provided evidence which demonstrates that this proposal is the alternative with the least adverse impact to areas and environments under the department's jurisdiction per Wt 302.03.

4. The applicant has demonstrated by plan and example that each factor listed in Wt 302.04(a) Requirements for Application Evaluation, has been considered in the design of the project.
5. DES Staff conducted a field inspection of the proposed project on April 18, 2007.
6. This project will benefit public safety through widening existing roadway and increasing the width of the channel.
7. The existing bridge structure restricts the natural channel.
8. The applicant has obtained easements to conduct work in wetlands jurisdiction on the abutting lots.
9. The conservation commission has granted their agreement of this project per their letter dated April 26, 2007.
10. This project was expedited by the Commissioner due to the public safety issues.

MINOR IMPACT PROJECT

2002-02736 BEAVER BROOK ENVIRONMENTAL CONSULTANTS, LLC
LONDONDERRY Watts Brook

Requested Action:

Dredge and fill a total of 8,322 square feet (temporary impact = 2,112 square feet and permanent impact = 6,210 square feet) in the Watts Brook floodplain, comprised of palustrine forested and scrub-shrub wetland communities, to install a temporary 36-inch in diameter by 50-foot long RCP culvert, install a temporary sand bag coffer dam in the stream bed, a 20-foot long by 10-foot wide by 4-foot deep stilling basin (in uplands) as a sediment trap, including 971.7 square feet of floodplain replication northeast and southwest of the impact site, to allow for the construction of concrete footings and grading on the northern and southern stream banks to support the installation of a permanent Conspan arch bridge to access 13 lots of a new, 14-lot residential subdivision on 34.1 acres.

Conservation Commission/Staff Comments:

In a letter to the DES Wetlands Bureau dated January 21, 2003 the Londonderry Conservation Commission approved the plan and expressed its pleasure with a bridge over Watts Brook rather than a culvert.
The Londonderry Conservation Commission is not opposed to the current amendment request.

APPROVE AMENDMENT:

Dredge and fill a total of 8,322 square feet (temporary impact = 2,112 square feet and permanent impact = 6,210 square feet) in the Watts Brook floodplain, comprised of palustrine forested and scrub-shrub wetland communities, to install a temporary 36-inch in diameter by 50-foot long RCP culvert, install a temporary sand bag coffer dam in the stream bed, a 20-foot long by 10-foot wide by 4-foot deep stilling basin (in uplands) as a sediment trap, including 971.7 square feet of floodplain replication northeast and southwest of the impact site, to allow for the construction of concrete footings and grading on the northern and southern stream banks to support the installation of a permanent Conspan arch bridge to access 13 lots of a new, 14-lot residential subdivision on 34.1 acres.

With Conditions:

1. All work shall be in accordance with plans by Edward N. Herbert Associates, Inc. dated 8/02, as received by the Department on 12/23/02.
- 1a. Work associated with the approved permit amendment shall be in accordance with plans by CLD Consulting Engineers, Inc. dated 07/07, as received by the DES Wetlands Bureau on October 23, 2007.
2. There shall be no further alteration of wetlands for lot development, driveways, culverts, or for septic setback.
3. The deed which accompanies the sales transaction for each of the lots in this subdivision shall contain condition #2 of this approval.
4. This permit shall not be effective until it has been recorded with the Registry of Deeds Office by the Permittee. A copy of the registered permit shall be submitted to the DES Wetlands Bureau prior to construction.
5. Unconfined work within Watts Brook, exclusive of work associated with installation of a cofferdam, shall be done during periods of low flow.

6. Cofferdams shall not be installed during periods of high flow, whether due to seasonal runoff or precipitation. Once a cofferdam is fully effective, confined work can proceed without restriction.
7. Prior to commencing work on a substructure located within surface waters, a cofferdam shall be constructed to isolate the substructure work area from the surface waters.
8. Temporary cofferdams shall be entirely removed immediately following construction.
9. This permit is contingent on approval by the DES Site Specific Program.
10. This permit is contingent on approval by the DES Subsurface Systems Bureau.
11. Discharge from dewatering of work areas shall be to sediment basins that are: a) located in uplands; b) lined with hay bales or other acceptable sediment trapping liners; c) set back as far as possible from wetlands and surface waters, in all cases with a minimum of 20 feet of undisturbed vegetated buffer.
12. Dredged material shall be placed out of any area that is within the jurisdiction of the DES Wetlands Bureau
13. Orange construction fencing shall be placed at the limits of construction to prevent accidental encroachment on wetlands.
14. The temporary culvert outlet shall be properly rip rapped and shall have an effective temporary headwall installed.
15. Within three days of final grading or temporary suspension of work in an area that is in or adjacent to wetlands or surface waters, all exposed soil areas shall be stabilized by seeding and mulching during the growing season, or if not within the growing season, by mulching with tack or netting and pinning on slopes steeper than 3:1.

With Findings:

1. This is a Minor Project per NH Administrative Rule Wt 303.03(c), alteration of stream that will involve dredging and filling in wetlands jurisdiction of more than 3,000 but less than 20,000 square feet of impact, and the construction of a permanent bridge to access a 14-lot residential subdivision.
2. The need for the proposed impacts has been demonstrated by the applicant per Wt 302.01.
3. The applicant has provided evidence which demonstrates that this proposal is the alternative with the least adverse impact to areas and environments under the department's jurisdiction per Wt 302.03.
4. The applicant has demonstrated by plan and example that each factor listed in Wt 302.04(a) Requirements for Application Evaluation, has been considered in the design of the project.

**2005-01891 VINTAGE LANDS LLC, STANLEY JACKSON
WARREN Unnamed Wetland Stream**

Requested Action:

Retain 1,530 (40 linear feet) of intermittent and perennial stream impact and restore 320 square feet (20 linear feet) of Ore Hill Brook to replace a 4-foot culvert with a bridge and restore 1,800 square feet of palustrine forested wetlands for driveway access to a 3-lot subdivision on ± 145 acres.

With Findings:

12. No comments were submitted from the NHFG Nongame and Endangered Wildlife Program, the Natural Heritage Bureau, or the Warren Conservation Commission.
7. Topography guided the proposed entrance locations to the site; resulting in intermittent stream impact.
8. One perennial stream crossings could be eliminated with the construction of a single access way to all three subdivided lots (Town of Warren ordinances require road construction for access to more than two (2) lots); the road construction alternative would decrease the number of crossings, but increase the linear feet of impact at each crossing; therefore, the linear feet of impact would be similar.
9. Accessing lot #3 from the lot 1&2 common driveway is not feasible because this location consists of very steep (+/- 25%) ledge slope.
10. Further subdivision of these lots is prohibited by the town.
11. The applicant has agreed to replace the Ore Hill Brook conventional culvert with a bridge and restore the stream channel and banks.

Requested Action:

Deny permit request to retain 1,570 square feet (80 linear feet) of intermittent and perennial stream impact; restore 320 square feet (20 linear feet) of Ore Hill Brook to replace a 4-foot culvert with a bridge; and restore 1,800 square feet of palustrine forested

wetlands for driveway access to a 3-lot subdivision on \pm 145 acres.

DENY PERMIT:

Deny permit request to retain 1,570 square feet (80 linear feet) of intermittent and perennial stream impact; restore 320 square feet (20 linear feet) of Ore Hill Brook to replace a 4-foot culvert with a bridge; and restore 1,800 square feet of palustrine forested wetlands for driveway access to a 3-lot subdivision on \pm 145 acres.

With Findings:

Standard for Approval:

1. This is a minor impact project per Administrative Rule Env-Wt 303.03(l), projects that alter the course of or disturb less than 200 linear feet of an intermittent or perennial nontidal stream or river channel or its banks and do not meet the criteria for minimum impact under Env-Wt 303.04(n).
2. Approvals must be consistent with the findings of public purpose set forth by RSA 482-A:1.
3. The need for the proposed impacts shall be demonstrated by the applicant prior to department approval of any alteration of nontidal wetlands per Rule Env-Wt 302.01.
4. The applicant must provide evidence which demonstrates that his/her proposal is the alternative with the least adverse impact to areas and environments under the department's jurisdiction per Rule Env-Wt 302.03.
5. The applicant must demonstrate by plan and example that each factor listed in Rule Env-Wt 302.04(a), Requirements for Application Evaluation, has been considered in the design of the project.
6. Pursuant to Rule Env-Wt 304.09(a), plans submitted with a wetlands application associated with a proposed subdivision shall indicate the boundaries of all wetlands and surface waters, the footprint of all proposed impacts, existing and proposed topography, and the location of all proposed lot lines. Plans shall be stamped by a licensed land surveyor or a professional engineer pursuant to RSA 310-A, and parties responsible for the wetlands delineation shall be recorded on the plan.
7. The applicant is required to submit to the department all information in accordance with Rule Env-Wt 501.02(a)(2), along with a completed application.
8. Pursuant to Rule Env-Wt 204, the Department may grant waivers to rules to accommodate those situations where strict adherence to the rules would not be in the best interest of the public or the environment.
9. Pursuant to Rule Env-Wt 302.04(d), the department shall not grant a permit if the applicant fails to document that the proposed alternative is the one with the least adverse impact to areas and environments under the department's jurisdiction, if the applicant proposes unnecessary destruction of wetlands, or if the project would cause or contribute to significant degradation of waters of the state.
10. Pursuant to Rule Env-Wt 302.04(e)(2), unless a waiver is granted under 204, the department shall not grant a permit if the requirements of Env-Wt 302.03 are not met or the applicant failed to document consideration of factors as required in 302.04 (a), (b) and (c).
11. RSA 482-A:3,XIV(b), requires that additional information be submitted to the Department within 120 days of the request for additional information or the application will be denied.

Findings of Fact:

12. A Notification of Forest Management or Timber Harvest Activities Having Minimum Wetlands Impact form for work in Warren, Tax Map/Lot: 6 / 13 was received by the NH Department of Environmental Services ("Department") on August 18, 2005.
13. A Complete Forestry Notification was issued on August 18, 2005.
14. A complaint for activities on this parcel was received by the DES Wetlands Bureau on March 28, 2006.
15. DES enforcement staff conducted a field inspection of the site on April 05, 2006.
16. The April 11, 2006, Notice of Findings documented sedimentation and erosion of unstable log landings and haul roads to tributaries to Ore Hill Brook, and appropriate erosion and siltation controls were required.
17. The April 14, 2006, Letter of Deficiency instructed the applicant to, by May 15, 2006, submit an After-the-Fact Standard Dredge and Fill Application.
18. A Standard Dredge and Fill Application was received by the Department on November 16, 2006.
19. The application was deemed Administratively Complete on November 28, 2006.
20. On March 08, 2007, the Department issued a Request for More information, addressed to the Applicant and copied to the

Agent's of record, clearly identified changes made to RSA 482-A:3 in 2003, requiring the Applicant to submit additional information to DES within 120 days of the request.

21. The March 08, 2007, letter requested the Applicant submit: less impacting alternative road layouts, revised plans and construction sequence for restoration of or replacement of the perennial stream crossings with open-bottomed culverts/bridges, certified wetland scientist prepared narrative description of the perennial streams, additional photographs, revised plans depicting perennial stream top-of-bank widths and centerline, methods of stream diversion, erosion and sedimentation controls, confirmation culverts are appropriately sized, any additional woods road impacts, plans per Env-Wt 304.09 and wetland delineation per Env-Wt 301.01, total square feet of altered terrain, per Env-Wt 304.04, permission for work within 20 feet of abutting property lines, and the letter noted the project was Major Impact and required mitigation per Env-Wt 302.03.
22. On April 17, 2007, the Department received a response to one item requested in the March 08, 2007, letter; the alternative road layout.
23. On May 16, 2007, the Department issued a second Request for More Information stating the April 17, 2007, submittal justified the road layout and the Department requested the submittal of a complete response to the March 08, 2007, Request for More Information by the July 06, 2007, deadline.
24. On July 04, 2007, the Department received a response to some of the items requested in the March 08, 2007, Request for More information. The submittal indicated additional items were forthcoming.
25. On September 14, 2007, the Department received additional plans.
26. On October 18, 2007, the Department issued a third Request for More Information, requesting items of the March 08, 2007, Request for More Information that were not included in the two submittals including: revised plans and construction sequence for restoration of or replacement of the perennial stream crossings with open-bottomed culverts/bridges, top-of-bank perennial stream widths, confirmation of conflicting culvert dimensions and types, and the letter confirmed the Department would accept the waiver request per Env-Wt 204, for the topography requirement per Env-Wt 304.09.
27. On November 16, 2007, the Department received a submittal from the applicant.
28. The November 16, 2007, submittal did not include revised plans and construction sequence for restoration of or replacement of two of the three perennial stream crossings with open-bottomed culverts.
29. On December 12, 2007, the Department contacted the applicant by phone and advised the applicant the application would be denied, but a mutual time extension request could be submitted to allow the applicant additional time to submit the outstanding items.
30. To date the applicant has not responded.

Findings in Support of Denial:

31. The application is denied as the proposed project does not meet the public purpose as defined in RSA 482-A.
32. The applicant has not addressed Env-Wt 302.01(b), and therefore is denied in accordance with Env-Wt 302.04(d)(3) as the project causes unnecessary destruction of wetlands.
33. The applicant failed to address Env-Wt 302.03 and Env-Wt 302.04(a)(2), and therefore is denied in accordance with Env-Wt 302.04(e)(2) as there may be lesser impacting alternatives.
34. The applicant has failed to provide all of the information required in accordance with Env-Wt 501.02(a)(2) and Env-Wt 304.09, and the application is denied in accordance with Env-Wt 302.04(d)(1), as there may be practicable alternatives that would have a less adverse impact on the areas and environments under the department's jurisdiction.
35. The applicant has failed to address Env- Wt 302.04(a)(3) and (4), and therefore the application is denied in accordance with Env-Wt 302.04(d)(2) as the project would cause or contribute to significant degradation of waters of the state.
36. Pursuant to RSA 482-A:3,XIV(b), if the requested additional information is not received by DES within 120 days of the request, DES shall deny the application.
37. DES did not receive a complete response by November 17, 2007, the denial date identified in the October 18, 2007, Request for More Information, and therefore the application has been denied.

2005-02345 **RODDEN, JEFFREY**
CHESTERFIELD Spofford Lake

Requested Action:

Appellant requests reconsideration of the Departments decision to approve restoration of the shoreline and install a seasonal dock on 52 ft of frontage on Spofford Lake.

DENY RECONSIDERATION:

Deny reconsideration on the basis that it was not requested in a timely manner.

With Findings:

Standards for Approval

1. In accordance with RSA 482-A:10, II Appeals, "a request for reconsideration shall be filed with the department within 20 days of issuance of the department's decision or order."
2. By statute, the Department has no discretion to waive or extend this deadline.
3. In accordance with RSA 482-A:10, Appeals, on reconsideration the Department shall any new and additional information presented.

Findings of Fact

4. On September 27, 2006, the Department issued a permit on the applicant's request to remove an existing dock and install a 4 ft x 52 ft seasonal pier, remove beach and restore, remove concrete fill along a bank, and install rip-rap in replacement with same volume.
5. The deadline to make a request for reconsideration of the Department's decision was November 6, 2006.
6. The Motion for Reconsideration, dated February 20, 2007, was received by the Department on February 21, 2007, 107 days after the issuance of the Department's decision.

Ruling in Support of the Decision

7. The department did not receive a timely request for reconsideration and, therefore, the decision stands as issued.

2006-03186 BRISTOL, TOWN OF
BRISTOL Newfound Lake

Requested Action:

Construct a 4 ft x 65 ft seasonal dock with two 3 ft x 20 ft seasonal finger docks attached in a "F" shaped configuration on Newfound Lake, Bristol.

Inspection Date: 05/25/2007 by Chris T Brison

DENY PERMIT:

Construct a 4 ft x 65 ft seasonal dock with two 3 ft x 20 ft seasonal finger docks attached in a "F" shaped configuration on Newfound Lake, Bristol.

With Findings:

Standards for Approval

1. In accordance with RSA 482-A:3, Excavating and Dredging Permits, "[n]o person shall excavate, remove, fill, dredge or construct any structures in or on any bank, flat, marsh, or swamp, or in an adjacent to any waters of the state without a permit from the department."
2. In accordance with RSA 482-A:11, II "No permit to dredge or fill shall be granted if it shall infringe on the property rights or unreasonably affect the value or enjoyment of property of abutting owners."
3. In accordance with Env-Wt 402.03 "as required by RSA 482-A:3,XIII(a), all docks shall be located at least 20 feet from any abutting property line or imaginary extension of the property line over surface waters, unless the provisions of RSA 482-A:3,XIII(c) or (d) are met."
4. In accordance with RSA 482-A:3, XIV, if an applicant fails to information requested by the department "within 120 days of the

request, the department shall deny the application."

Findings of Fact

- 5. On December 10, 2006, the Wetlands Bureau received an application for impacts, on the lot identified as Bristol tax map 111, lot 9, (the "Lot") to construct a 4 ft x 70 ft seasonal dock with three 3 ft x 20 ft seasonal finger docks attached in a modified "F" shaped configuration on Newfound Lake, Bristol.
- 6. On March 01, 2007, the Wetlands Bureau sent a Request for More Information letter. This letter requested the applicant submit several items, including but not limited to, plans that completely and accurately represent the frontage and all existing and proposed structures on the frontage, to complete the application.
- 7. On June 08, 2007, the Wetlands Bureau received information from an abutter with several concerns. This information stated that all of the abutters were not notified and included evidence that the exact location of property line on the proposed plan was currently being disputed in the court system.
- 8. On June 25, 2007, the Wetlands Bureau received a partial response to the Request for More Information letter sent on March 01, 2007. This information included a plan with showing a docking facility reduced in size to provide 4 slips. The plan did not completely and accurately represent the frontage and all existing and proposed structures on the frontage.
- 9. On July 26, 2007, the Wetlands Bureau sent a second Request for More Information letter to the applicant. This letter requested the applicant to submit plans drawn to scale showing distances to property lines and show the 20 ft abutter setback.
- 10. On November 21, 2007, the Wetlands Bureau received information in support of the application to install a dock on the frontage. The information submitted included a sketch of the proposed dock located on a tax map. The dock location was in a different location than on the original and subsequent submittal.
- 11. The information submitted on November 21, 2007, did not include any detail plans of the dimensions of the proposed dock.
- 12. The proposed docking system is classified as a minor impact per Rule Env-Wt 303.03(d), construction or modification of a 4 slip docking.

Rulings in Support of Denial

- 13. The plan submitted on November 21, 2007, indicated the location of the proposed dock in an area that may infringe on the property rights of the abutter, and, therefore pursuant to RSA 482-A:11 cannot be approved.
- 14. The applicant failed to submit adequate plans of the proposed docking structure or the location of the proposed structure in relation to the abutters property as requested and, therefore, pursuant RSA 482-A:3, XIV, the application is denied.

2007-00550 HARD ROCK DEVELOPMENT LLC
RAYMOND Lamprey River

Requested Action:

Dredge and fill or otherwise alter a total of 3,827 sq. ft. of palustrine forested/scrub-shrub/emergent wetlands for work associated the removal of an unregistered dam, determined by NH DES to be a hazard to health and safety, and subsequent restoration of the preexisting stream and wetlands which were impounded by the dam.

Conservation Commission/Staff Comments:

Per letter received by DES on May 15, 2007: " The Raymond Conservation Commission has reviewed the Dredge and Fill application from the Hard Rock Development, LLC, and has no issues with the dam removal and restoration of the stream."

Inspection Date: 08/09/2007 by Frank D Richardson

APPROVE PERMIT:

Dredge and fill or otherwise alter a total of 3,827 sq. ft. of palustrine forested/scrub-shrub/emergent wetlands for work associated the removal of an unregistered dam, determined by NH DES to be a hazard to health and safety, and subsequent restoration of the preexisting stream and wetlands which were impounded by the dam.

With Conditions:

1. All work shall be in accordance with plans by Eric C. Mitchell & Assoc., Inc. dated 3-12-07, as received by DES on March 22, 2007 and revised erosion & drainage control plan (fig.5)dated 8-28-07.
2. Any further alteration of areas on this property that are within the jurisdiction of the DES Wetlands Bureau will require a new application and further permitting by the Bureau.
3. This permit is contingent on approval by the DES Dam Safety Program.
4. This permit is contingent on approval by the DES Waste Management Division.
5. NH DES Wetlands Bureau Southeast Region staff and the Raymond Conservation Commission shall be notified in writing prior to commencement of work and upon its completion.
6. At least 48 hours prior to the start of construction, a pre-construction meeting shall be held with NHDES Land Resources Management Program staff at the project site to review the conditions of this wetlands permit and to be in compliance with the standards for site work and materials removal and disposal required by the DES Dam Bureau and Waste Management Division. It shall be the responsibility of the permittee to schedule the pre-construction meeting, and the meeting shall be attended by the permittee, the professional engineer(s), wetlands scientist(s), and the contractor(s) responsible for performing the work.
7. A qualified environmental professional shall be on site to monitor all phases of this project and shall submit a report, including photographs and a written narrative, documenting the dam removal and subsequent stream and wetlands restoration, within 30 days of the completion of the project, to the DES Wetlands Bureau and the Raymond Conservation Commission. A follow-up report documenting the stream and wetlands restoration shall be submitted two (2) years after completion of the project.
8. The name of the person or company retained by the permittee to perform the site monitoring shall be provided to the DES Wetlands Bureau and Raymond Conservation Commission prior to the start of work.
9. Work shall be done during low flow.
10. Appropriate siltation/erosion/turbidity controls shall be in place prior to construction, shall be maintained during construction, and remain in place until the area is stabilized. Silt fence(s) must be removed once the area is stabilized.
11. Discharge from dewatering of work areas shall be to sediment basins that are: a) located in uplands; b) lined with hay bales or other acceptable sediment trapping liners; c) set back as far as possible from wetlands and surface waters, in all cases with a minimum of 20 feet of undisturbed vegetated buffer.
12. Dredged material shall be placed outside of the jurisdiction of the DES Wetlands Bureau at a location approved by the DES Waste Management Division.
13. Within three days of final grading in an area that is in or adjacent to wetlands or surface waters, all exposed soil areas shall be stabilized by seeding and mulching during the growing season, or if not within the growing season, by mulching with tack or netting and pinning on slopes steeper than 3:1.
14. Where construction activities have been temporarily suspended within the growing season, all exposed soil areas shall be stabilized within 14 days by seeding and mulching.
15. Where construction activities have been temporarily suspended outside the growing season, all exposed areas shall be stabilized within 14 days by mulching and tack. Slopes steeper than 3:1 shall be stabilized by matting and pinning.
16. Construction equipment shall be inspected daily for leaking fuel, oil and hydraulic fluid prior to entering surface waters or wetlands.
17. Faulty equipment shall be repaired prior to entering jurisdictional areas.
18. The contractor shall have appropriate oil spill kits on site and readily accessible at all times during construction and each operator shall be trained in its use.
19. All refueling of equipment shall occur outside of surface waters or wetlands during construction.

With Findings:

1. This is a minor impact project per Administrative Rule Env-Wt 303.03(h).
2. The need for the proposed impacts has been demonstrated by the applicant per Env-Wt 302.01. 3. The applicant has provided evidence which demonstrates that this proposal is the alternative with the least adverse impact to areas and environments under the department's jurisdiction per Env-Wt 302.03.
4. The applicant has demonstrated by plan and example that each factor listed in Env-Wt 302.04(a), Requirements for Application Evaluation, has been considered in the design of the project.
5. DES Staff conducted a field inspection of the proposed project on August 09, 2007. Field inspection found earthen dams containing leather scraps which will be removed to restore the stream hydrology and wetlands previously impounded for use by the former tannery on this site.

6. In 2003, the NH DES identified this unregistered dam and determined it was a hazard to public health and safety.

2007-00893 DREIER, LESLIE
BETHLEHEM Unnamed Wetland

Requested Action:

Dredge and fill 4,400 sq. ft. of forested wetlands for construction of an access road for a proposed 88-lot residential subdivision on a 118 acre parcel. Work in wetlands consists of installation of a 24 in. x 50 ft. HDPE culvert with flared end sections, associated filling and grading and outlet protection.

APPROVE PERMIT:

Dredge and fill 4,400 sq. ft. of forested wetlands for construction of an access road for a proposed 88-lot residential subdivision on a 118 acre parcel. Work in wetlands consists of installation of a 24 in. x 50 ft. HDPE culvert with flared end sections, associated filling and grading and outlet protection.

With Conditions:

1. All work shall be in accordance with plans by Horizons Engineering PLLC dated December 2006, as received by DES on May 1, 2007.
2. This permit is contingent on approval by the DES Alteration of Terrain Program.
3. Work shall be done during low flow.
4. There shall be no further alteration of wetlands for lot development, driveways, culverts, or for septic setback.
5. The deed which accompanies the sales transaction for each of the lots in this subdivision shall contain condition #4 of this approval.
6. This permit shall not be effective until it has been recorded with the Grafton County Registry of Deeds office by the Permittee. A copy of the recorded permit shall be submitted to the DES Wetlands Bureau by certified mail, return receipt requested, prior to construction.
7. Appropriate siltation/erosion/turbidity controls shall be in place prior to construction, shall be maintained during construction, and remain in place until the area is stabilized. Silt fence(s) must be removed once the area is stabilized.
8. Orange construction fencing shall be placed at the limits of construction that is adjacent wetlands in order to prevent accidental encroachment.
9. Work shall be done during low flow.
10. Discharge from dewatering of work areas shall be to sediment basins that are: a) located in uplands; b) lined with hay bales or other acceptable sediment trapping liners; c) set back as far as possible from wetlands and surface waters, in all cases with a minimum of 20 feet of undisturbed vegetated buffer.
11. Dredged material shall be placed outside of the jurisdiction of the DES Wetlands Bureau.
12. Within three days of final grading in an area that is in or adjacent to wetlands or surface waters, all exposed soil areas shall be stabilized by seeding and mulching during the growing season, or if not within the growing season, by mulching with tack or netting and pinning on slopes steeper than 3:1.
13. Where construction activities have been temporarily suspended within the growing season, all exposed soil areas shall be stabilized within 14 days by seeding and mulching.
14. Where construction activities have been temporarily suspended outside the growing season, all exposed areas shall be stabilized within 14 days by mulching and tack. Slopes steeper than 3:1 shall be stabilized by matting and pinning.
15. The contractor responsible for completion of the work shall utilize techniques described in the DES Best Management Practices for Urban Stormwater Runoff Manual (January, 1996) and the Stormwater Management and Erosion and Sediment Control Handbook for Urban and Developing Areas in New Hampshire (August, 1992).
16. Construction equipment shall be inspected daily for leaking fuel, oil and hydraulic fluid. Faulty equipment shall be repaired immediately.
17. The contractor shall have appropriate oil spill kits on site and readily accessible at all times during construction and each operator shall be trained in its use.

With Findings:

1. This is a minor impact project per Administrative Rule Env-Wt 303.03(h) Projects involving less than 20,000 square feet of alteration in the aggregate in nontidal wetlands, nontidal surface waters, or banks adjacent to nontidal surface waters which exceed the criteria of Env-Wt 303.04(f)
2. The need for the proposed impacts has been demonstrated by the applicant per Env-Wt 302.01.
3. The applicant has provided evidence which demonstrates that this proposal is the alternative with the least adverse impact to areas and environments under the department's jurisdiction per Env-Wt 302.03.
4. The applicant has demonstrated by plan and example that each factor listed in Env-Wt 302.04(a) Requirements for Application Evaluation, has been considered in the design of the project.
5. The proposed road layout was designed to meet town road layout requirements and to provide the best access to properties in the event of an emergency.
6. The applicant has attempted to alleviative impacts to the abutting lot, Tax map 414, Lot 24, by designing a roadway layout that will maintain a 75 foot woodland buffer.
7. A large portion of the wetland south of the proposed impact is located within the proposed "Common Land".
8. The proposed wetland impact is within a small section of forested wetlands and is the only wetlands impact for all phases of the proposed development.
9. The Certified Wetlands Scientist (CWS) for the project has stated that the wetlands on the site are not Vernal Pools.
10. The applicant has received approval for the proposed project from the DES Alteration of Terrain Program.
11. The applicant's agent informed DES that the United States Army Corps of Engineer's (ACOE) is satisfied with their response to the questions by the U.S. Environmental Protection Agency (USEPA) and U.S. Fish & Wildlife Services (USFWS) and the project is now eligible for the NH Programmatic General Permit.

2007-00957 DEFRANZO, JOHN & JANICE
DEERFIELD Unnamed Wetland

Requested Action:

Dredge and fill a total of 3,925 sq. ft. of wetlands including 1,365 sq. ft. of impact for road bed fill and grading; and 2,253 sq. ft. of impact for installation of a 24" diameter x 61' long culvert, for construction of a roadway for a 4-lot subdivision on 37.92 acres.

APPROVE PERMIT:

Dredge and fill a total of 3,925 sq. ft. of wetlands including 1,365 sq. ft. of impact for road bed fill and grading; and 2,253 sq. ft. of impact for installation of a 24" diameter x 61' long culvert, for construction of a roadway for a 4-lot subdivision on 37.92 acres.

With Conditions:

1. All work shall be in accordance with revised plans by Eric Mitchell & Associates dated 11/6/2007, as received by the Department on 11/14/2007, entitled "DeFranzo Subdivision, Tax Map 414, Lot 46, Deerfield, NH".
2. This permit is contingent on approval by the DES Alteration of Terrain.
3. This permit is contingent on approval by the DES Subsurface Systems Bureau.
4. This permit is contingent upon execution of the Restoration Plan Approval, issued for this permit number under separate cover, for removal of the existing driveway, and restoration of the wetlands and vernal pool buffer, as described in the "Abandoned Driveway Wetland & Wetland Buffer Restoration Plan" document by Eric Mitchell & Associates, dated 11/2/2007, as received by DES on 11/14/2007.
5. This permit shall not be effective until it has been recorded with the Rockingham County Registry of Deeds Office by the Permittee. A copy of the registered permit shall be submitted to the DES Wetlands Bureau.
6. There shall be no further alteration of wetlands for lot development, driveways, culverts, or for septic setback.
7. The deed which accompanies the sales transaction for each of the lots in this subdivision shall contain condition #6 of this approval.
8. The contractor responsible for completion of the work shall utilize techniques described in the DES Best Management Practices for Urban Stormwater Runoff Manual (January, 1996) and the Stormwater Management and Erosion and Sediment Control Handbook for Urban and Developing Areas in New Hampshire (August, 1992).
9. Orange construction fencing shall be placed at the limits of construction to prevent accidental encroachment on wetlands.
10. Appropriate siltation/erosion/turbidity controls shall be in place prior to construction, shall be maintained during construction,

and shall remain until the area is stabilized.

11. Silt fencing must be removed once the area is stabilized.
12. Appropriate turbidity controls shall be installed prior to construction, shall be maintained during construction such that no turbidity escapes the immediate dredge area, and shall remain until suspended particles have settled and the water at the work site has returned to normal clarity.
13. Discharge from dewatering of work areas shall be to sediment basins that are: a) located in uplands; b) lined with hay bales or other acceptable sediment trapping liners; c) set back as far as possible from wetlands and surface waters, in all cases with a minimum of 20 feet of undisturbed vegetated buffer.
14. Within three days of final grading in an area that is in or adjacent to wetlands or surface waters, all exposed soil areas shall be stabilized by seeding and mulching during the growing season, or if not within the growing season, by mulching with tack or netting and pinning on slopes steeper than 3:1.
15. Where construction activities have been temporarily suspended within the growing season, all exposed soil areas shall be stabilized within 14 days by seeding and mulching.
16. Where construction activities have been temporarily suspended outside the growing season, all exposed areas shall be stabilized within 14 days by mulching and tack. Slopes steeper than 3:1 shall be stabilized by matting and pinning.
17. Proper headwalls shall be constructed within seven days of culvert installation.
18. Culvert outlets shall be protected in accordance with the DES Best Management Practices for Urban Stormwater Runoff Manual (January 1996) and the Stormwater Management and Erosion and Sediment Control Handbook for Urban and Developing Areas in New Hampshire (August 1992).
19. Dredged material shall be placed outside of the jurisdiction of the DES Wetlands Bureau.
20. Work shall be done during low flow.

With Findings:

1. This is a minor impact project per Administrative Rule Env-Wt 303.03(h), projects involving less than 20,000 sq. ft. of alteration in the aggregate of non-tidal wetlands.
2. The need for the proposed impacts has been demonstrated by the applicant per Env-Wt 302.01. The applicant must cross wetlands at some point at the property frontage to reach developable uplands.
3. The applicant has provided evidence which demonstrates that this proposal is the alternative with the least adverse impact to areas and environments under the department's jurisdiction per Env-Wt 302.03. The applicant is crossing in the most narrow location, staying away from a vernal pool location, and further removing old driveway fill in wetlands and restoring the wetland in proximity to the vernal pool, including planting a buffer for the vernal pool area.
4. The applicant has demonstrated by plan and example that each factor listed in Env-Wt 302.04(a) Requirements for Application Evaluation, has been considered in the design of the project. The applicant has conducted a vernal pool survey in response to Federal agency comments; there were no species of concern reported by the NH Heritage Bureau as located on or in the vicinity of the project property.
5. The Deerfield Conservation Commission did not report on this project.

2007-01066 RAGUE, KURT
GILMANTON Unnamed Stream Crystal Lake

Requested Action:

Deny permit request to replace existing 15-inch x 40 foot culvert with a 36-inch x 80 foot culvert in an intermittent stream to upgrade the existing access road for a subdivision.

DENY PERMIT-INSUFFICIENT & UNTIMELY RESP:

Deny permit request to replace existing 15-inch x 40 foot culvert with a 36-inch x 80 foot culvert in an intermittent stream to upgrade the existing access road for a subdivision.

With Findings:

1. This is a minor impact project per Administrative Rule Env-Wt 303.03(1), projects that alter the course of or disturb less than

- 200 linear feet of an intermittent or perennial nontidal stream or river channel or its banks and do not meet the criteria for minimum impact under Env-Wt 303.04(n).
2. Approvals must be consistent with the findings of public purpose set forth by RSA 482-A:1.
 3. The need for the proposed impacts shall be demonstrated by the applicant prior to department approval of any alteration of nontidal wetlands per Rule Env-Wt 302.01.
 4. The applicant must provide evidence which demonstrates that their proposal is the alternative with the least adverse impact to areas and environments under the department's jurisdiction per Rule Env-Wt 302.03.
 5. The applicant must demonstrate by plan and example that each factor listed in Rule Env-Wt 302.04(a), Requirements for Application Evaluation, has been considered in the design of the project.
 6. According to Rule Env-Wt 302.04(d), the department shall not grant a permit if the applicant fails to document that the proposed alternative is the one with the least adverse impact to areas and environments under the department's jurisdiction, or if the applicant proposes unnecessary destruction of wetlands.
 7. In accordance with Rule Env-Wt 302.04(e)(2), the Department shall not grant a permit if the applicant fails meet the requirements of Env-Wt 302.03 or to document that the requirements of Env-Wt 302.04(a).
 8. Pursuant to RSA 482-A:3, XIV(b), if the requested additional information is not received by DES within 120 days of the request, DES shall deny the application.

Findings of Fact:

9. The applicant applied for a permit, after work was completed, on this property March 25, 2002(2002-00577), to impact 60 sq ft of intermittent stream to construct a gravel access road and install a 15 in diameter culvert for a Christmas tree plantation on two existing conservation lots. The permit was granted on April 18, 2002.
10. The applicant applied for a Permit by Notification (PBN) on this property September 17, 2005(2005-02461), to dredge and fill 55 square feet along 20 feet of intermittent stream to install a 20-foot x 18-inch culvert for access. The notification was deemed complete October 20, 2005, no follow up information was received per the standard PBN conditions.
11. The applicant applied for a permit, after work had been completed, on this property January 23, 2006 (2006-00161), to impact 450 square feet of wetland to replace existing undersized 15-inch x 30 foot culvert illegally placed within an intermittent stream with an 18-inch x 30 foot culvert for driveway access to a proposed single family residential lot.
12. The applicant submitted a Standard Dredge and Fill application on May 16, 2007, which was deemed Administrativley Complete May 22, 2007.
13. The cumulative impacts associated with the property since 2002 are approximatley 1500 square feet along 150 linear feet of stream impact.
14. The Gilmanton Conservation Commission has no concerns regarding the upgrade of the culvert however they have concerns regarding the number of applications this site has experienced and have expressed concerns regarding the possibility of future applications.
15. A request for additional information dated Augsut 2, 2007, addressed to the applicant and copied to the agent of record, requested:
 - A. All of the information required by Env-Wt 304.09(a). Please provide plans that indicate the boundaries of all wetlands and surface waters, the footprint of all proposed impacts, existing and proposed topography, and the location of all existing and proposed lot lines. Plans shall be stamped by a licensed land surveyor or a professional engineer pursuant to RSA 310-A, and parties responsible for the wetlands delineation shall be recorded on the plans. It should be noted that permits for subdivisions are required by rule to be conditioned no further impacts for access and lot development. This means all future impact areas must be located on the plans including all future driveway crossings DES will be unable to issue any further permits for these lots.
 - B. Please provide information required by Env-Wt 302.04(a), and note all plans submitted for minor and major impact projects must bear the stamp of a certified wetland scientist.
 - C. It is unclear how the stream flows through the crossing, the plans seem to indicate you propose to relocate and redirect the stream and rip rap along this new channel. It is not advised to turn an intermittent stream at a 90 degree angle as it will likely erode away the proposed roadway, even with the proposed rip rap. The least impacting alternative to widening this existing crossing may require removal and relocation of the existing culvert with the inlet and outlet of the proposed culvert to matching the existing stream channel. DES requests that you provide additional information and clarification on the location of this stream and the proposed method the crossing.
 - D. The photographs provided indicate that the inverts of the culvert are currently not laid at grade. Please be advised that culvert inverts should be laid at the existing grade to maintain the hydrological flow of the stream with minimal interruption. DES further notes from the photographs provided that the culvert has seen flows that it was unable to pass and is undersized. We make this determination from the large sediment deposition area at the culvert inlet in the photographs and the sink holes at either end of the

culvert in the existing roadway. Please recalculate the culvert sizing and provide justification that the proposed 36-inch culvert is indeed correctly sized.

16. The request clearly identified changes made to RSA 482-A:3 in 2003, requiring the applicant to submit additional information to DES within 120 days of the request.
17. The applicant's agent submitted additional information on September 17, 2007.
18. The Department responded to this submittal on October 16, 2007, with an e-mail stating that the response was inadequate and restating the application will be denied in accordance with RSA 482-A:3 if the information was not received within 120 days of the original request for additional information.
19. On November 14, 2007, the Department received a second response to our request for additional information which did not address item 1 of the original request nor did it adequately address item 3.
20. The plans received on November 14, indicate that additional permit applications will be sought, still illustrate turning the stream channel 90 degrees, and do not incorporate standard measures to avoid and minimize impacts such as headwalls or 2:1 roadway slopes.

Findings in Support of Denial:

21. The applicant has not addressed Env-Wt 302.04(a)(14), as the project may contribute to or increase flooding, erosion, or sedimentation, and therefore is denied in accordance with Env-Wt 302.04(d)(2) as the project would cause or contribute to significant degradation of waters of the state.
22. The applicant failed to address Env-Wt 302.03 and Env-Wt 302.04(a)(2), and therefore is denied in accordance with Env-Wt 302.04(d)(1), as there may be practicable alternative that would have a less adverse impact on the area and environments under the department's jurisdiction.
23. Pursuant to RSA 482-A, XIV(b), if the requested additional information is not received by DES within 120 days of the request, DES shall deny the application.
24. DES did not receive a complete response to the August 2, 2007, request for additional information therefore the application has been denied.
25. The proposed project does not meet the public purpose as defined in RSA 482-A., we have determined that the proposed work is contrary to the public interest, and therefore the application is denied.

2007-01176 SANMINA-SCI CORP
DERRY Unnamed Wetland

Requested Action:

Dredge and fill 4,655 sq. ft. of palustrine forested/scrub-shrub wetlands to set footings and install a precast concrete Con-Span bridge with wing-walls to carry a roadway over 72 linear feet of an unnamed perennial stream to access a commercial development site on a 56-acre parcel of land.

Conservation Commission/Staff Comments:

The Derry Conservation Commission reviewed this application on June 25, 2007 and had no objections to the project.

Inspection Date: 11/08/2007 by Frank D Richardson

APPROVE PERMIT:

Dredge and fill 4,655 sq. ft. of palustrine forested/scrub-shrub wetlands to set footings and install a precast concrete Con-Span bridge with wing-walls to carry a roadway over 72 linear feet of an unnamed perennial stream to access a commercial development site on a 56-acre parcel of land.

With Conditions:

1. All work shall be in accordance with plans by Hayner/Swanson, Inc. dated 10 May 2007 (last revised 09/12/07), as received by DES on September 18, 2007.
2. Any further alteration of areas on this property that are within the jurisdiction of the DES Wetlands Bureau will require a new application and further permitting by the Bureau.
3. This permit is contingent on approval by the DES Alteration of Terrain Program.

4. DES Wetlands Bureau Southeast Region staff shall be notified in writing prior to commencement of work and upon its completion.
5. Work shall be done during low flow.
6. Orange construction fencing shall be placed at the limits of construction to prevent accidental encroachment on wetlands.
7. Appropriate siltation/erosion/turbidity controls shall be in place prior to construction, shall be maintained during construction, and remain in place until the area is stabilized. Silt fence(s) must be removed once the area is stabilized.
8. Within three days of final grading in an area that is in or adjacent to wetlands or surface waters, all exposed soil areas shall be stabilized by seeding and mulching during the growing season, or if not within the growing season, by mulching with tack or netting and pinning on slopes steeper than 3:1.
9. Where construction activities have been temporarily suspended within the growing season, all exposed soil areas shall be stabilized within 14 days by seeding and mulching.
10. Where construction activities have been temporarily suspended outside the growing season, all exposed areas shall be stabilized within 14 days by mulching and tack. Slopes steeper than 3:1 shall be stabilized by matting and pinning.
11. Construction equipment shall be inspected daily for leaking fuel, oil and hydraulic fluid prior to entering surface waters or wetlands.
12. Faulty equipment shall be repaired prior to entering jurisdictional areas.
13. The contractor shall have appropriate oil spill kits on site and readily accessible at all times during construction and each operator shall be trained in its use.
14. All refueling of equipment shall occur outside of surface waters or wetlands during construction.

With Findings:

1. This is a minor impact project per Administrative Rule Env-Wt 303.03(h).
2. The need for the proposed impacts has been demonstrated by the applicant per Env-Wt 302.01. 3. The applicant has provided evidence which demonstrates that this proposal is the alternative with the least adverse impact to areas and environments under the department's jurisdiction per Env-Wt 302.03.
4. The applicant has demonstrated by plan and example that each factor listed in Env-Wt 302.04(a) Requirements for Application Evaluation, has been considered in the design of the project.
5. DES Staff conducted a field inspection of the proposed project on November 08, 2007. Field inspection found that the impacts to wetlands have been minimized to the greatest extent practicable.

2007-01196 BENARD, PAULA
ALTON Lake Winnepesaukee

Requested Action:

Deny applicants request to dredge one large boulder from Lake Winnepesaukee, Alton.

Conservation Commission/Staff Comments:

Con Com has no concerns

DENY PERMIT-INSUFFICIENT & UNTIMELY RESP:

Deny applicants request to dredge one large boulder from Lake Winnepesaukee, Alton.

With Findings:

1. 1. A request for additional information dated August 15, 2007, addressed to the applicant or agent of record, clearly identified changes made to RSA 482-A:3 in 2003, requiring the applicant to submit additional information to DES within 120 days of the request.
2. Pursuant to RSA 482-A:3, XIV(b), if the requested additional information is not received by DES within 120 days of the request, DES shall deny the application.
3. DES did not receive the requested additional information within the 120 days and therefore the application has been denied.

2007-01286 BENARD, PAULA
ALTON Lake Winnepesaukee

Requested Action:

Deny request to repair and existing docking structure and add two tie off piles on Lake Winnepesaukee, Alton.

Conservation Commission/Staff Comments:

Con Com has no concerns

DENY PERMIT-INSUFFICIENT & UNTIMELY RESP:

Deny request to repair and existing docking structure and add two tie off piles on Lake Winnepesaukee, Alton.

With Findings:

1. A request for additional information dated August 15, 2007, addressed to the applicant or agent of record, clearly identified changes made to RSA 482-A:3 in 2003, requiring the applicant to submit additional information to DES within 120 days of the request.
2. Pursuant to RSA 482-A:3, XIV(b), if the requested additional information is not received by DES within 120 days of the request, DES shall deny the application.
3. DES did not receive the requested additional information within the 120 days and therefore the application has been denied.

**2007-01307 ROYSTAN, ROBIN & LISA
NORTH HAVERHILL French Pond**

Requested Action:

Dredge and fill approximately 1475 sq. ft. of palustrine emergent wetlands to replace existing culvert and road realignment.

Conservation Commission/Staff Comments:

No Con-Com comments. Site Visit Performed. 02 Oct 2007. RFMI. Info recvd 20 Nov 2007. Appved 14 Dec 2007.

APPROVE PERMIT:

Dredge and fill approximately 1475 sq. ft. of palustrine emergent wetlands to replace existing culvert and road realignment.

With Conditions:

1. All work shall be in accordance with plans entitled Wetland Plan Sheet, prepared by Associated Consulting Engineers, dated June 6, 2007 and received by the Department on November 20, 2007 and plan entitled Erosion Standards, prepared by Associated Consulting Engineers, dated May 30, 2007 and received by the Department on June 11, 2007.
2. Work within the pond, inclusive of work associated with installation of a cofferdam, shall be conducted during low water conditions.
3. Appropriate turbidity controls shall be installed prior to construction shall be maintained during construction such that no turbidity escapes the immediate dredge area and shall remain until suspended particles have settled and the water at the work site has returned to normal clarity.
4. No equipment shall enter the water.
5. All work shall be done from the top of the bank.
6. Dredged material shall be placed outside of the jurisdiction of the DES Wetlands Bureau.
7. Use native material such as: cobbles (not crushed stone or other crushed rip-rap) to stabilize the banks of the pond.
8. Native material removed from the streambed during culvert installation, shall be stockpiled separately and reused to emulate a natural channel bottom within the culvert. Any new materials used must be similar to the natural stream substrate and shall not include angular rip-rap.
9. Within three days of final grading or temporary suspension of work in an area that is in or adjacent to wetlands or surface waters, all exposed soil areas shall be stabilized by seeding and mulching during the growing season, or if not within the growing season, by mulching with tack or netting and pinning on slopes steeper than 3:1.2.
10. Temporary cofferdams shall be entirely removed immediately following construction.
11. The contractor responsible for completion of the work shall utilize techniques described in the DES Best Management Practices for Urban Stormwater Runoff Manual (January, 1996) and the Stormwater Management and Erosion and Sediment Control

Handbook for Urban and Developing Areas in New Hampshire (August, 1992).

12. All activity shall be in accordance with the Comprehensive Shoreland Protection Act, RSA 483-B (see attached fact sheet).

13. Any future work on this property that is within the jurisdiction of the DES Wetlands Bureau as specified in RSA 482-A will require a new application and approval by the Bureau.

With Findings:

1. This is a minimum impact project per Administrative Rule Env-Wt 303.04(f); Projects involving alteration of less than 3,000 square feet in swamps or wet meadows that are not in prime wetlands or do not meet the requirements of Env-Wt 303.02(k), provided that no previous department permit has placed restrictions on the property of the applicant.
2. The need for the proposed impacts has been demonstrated by the applicant per Env-Wt 302.01. 3. The applicant has provided evidence which demonstrates that this proposal is the alternative with the least adverse impact to areas and environments under the department's jurisdiction per Env-Wt 302.03.
4. The applicant has demonstrated by plan and example that each factor listed in Env-Wt 302.04(b) Requirements for Application Evaluation, has been considered in the design of the project.
5. More information was requested by this office on September 18, 2007. Additional information was received on November 20, 2007, which completed the application for processing.
6. Based on a site visit performed by this office on October 2, 2007, and a review of the information received to date, we have determined that the proposed work is warranted, the design will result in an improvement to the road alignment allowing safer vehicular passage, the revised plan represents further minimization from initial proposal resulting in less impact to the pond, is determined to be in the public's best interest and is therefore permitted accordingly.

**2007-01416 COSTURA, JEFFREY
DALTON Unnamed Wetland**

Requested Action:

Dredge and fill approximately 9,393 sq. ft. of palustrine forested wetlands to construct a 90 ft. x 130 ft. dugout pond for wildlife habitat diversity and aesthetics.

Conservation Commission/Staff Comments:

Recvd Response to RFMI on 13 Nov 2007. Awaiting NHF&G comments as of 16 Nov 2007. MAM Not LEDPA. Denial. 12/10/2007.

DENY PERMIT:

Deny application to dredge and fill approximately 9,393 sq. ft. of palustrine forested wetlands to construct a 90 ft. x 130 ft. dugout pond for wildlife habitat diversity and aesthetics.

With Findings:

1. This is a minor impact project per Administrative Rule Env-Wt 303.03(e), construction of a pond with less than 20,000 square feet of impact in a wetland or surface waters, which does not meet the criteria of Env-Wt 303.04(p).
2. Approvals must be consistent with the findings of public purpose set forth by RSA 482-A:1.
3. The need for the proposed impacts shall be demonstrated by the applicant prior to department approval of any alteration of non-tidal wetlands per Rule Env-Wt 302.01.
4. The applicant must provide evidence which demonstrates that his/her proposal is the alternative with the least adverse impact to areas and environments under the department's jurisdiction per Rule Env-Wt 302.03.
5. The applicant must demonstrate by plan and example that each factor listed in Rule Env-Wt 302.04(a), Requirements for Application Evaluation, has been considered in the design of the project.
6. According to Rule Env-Wt 302.04(d), the department shall not grant a permit if the applicant fails to document that the proposed alternative is the one with the least adverse impact to areas and environments under the department's jurisdiction, or if the applicant proposes unnecessary destruction of wetlands.

Findings of Fact:

7. On June 21, 2007, the New Hampshire Department of Environmental Services ("Department") received an application request to dredge and fill approximately 9,393 sq. ft. of palustrine forested wetlands, for the purposes of constructing a dugout pond for aesthetics and wildlife habitat.
8. The Department issued a letter of Administratively Completeness on June 27, 2007.
9. The wetlands proposed to be impacted include very poorly drained soils, as defined in Env-Ws 1014.02.
10. The Department solicited comments from NH Fish and Game to justify the need for a wildlife pond on this site. The Department received initial written comments from New Hampshire Fish and Game (NHF&G) on September 13, 2007. They are opposed to the project and did not recommend approval because these projects typically provide habitat for common or introduced species and to the detriment of native or specialized species.
11. The Department issued a Request for Additional Information on September 13, 2007. This correspondence included NHF&G comments, and requested the applicant address the functions and values of the existing wetland complex, demonstrate need for the proposed project; demonstrate that the proposal is the least impacting alternative, and requested information on the hydrology of the wetland.
12. The agent for the applicant provided a timely response on November 13, 2007. The response did not adequately address the existing open water habitat nor did it provide evidence regarding the "documented increases in wildlife diversity with a properly constructed wildlife pond".
13. On November 19, 2007, the Department received comments from NHF&G responding to the agent's justification for the proposed wildlife pond. NHF&G indicated via-phone that they recommend denial for reasons as initially stated and re-affirmed concerns of inconclusive evidence to demonstrate that invasive species will not encroach on the existing system post construction. Overall, the NHF&G also stated that they have reservations to any pond permit issued by the Department for projects of this type, where the site is proximal to a large open water body and specific justifications are not fully supported by facts.
14. The plans provided indicate that the entirety of the project is within palustrine forested wetlands and incorporates both poorly drained and very poorly drained soils and does not include any upland area.

Findings in support of Denial:

16. The applicant has not addressed Env-Wt 302.01(a), need for the change in wetlands function and values to the Department's Satisfaction, and therefore is denied in accordance with Env-Wt 302.04(d)(2) as the project would cause or contribute to significant degradation of waters of the state.
17. The applicant failed to address Env-Wt 302.03 and Env-Wt 302.04(b)(5), and therefore is denied in accordance with Env-Wt 302.04(d)(1), as there may be practicable alternative that would have a less adverse impact on the area and environments under the department's jurisdiction.
18. Pursuant to RSA 482-A, XIV(b), if the requested additional information is not received by DES within 120 days of the request, DES shall deny the application.
19. DES did not receive a complete response to the September 13, 2007 request for additional information therefore the application has been denied.
20. The proposed project does not meet the public purpose as defined in RSA 482-A., we have determined that the proposed work is contrary to the public interest, and therefore the application is denied.
21. The applicant failed to address the proposed impacts to wildlife in accordance with Env-Wt 302.04(a)(7), and therefore the project is denied in accordance with Env-Wt 302.04(e)(2).

2007-01428 **VAN VLECK, ROY**
LYME Grant Brook

Requested Action:

Stabilize approximately 60 linear feet of stream bank utilizing bio-engineering techniques to include tree revetments and log vanes, along Grant Brook.

Conservation Commission/Staff Comments:
Con Com active in application.

APPROVE PERMIT:

Stabilize approximately 60 linear feet of stream bank utilizing bio-engineering techniques to include tree revetments and log vanes, along Grant Brook.

With Conditions:

1. All work shall be in accordance with plans submitted and prepared by the Matthew Stevens, Town of Lyme Conservation Commission, dated June 2007, Revised November 2007 as received by the Department on November 15, 2007
2. Work shall be done during low flow conditions.
3. Work shall be conducted in a manner so as to minimize turbidity and sedimentation to surface waters and wetlands.
4. Appropriate siltation/erosion/turbidity controls shall be in place prior to construction, shall be maintained during construction, and remain until the area is stabilized. Silt fence(s) must be removed once the area is stabilized.
5. Dredged material shall be placed outside of the jurisdiction of the DES Wetlands Bureau.
6. The contractor responsible for completion of the work shall utilize techniques described in the DES Best Management Practices for Urban Stormwater Runoff Manual (January, 1996) and the Stormwater Management and Erosion and Sediment Control Handbook for Urban and Developing Areas in New Hampshire (August, 1992).
7. Within three days of final grading or temporary suspension of work in an area that is in or adjacent to wetlands or surface waters, all exposed soil areas shall be stabilized by seeding and mulching during the growing season, or if not within the growing season, by mulching with tack or netting and pinning on slopes steeper than 3:1.

With Findings:

1. This is a minimum impact project per Administrative Rule Env-Wt 303.04(o), projects deemed minimum by the Department.
2. Based on a review of the submitted information received to date, the proposed project will not result in adverse impacts to the natural stream corridor, but attempts to employ natural bio-engineering bank stabilization techniques determined to be the least environmentally damaging alternative for projects of this scope and application. The Lyme Conservation Commission has prepared the application and endorses the project.
3. The need for the proposed impacts has been demonstrated by the applicant per Env-Wt 302.01.
4. The applicant has provided evidence which demonstrates that this proposal is the alternative with the least adverse impact to areas and environments under the department's jurisdiction per Env-Wt 302.03.
5. The applicant has demonstrated by plan and example that each factor listed in Env-Wt 302.04(b) Requirements for Application Evaluation, has been considered in the design of the project.

**2007-01629 BRATZLER, LORI
HOLDERNESS Squam Lake**

Requested Action:

Install 2 concrete pads to anchor two 6 ft x 40 ft seasonal piers connected by a 6 ft x 10 ft walkway in a "U" configuration accessed by 6 ft wide stairs over the bank and excavate 4 linear ft of bank to install 4 ft wide steps in the bank from a 20 ft x 30 ft perched beach on an average of 200 ft of frontage on Squam Lake in Holderness.

DENY PERMIT:

Install 2 concrete pads to anchor two 6 ft x 40 ft seasonal piers connected by a 6 ft x 10 ft walkway in a "U" configuration accessed by 6 ft wide stairs over the bank and excavate 4 linear ft of bank to install 4 ft wide steps in the bank from a 20 ft x 30 ft perched beach on an average of 200 ft of frontage on Squam Lake in Holderness.

With Findings:

Standards for Approval

1. In accordance with Rule Env-Wt 501.02, Additional Data, the applicant shall provide plans which are either drawn to scale or completely dimensioned showing all existing and proposed structures and other relevant features necessary to clearly define the project.
2. In accordance with RSA 482-A:3, XIV(b), where the department request additional information to complete an application if the requested additional information is not received within 120 days of the request, the department shall deny the application.

Findings of Fact

3. On July 17, 2007 the department received an application for the installation of a "U" shaped docking facility and construction of a perched beach with 4 ft wide steps for access to the water on property identified as Holderness tax map 232, lot 3.1, having an average of 200 ft of frontage on Squam Lake.
4. This project is classified as a minor impact project per Rule Env-Wt 303.03(d), construction of a 3 slip docking facility.
5. No grades were shown on the overview plan submitted with the application. The cross sections submitted were not drawn to scale and were not sufficiently dimensioned to clearly define the project.
6. On September 27, 2007, the department issued a Request for More Information Letter which specifically requested that the cross sections for the concrete pad construction be revised to show the actual site conditions and that the grade contours be shown on the overview plan.
7. On November 15, 2007 the department received a response to the September 27, 2007, Request for More Information. The response included both plans and cross sections.
8. The cross sections submitted with the response were not to scale and were not completely dimensioned as needed to clearly define the project.
9. The overview plans indicate that the steps from the beach will extend below elevation 561. The revised cross section shows that the steps will not extend below an elevation labeled as 562.5.
10. The concrete pads are not shown on the overview plans.

Rulings in Support of the Decision

11. The Applicant has failed to provide plans that are either drawn to scale or completely dimensioned, that show all existing and proposed structures and other relevant features necessary to clearly define the project.
12. The Applicant failed to provide cross sections drawn to scale or completely dimensioned as needed to depict actual site conditions as requested on September 27, 2007, therefore, the application is denied in accordance with RSA 482-A:3, XIV(b).

**2007-02019 CENTER HARBOR, TOWN OF
CENTER HARBOR Unnamed Wetland**

Requested Action:

Dredge and fill a total of 1830 square feet perennial stream along 198 linear feet for drainage improvements.

APPROVE PERMIT:

Dredge and fill a total of 1830 square feet perennial stream along 198 linear feet for drainage improvements.

With Conditions:

1. All work shall be in accordance with plans by HEB Engineers dated August 7, 2007, and revised through December 10, 2007, as received by the Department on December 11, 2007.
2. This permit is contingent upon review and coordination with the DES Watershed Management Bureau's Water Quality Planning Section.
3. This permit is contingent on review and approval, by the DES Wetlands Bureau, of final stream diversion/erosion control plans. Those plans shall detail the timing and method of stream flow diversion during construction, and show temporary siltation/erosion/turbidity control measures to be implemented.
4. Work shall be done during low flow.
5. Appropriate siltation/erosion controls shall be in place prior to construction, shall be maintained during construction, and remain

until the area is stabilized. Silt fence(s) must be removed once the area is stabilized.

6. Appropriate turbidity controls shall be installed prior to construction, shall be maintained during construction such that no turbidity escapes the immediate work area, and shall remain until suspended particles have settled and the water at the work site has returned to normal clarity.
7. No equipment shall enter the water.
8. All work shall be done from the top of the bank.
9. Proper headwalls shall be constructed within seven days of culvert installation.
10. Within three days of final grading or temporary suspension of work in an area that is in or adjacent to wetlands or surface waters, all exposed soil areas shall be stabilized by seeding and mulching during the growing season, or if not within the growing season, by mulching with tack or netting and pinning on slopes steeper than 3:1.
11. The contractor responsible for completion of the work shall utilize techniques described in the DES Best Management Practices for Urban Stormwater Runoff Manual (January, 1996) and the Stormwater Management and Erosion and Sediment Control Handbook for Urban and Developing Areas in New Hampshire (August, 1992).

With Findings:

1. This is a minor impact project per Administrative Rule Env-Wt 303.03(l), projects that alter the course of or disturb less than 200 linear feet of an intermittent or perennial nontidal stream or river channel or its banks and do not meet the criteria for minimum impact under Env-Wt 303.04(n).
2. The project is proposing to provide collection and treatment of the stormwater runoff on Kelley court prior to discharge into the perennial stream.
3. The proposed project is to upgrade the existing drainage system on Kelsa Ave, that was flooding abutting properties.
4. The applicant has provided copies of the recorded drainage easements with the affected abutters.

2007-02370 MCLELLAN & MCMAHON HOLDINGS
STODDARD Granite Lake

Requested Action:

Remove 18.2 cubic yards of accumulated sand within a 2860 sq ft area in Stoddard on Granite Lake.

APPROVE PERMIT:

Remove 18.2 cubic yards of accumulated sand within a 2860 sq ft area in Stoddard on Granite Lake.

With Conditions:

1. All work shall be in accordance with dredge plans by Brickstone Masons, Inc. dated September 28, 2007 as received by DES on October 1, 2007.
2. If, at any time during the dredging, the Department determines that rising water levels pose significant risk to the containment of the site the Department may request that the work cease until water levels recede to an acceptable level. Work shall cease immediately upon notification of the applicant, or any agent of the applicant, that water levels have risen to an unacceptable level, and shall not resume until authorized by the Department.
3. Construction mats shall be installed over the lakebed prior to any wheeled or tracked vehicles entering the lakebed.
4. Appropriate siltation/erosion/turbidity controls shall be in place prior to construction, shall be maintained during construction, and remain in place until the area is stabilized. Silt fence(s) must be removed once the area is stabilized.
5. All dredged material, including aquatic plants removed ("spoil material") shall be completely removed from surface waters and shall be temporarily deposited at containment location.
6. No dredge spoils or aquatic plant fragments shall escape from temporary deposition area and all spoils shall be completely relocated to permanent deposition area once dewatered.
7. No spoil material shall be permanently deposited within 250 feet of any surface water.
8. All previously deposited spoils on-site shall be permanently relocated 250 ft from any surface water and not in any wetlands jurisdiction.
9. Any equipment entering surface waters shall be completely free of any aquatic plants and animals.
10. All work equipment shall be thoroughly rinsed (no detergents) within an upland containment area resulting in no discharge to surface waters. Spoil materials rinsed off shall be removed off-site, 250 ft from any surface water and/or any wetland jurisdiction.

11. Construction equipment shall be inspected daily for leaking fuel, oil and hydraulic fluid prior to entering surface waters or wetlands.
12. Faulty equipment shall be repaired/replaced prior to entering jurisdictional areas.
13. The contractor shall have appropriate oil/diesel fuel spill kits on site and readily accessible at all times during construction and each operator shall be trained in its use.
14. Work authorized shall be carried out such that discharges in spawning or nursery areas during spawning seasons shall be avoided, and impacts to such areas shall be avoided or minimized to the maximum extent practicable during all times of the year.
15. This permit shall not preclude the Department of Environmental Services (DES) from taking any enforcement or revocation action if the DES later determines that any of the structures depicted as "existing" on the plans submitted by the applicant were not previously permitted or grandfathered.
16. All activity associated with this project shall be conducted in accordance with the Comprehensive Shoreland Protection Act, RSA 483-B (see attached fact sheet).

With Findings:

1. This is a minor impact project per Administrative Rule Env-Wt 303.03(g), the removal of no more than 20 cubic yards of rock, gravel, sand, mud, or other materials from public waters.
2. The need for the proposed impacts has been demonstrated by the applicant per Rule Env-Wt 302.01. The site historically did not have this sandbar until a flood washout event upstream. Washout upstream has been resolved prior to dredge permit approval.
3. The applicant has provided evidence which demonstrates that this proposal is the alternative with the least adverse impact to areas and environments under the department's jurisdiction per Env-Wt 302.03.
4. The applicant has demonstrated by plan and example that each factor listed in Env-Wt 302.04(a) Requirements for Application Evaluation, has been considered in the design of the project.

2007-02383 KEEWAYDEN POINT ASSOC, C/O THOMAS DIGHT JR
WOLFEBORO Lake Winnepesaukee

Requested Action:

Install one, 3 pile ice cluster, add 5 new dock support piles, reduce the dock length from 33 ft 6 in to 32 ft, and replace one fender pile adjacent to an existing 3 ft x 33 ft 6 in dock and a 3 ft x 33 ft 6 in dock connected in a "U" shaped configuration by a 3 ft x 24 ft walkway, accessed by a 5 ft 5 in x 52 ft walkway over the bank on an average of 265 ft of frontage on Lake Winnepesaukee, Wolfeboro.

Conservation Commission/Staff Comments:

No Con Com comments by Dec 12, 2007

Inspection Date: 11/28/2007 by Chris T Brison

APPROVE PERMIT:

Install one, 3 pile ice cluster, add 5 new dock support piles, reduce the dock length from 33 ft 6 in to 32 ft, and replace one fender pile adjacent to an existing 3 ft x 33 ft 6 in dock and a 3 ft x 33 ft 6 in dock connected in a "U" shaped configuration by a 3 ft x 24 ft walkway, accessed by a 5 ft 5 in x 52 ft walkway over the bank on an average of 265 ft of frontage on Lake Winnepesaukee, Wolfeboro.

With Conditions:

1. All work shall be in accordance with plans by Winnepesaukee Marine Construction dated October 01, 2007, as received by DES on October 05, 2007.
2. This permit shall not be effective until it has been recorded with the Registry of Deeds Office by the Permittee. A copy of the recorded permit shall be submitted to the DES Wetlands Bureau, by certified mail, return receipt requested, prior to construction.
3. Repair shall maintain existing size, location and configuration, with the exception of the reduced dock length as specified on the approved plan.
4. This permit to replace or repair existing structures shall not preclude the DES from taking any enforcement action or revocation

action if the DES later determines that these "existing structures" were not previously permitted or grandfathered.

- 5. Appropriate siltation/erosion/turbidity controls shall be in place prior to construction, maintained during construction, and shall remain until the area is stabilized.
- 6. Work authorized shall be carried out such that discharges in spawning or nursery areas during spawning seasons shall be avoided, and impacts to such areas shall be avoided or minimized to the maximum extent practicable during all times of the year.
- 7. Work shall be carried out in a time and manner such that disturbance to migratory waterfowl breeding areas and spawning areas shall be avoided.
- 8. All activity shall be in accordance with the Comprehensive Shoreland Protection Act, RSA 483-B (see attached fact sheet).

With Findings:

- 1. This is a minor impact project per Administrative Rule Env-Wt 303.03(m), installation of new tie-off piles, ice clusters, or dolphins which do not, by their presence, add boat slips to an existing docking system.
- 2. The need for the proposed impacts has been demonstrated by the applicant per Env-Wt 302.01. 3. The applicant has provided evidence which demonstrates that this proposal is the alternative with the least adverse impact to areas and environments under the department's jurisdiction per Env-Wt 302.03.
- 4. DES Staff conducted a field inspection of the proposed project on November 28, 2007. Field inspection supported the need for the proposed impact
- 5. The applicant has an average of 265 feet of shoreline frontage along Lake Winnepesaukee.
- 6. A maximum of 4 slips may be permitted on this frontage per Rule Env-Wt 402.12, Frontage Over 75'.
- 7. The proposed docking facility will provide 9 slips as defined per RSA 482-A:2, VIII and therefore meets Rule Env-Wt 402.12.
- 8. The proposed modification does not add any boatslips to the frontage, and reduces the impact over public submerged lands.

MINIMUM IMPACT PROJECT

2003-01443 MWH CONSTRUCTION LLC
CARROLL Unnamed Wetland

Requested Action:

Approve name change to: MWH Construction, LLC, 210 Mount Washington Hotel Rd., Bretton Woods, NH 03575 per request received 12/06/2007. Previous owner: Bretton Woods Land Co., LLC.

APPROVE NAME CHANGE:

Dredge and fill 1,760 square feet of wetlands to construct roadways and drives associated with a residential 20-unit development. Create 2,600 square feet of wetland to mitigate for the proposed wetland impact.

With Conditions:

- 1. All work shall be in accordance with revised plans by James S. Kenney dated September 11, 2003, as received by the Department on September 23, 2003.
- 2. This permit is contingent on approval by the DES Site Specific Program.
- 3. This permit is contingent upon the creation of 2,600 square feet of wetlands in accordance with plans received September 23, 2006.
- 4. The schedule for construction of the wetland creation area shall coincide with site construction unless otherwise considered and authorized by the Wetlands Bureau.
- 5. Any future work on this property that is within the jurisdiction of the DES Wetlands Bureau as specified in RSA 482-A will require a new application and approval by the Bureau.
- 6. Work shall be done during low flow conditions.
- 7. Proper headwalls shall be constructed within seven days of culvert installation.
- 8. Culvert outlets shall be protected in accordance with the DES Best Management Practices for Urban Stormwater Runoff Manual (January 1996) and the Stormwater Management and Erosion and Sediment Control Handbook for Urban and Developing Areas in

New Hampshire (August 1992).

9. Discharge from dewatering of work areas shall be to sediment basins that are: a) located in uplands; b) lined with hay bales or other acceptable sediment trapping liners; c) set back as far as possible from wetlands and surface waters, in all cases with a minimum of 20 feet of undisturbed vegetated buffer.
10. Dredged material shall be placed outside of the jurisdiction of the DES Wetlands Bureau.
11. Appropriate siltation/erosion/turbidity controls shall be in place prior to construction, shall be maintained during construction, and remain in place until the area is stabilized. Silt fence(s) must be removed once the area is stabilized.
12. Within three days of final grading in an area that is in or adjacent to wetlands or surface waters, all exposed soil areas shall be stabilized by seeding and mulching during the growing season, or if not within the growing season, by mulching with tack or netting and pinning on slopes steeper than 3:1.
13. Where construction activities have been temporarily suspended within the growing season, all exposed soil areas shall be stabilized within 14 days by seeding and mulching.
14. Where construction activities have been temporarily suspended outside the growing season, all exposed areas shall be stabilized within 14 days by mulching and tack. Slopes steeper than 3:1 shall be stabilized by matting and pinning.
15. The contractor responsible for completion of the work shall utilize techniques described in the DES Best Management Practices for Urban Stormwater Runoff Manual (January, 1996) and the Stormwater Management and Erosion and Sediment Control Handbook for Urban and Developing Areas in New Hampshire (August, 1992).
16. Wetland creation areas shall be properly constructed, landscaped, monitored and remedial actions taken that may be necessary to create functioning wetland areas similar to those of the wetlands destroyed by the project. Remedial measures may include replanting, relocating plantings, removal of invasive species, changing soil composition and depth, changing the elevation of the wetland surface, and changing the hydrologic regime.
17. Wetland creation areas shall have at least 75% successful establishment of wetlands vegetation after two (2) growing seasons, or shall be replanted and re-established until a functional wetland is replicated in a manner satisfactory to the DES Wetlands Bureau.

With Findings:

1. This permit transfer is issued in accordance with NH Administrative Rule Env-Wt 502.02.

2004-01322 AUBURN HEIGHTS LLC
HOOKSETT Unnamed Wetland

Requested Action:

Applicant requests removal of requirement to create 11,885 sq. ft. of shrub/emergent wetlands/upland complex, to be contiguous with existing wetlands.

Conservation Commission/Staff Comments:

Did not intervene.

Inspection Date: 07/14/2004 by Dori A Wiggin

APPROVE AMENDMENT:

Amend permit to read:

Dredge and fill a total of 2,596 sq. ft. of disturbed wetlands to install one crossing with two 24"x 88' culverts and fill and grading associated with one building and site improvements.

With Conditions:

With amended conditions:

1. All work for the building and site improvements shall be in accordance with plans by Keach-Nordstrom Associates, Inc. dated 5/17/04, as received by the Department on 6/17/04.
2. There shall be no further alteration of wetlands for lot development, driveways, culverts, or for septic setback.

3. Orange construction fencing shall be placed at the limits of construction to prevent accidental encroachment on wetlands.
4. Proper headwalls shall be constructed within seven days of culvert installation.
5. Culvert outlets shall be properly rip rapped.
6. Appropriate siltation/erosion/turbidity controls shall be in place prior to construction, shall be maintained during construction, and remain until the area is stabilized. Silt fence(s) must be removed once the area is stabilized.
7. Within three days of final grading or temporary suspension of work in an area that is in or adjacent to wetlands or surface waters, all exposed soil areas shall be stabilized by seeding and mulching during the growing season, or if not within the growing season, by mulching with tack or netting and pinning on slopes steeper than 3:1.
8. This permit is contingent on approval by the DES Site Specific Program.

With Findings:

1. This is a minimum impact project per Administrative Rule Wt 303.04(f), alteration of less than 3,000 sq. ft. of swamps or wet meadows.
2. The need for the proposed impacts has been demonstrated by the applicant per Wt 302.01.
3. The applicant has provided evidence which demonstrates that this proposal is the alternative with the least adverse impact to areas and environments under the department's jurisdiction per Wt 302.03.
4. The applicant has demonstrated by plan and example that each factor listed in Wt 302.04(b) Requirements for Application Evaluation, has been considered in the design of the project.
5. Field inspection by DES personnel on 7/14/04 found that the impact area of 1,013 sq. ft. for fill for lot development and site improvement represents work in an area of a man-made drainage ditch excavated in non-wetland soils which only intermittently carries water and was of marginal jurisdiction. The true flow diverts upstream from this ditch, and flows under the proposed crossing location.
6. This application replaces application 2004-359, and corrects deficiencies in that application, including:
 - a. 20-foot abutter sign-off has been provided;
 - b. culvert length has now been adequately justified by the engineer.
7. The mitigation proposed was offered by the applicant, not required by rule Wt 302.03(b).

2006-01698 MCCAULEY, KEVIN
HILLSBOROUGH Beard Brook

Requested Action:

Approve Reconsideration to dredge and fill approximately 30 linear ft. of perennial stream bank and 200 sq. ft. of wetlands for replacement and upgrade of an existing bridge on Beard Brook and replacement of an existing 8 in. culvert with a 30 in. x 36 ft. CPP culvert within an existing right-of-way.

Conservation Commission/Staff Comments:

8/15/07 Motion for reconsideration of permit denial received from Atty. Ari B Pollack of Gallagher, Callahan and Gartrell - np

DES granted a 30-day time extension to the 120 day request for more information.

APPROVE RECONSIDERATION:

Dredge and fill approximately 1,588 sq. ft of wetlands (includes 274 sq. ft. of temporary impact of which 30 linear ft. is temporary stream bank impact) for replacement and upgrade of an existing access bridge on Beard Brook, replacement of an existing 8 in. culvert with a 30 in. x 36 ft. CPP culvert and wetlands impact for side slope grading of the new access road entrance.

With Conditions:

1. All work shall be in accordance with plans by Bell Engineering amended date October 24, 2007, and dated November 11, 19, 2007, as received by DES on November 26, 2007.
2. Any further alteration of areas on this property that are within the jurisdiction of the DES Wetlands Bureau will require a new application and further permitting by the Bureau.

3. Work shall be done during low flow.
4. Appropriate siltation/erosion/turbidity controls shall be in place prior to construction, shall be maintained during construction, and remain in place until the area is stabilized. Silt fence(s) must be removed once the area is stabilized.
5. Appropriate turbidity controls shall be installed prior to construction, shall be maintained during construction such that no turbidity escapes the immediate dredge area, and shall remain until suspended particles have settled and the water at the work site has returned to normal clarity.
6. Discharge from dewatering of work areas shall be to sediment basins that are: a) located in uplands; b) lined with hay bales or other acceptable sediment trapping liners; c) set back as far as possible from wetlands and surface waters, in all cases with a minimum of 20 feet of undisturbed vegetated buffer.
7. Dredged material shall be placed outside of the jurisdiction of the DES Wetlands Bureau.
8. There shall be no excavation or operation of construction equipment in flowing water.
9. There shall be no work in the bed or flowing water of the stream.
10. Within three days of final grading in an area that is in or adjacent to wetlands or surface waters, all exposed soil areas shall be stabilized by seeding and mulching during the growing season, or if not within the growing season, by mulching with tack or netting and pinning on slopes steeper than 3:1.
11. Where construction activities have been temporarily suspended within the growing season, all exposed soil areas shall be stabilized within 14 days by seeding and mulching.
12. Where construction activities have been temporarily suspended outside the growing season, all exposed areas shall be stabilized within 14 days by mulching and tack. Slopes steeper than 3:1 shall be stabilized by matting and pinning.
13. Construction equipment shall be inspected daily for leaking fuel, oil and hydraulic fluid. Faulty equipment shall be repaired immediately.
14. The contractor shall have appropriate oil spill kits on site and readily accessible at all times during construction and each operator shall be trained in its use.
15. All refueling of equipment shall occur outside of surface waters or wetlands during construction.

With Findings:

1. This is a minimum impact project per Administrative Rule Env-Wt 303.04(h) Installation of a bridge provided that:
 - (1) No work is done in the water or wetland;
 - (2) The fill does not exceed 3,000 sq. ft. of fill on the banks of a river or bed of the river; and
 - (3) The bridge is not in prime wetlands, bogs, marshes, sand dunes, undisturbed tidal buffer zone or does not meet the requirements of Env-Wt 303.02(k); andAdministrative Rule Env-Wt 303.04(f) Projects involving alteration of less than 3,000 square feet in swamps or wet meadows that are not in prime wetlands or do not meet the requirements of Env-Wt 303.02(k).
2. The need for the proposed impacts has been demonstrated by the applicant per Env-Wt 302.01. 3. The applicant has demonstrated by plan and example that each factor listed in Env-Wt 302.04(b) Requirements for Application Evaluation, has been considered in the design of the project.
4. The proposed bridge structure spans a majority of the associated jurisdictional wetlands, banks, and stream bed. There are minimal permanent and temporary impacts to the stream bank and associated wetlands for the removal of the old bridge and installation of the new headwalls.
5. The new bridge will provide a larger hydrological opening and should improve flows through the previously impacted area.
6. The new bridge and wetland crossing should improve access for safety equipment.
7. The application was previously denied by the Department due to the findings that the applicant did not have reasonable proof of ownership interest in the property to construct a permanent structure on the abutters land and the Department did not have reasonable proof that the proposed structure will not infringe on the property rights or unreasonably affect the value or enjoyment of property of abutting owners.
8. The Department found that if the applicant obtained permission or purchased an easement beyond the 20 foot right of way from impacted abutters, DES would allow the upgraded crossing.
9. The applicant has now obtained a new right of way and permission from the abutter to conduct work within 20 feet of the property line in accordance with Administrative Rule Env-Wt 304.04(a).

Requested Action:

Requests Reconsideration of Denial

DENY RECONSIDERATION:

Deny Reconsideration

With Findings:

A. Grounds for Reconsideration

The request for reconsideration asserts the following as the basis for the request:

1. Although the Department's letter is dated October 12, 2007, it was not sent until October 15, 2007. The applicant enclosed a copy of the DES envelope postmark dated October 15, 2007.
2. The calculated 75 review due date is October 13, 2007.
3. By sending the letter on October 15, 2007, the application is as a consequence statutorily approved.
4. The appropriate date that tolls the statutory period is the date upon which the decision is sent.
5. The Department's own rules state that its purpose is to secure "a just and speedy determination in every proceeding" - citing Env Wt 201.01.
6. It is clear throughout New Hampshire law that with respect to a written decision, the date of the mailing rather than the date the Decision is signed, is the effective date.
7. The DES findings referencing the public purpose of RSA 482-A is a statement of statutory purpose only, and its inclusion in the fill and dredge statute is to provide a broad legislative statement supporting the statute itself. Its incorporation in and employment as a part of item 17 is inappropriate. No real finding, which can form the basis of a decision, has thereby been made.
8. The Town of Epsom has brought water to the Belanger property, via a culvert, and is flowing that water over the Belanger property.
9. Mr. Belanger wishes to extend the culvert, so as to submerge the water as it runs through his land, and not be subject to loss of use of his land because of the town culvert.
10. Mr. Belanger merely seeks to regain the use of his land. There is no available reasonable alternative to the application submitted.
11. The denial letter in findings 18, 19 and 20 merely references sections of regulations without any specific factual basis to support such finding. As such these findings are legally insufficient.
12. From the time the issue was self reported by Mr. Belanger to DES, and during the time following that, leading up to the ultimate decision, it became clear to Mr. Belanger that the animus of the Department was to deny the application.
13. The application if approved and implemented would be well within the tolerance that would be applied to other properties of this size and nature. There is no impact on any natural condition within your jurisdiction.
14. If the DES does not reconsider its decision, the applicant requests a hearing on the issues prior to issuance of a decision.

B. Standards for Approval and Process for Review

1. RSA 482-A:10, II requires a request for reconsideration to describe in detail each ground for complaint. No ground not set forth in there request for reconsideration can be considered by the Wetlands Council or the Superior Court (if further appeal is taken), except as provided in paragraph VIII of that section.
2. RSA 482-A:10, III provides that on reconsideration, the Department will receive and consider any new and additional evidence presented, and make findings of fact and ruling of law in support of its decision after reconsideration.
3. RSA 482-A:10, V provides that the burden of proof is on the party seeking to set aside the Department's decision to show that the decision is unlawful or unreasonable.
4. If the Department is persuaded by the request for reconsideration that a permit denial was erroneous, the result is that the permit originally requested would be granted.
5. RSA 482-A:3, XIV provides in paragraph (d) that where no request for additional information is made pursuant to subparagraph (b), the department shall, within 75 days from the issuance of the notice of administrative completeness, or 105 days if the application proposes more than one acre of jurisdictional impact:
 - (1) Approve or deny the application, in whole or whole or in part; or

- (2) Commence a non-adjudicative proceeding in accordance with this chapter and rules adopted by the commissioner;
6. RSA 482-A:3, XIV provides in paragraph (f) that the time limits prescribed by this paragraph supersede any time limits provided in any other provision of law. If the department fails to issue a notice of administrative completeness or render any other decision within the time limits provided in this paragraph, the application shall be deemed to be approved.
 7. Env Wt 302.04(d) provides that the department shall not grant a permit if the applicant fails to document that the proposed alternative is one with the least adverse impact to areas and environments under the department's jurisdiction, or if the applicant proposes random or unnecessary destruction of wetlands.
 8. The applicant must provide evidence which demonstrates that his/her proposal is the alternative with the least adverse impact to areas and environments under the department's jurisdiction per Env Wt 302.03.
 9. RSA 482-A:1 provides that it is for the public good and welfare of the state to protect and preserve its wetlands from despoliation and unregulated alteration because to the adverse affect the value of such areas - it will damage or destroy habitats and reproduction areas for plants, fish and wildlife of importance...will adversely affect stream channels and their ability to handle runoff of waters, and will disturb and reduce the natural ability of wetlands to absorb flood waters and thus increase general flood damage and silting of open water channels.

C. Findings of Fact and Rulings of Law

1. On June 14, 2007, DES inspected the property owned by Rick Belanger and found an area of illegally dredged wetlands. DES requested Mr. Belanger to do the following:
 - a. Remove slash and deposit material outside of DES jurisdiction;
 - b. Rake smooth the loam;
 - c. Apply conservation seed mix;
 - d. Contact wetland scientist before building wall or moving earth;
 - e. Have work done by July 14, 2007 and do it during low flow.
2. On June 25, 2007, DES received a phone call from Rick Belanger indicating that he had done what DES requested him to do.
3. On July 10, 2007, DES reinspected the property and observed that additional loads of fill had been brought to the property and placed up to the edge of the centerline of wetland. A silt fence had been installed at the base of the loose, unstable exposed fill, but it had been installed poorly and was not functioning as intended. Specifically, the silt fence had failed on the north end and material was eroding beneath the fence and settling in the wetland downslope. DES requested Mr. Belanger to stop further work except to repair the silt fence and remove the fill from the wetlands.
4. On July 16, 2007, DES received a standard dredge and fill application from Rick Belanger proposing to impact 80 square feet of intermittent stream with a 14" culvert that connects to an existing culvert under Old Turnpike Road (40 linear feet culvert) for the purpose of creating a useable area for parking heavy equipment and larger tractor trailers. The application represented that the equipment had been parking on Old Turnpike Road, which is a safety hazard.
5. On July 20, 2007, the application was deemed administratively incomplete as the NHB Heritage information had not been received.
6. On July 26, 2007, DES received the required Heritage information.
7. On July 30, 2007, the Belanger application was deemed administratively complete.
8. On October 8, 2007, DES personnel called Belanger's agent, Schauer Environmental, and asked whether the applicant was still pursuing the permit to culvert the stream since the stream has been restored. The purpose of the call was to determine if Mr. Belanger was going to withdraw the application or if he wanted DES to continue with the process, which likely would result in the application being denied.
9. On October 10, 2007, DES received a return phone call from Peter Schauer stating that Mr. Belanger wished to pursue the application and asking DES to take action. DES informed Mr. Schauer that the decision would likely be a denial.
10. On October 11, 2007, DES received an email from the Fish and Game Non-Game and Endangered Wildlife program stating the following: The NHFG Non-Game and Endangered Wildlife does not recommend the culvertization of intermittent streams and the resulting loss of stream corridor habitat. Intermittent streams provide travel corridors and habitat for rare wildlife such as Blanding's turtle which has been documented in the project area. Blanding's turtle has been proposed to be placed on the state endangered list, currently in revision. Intermittent streams also provide seasonal habitat for salamanders and species such as bridle shiner, which has been documented in the Little Suncook River in the vicinity of the project. Also, seasonal streams provide habitat for macroinvertebrates, salamander, and frog species which provide food for Blanding's turtle and bridle shiner.
11. On October 11, 2007, DES rendered the decision for denial for action in the Foxpro database. Review of the One Stop

Database, where permit decisions are posted on the Internet, shows that the denial action date was October 11, 2007. In order for the OneStop to access the Wetlands data a nightly process is run by IRT that converts the Foxpro tables to Oracles tables on the Oracle database server. This means that the wetlands data made available through One Stop is always from the previous days work, so something that issues on the 11th will show on OneStop on the 12th.

12. On October 12, 2007, the Belanger denial letter was issued.

13. DES Wetlands Bureau mail log shows that the Belanger denial letter was mailed on October 12, 2007, and was the fourth of twelve letters issued that day.

14. The applicant failed to demonstrate that there were not other alternatives with less impact to achieve its goal of providing parking.

15. The applicant failed to design its plan to minimize the impacts to the two species identified by Fish and Game Department : Blanding's turtle or Bridled Shiner - special concern species found downstream of the proposed project area.

16. The applicant has failed to demonstrate that this project will not damage or destroy habitats and reproduction areas for plants, fish and wildlife of importance.

2007-01631 DROUIN, WAYNE & CAROL
BELMONT Unnamed Wetland

Requested Action:

Reconsider and approve condition changes as requested by applicant.

APPROVE RECONSIDERATION:

Dredge and fill a total of 1285 square feet including installation of culverts in three locations for access to uplands for non-commercial recreational use.

With Conditions:

1. All work shall be in accordance with plans by Kathleen Surowiec dated July 2007 and revised through September 2007, as received by the Department on October 1, 2007.
2. This approval is for non-commercial recreational use only, any change in use will require a new application and further permitting by the Department.
3. Any future work on this property that is within the jurisdiction of the DES Wetlands Bureau as specified in RSA 482-A will require a new application and approval by the Bureau.
4. The entirety of the wetland on site shall be delineated by a Certified Wetland Scientist prior to the start of construction.
5. Strike per Reconsideration
6. Permanent signs to indicate the location of the wetland shall be posted every 50 feet along the boundary of the delineated wetland area prior to construction.
7. The Wetlands Bureau shall be notified of the upon the completion of the permanent demarcation so that they may confirm compliance with conditions # 4 and #6.
8. Work shall be done during periods of non-flow.
9. Dredged material shall be placed outside of the jurisdiction of the DES Wetlands Bureau.
10. Proper headwalls shall be constructed within seven days of culvert installation.
11. Within three days of final grading or temporary suspension of work in an area that is in or adjacent to wetlands or surface waters, all exposed soil areas shall be stabilized by seeding and mulching during the growing season, or if not within the growing season, by mulching with tack or netting and pinning on slopes steeper than 3:1.
12. The contractor responsible for completion of the work shall utilize techniques described in the DES Best Management Practices for Urban Stormwater Runoff Manual (January, 1996) and the Stormwater Management and Erosion and Sediment Control Handbook for Urban and Developing Areas in New Hampshire (August, 1992).
13. Silt fencing must be removed once the area is stabilized.
14. The permittee or a designee shall conduct a follow-up inspection after the first growing season, to review the wetland boundary line and schedule remedial actions if necessary. A report outlining these follow-up measures shall be submitted to DES Wetlands and the Belmont Conservation Commission and a schedule for completing the remedial work shall be submitted by December 1 of that year. Similar inspections, reports and remedial actions shall be undertaken in at least the second and third years following the completion of construction.

With Findings:

DES reaffirms findings 1 - 10

1. This is a minimum impact project per Administrative Rule Env-Wt 303.04(z), installation of a culvert or bridge and associated fill to permit vehicular access to a piece of property for a single family building lot or for noncommercial recreational uses.
2. The need for the proposed impacts has been demonstrated by the applicant per Env-Wt 302.01. 3. The applicant has provided evidence which demonstrates that this proposal is the alternative with the least adverse impact to areas and environments under the department's jurisdiction per Env-Wt 302.03.
4. The applicant has demonstrated by plan and example that each factor listed in Env-Wt 302.04(b) Requirements for Application Evaluation, has been considered in the design of the project.
5. The Department has received a letter from the Belmont Conservation Commission dated July 18, 2007, which requested: 1. Additional impact areas be addressed; 2. Edges of all wetlands be adequately and permanently delineated; and 3. If there is a change in use the site plan must be presented to the planning board.
6. The applicant has addressed item 1 of the Conservation Commissions letter by indicating a second area of access across the larger wetland.
7. The edges of the wetlands shall be delineated and permanently demarked in the field prior to construction per conditions 4-7 of the permit.
8. Condition number 2 of the permit limits the use of the area to non-commercial recreational use.
9. The Department received a second letter from the Belmont Conservation Commission dated October 4, 2007, in this second letter the commission reiterating: 1. The request for all wetlands to be delineated on the site and 2. further requesting the Belmont Conservation Commission be allowed periodic access to the site to ensure the wetlands are not being encroached upon.
10. The Department does not have the authority to require the applicant to allow the Conservation Commission access onto the property. However, condition # 14 requires a report to be submitted to DES and the commission by August 1, for the following 3 growing seasons after construction is complete.

DES makes the following additional finding:

11. The Belmont Conservation Commission met on December 5, 2007 and felt the proposed amendments would satisfy their concerns.

2007-01820 WWWHS LLC
GREENLAND Packer Brook

Requested Action:

Dredge and fill 1,526 sq. ft. in the stream channel, embankments and palustrine wetlands of Packer Brook for work associated with the reconstruction of the dam (NHDES Dam Bureau Dam #0099.02) which breached in 2004 due to failure of the outlet structure.

Conservation Commission/Staff Comments:

The Greenland Conservation Commission signed off on the Minimum Impact Expedited application. Due to the perennial stream, this project was reviewed as standard minimum impact.

Inspection Date: 11/27/2007 by Frank D Richardson

APPROVE PERMIT:

Dredge and fill 1,526 sq. ft. in the stream channel, embankments and palustrine wetlands of Packer Brook for work associated with the reconstruction of the dam (NHDES Dam Bureau Dam #0099.02) which breached in 2004 due to failure of the outlet structure.

With Conditions:

1. All work shall be in accordance with plans by Waterfront Engineers, LLC and Haight Engineering, PLLC dated 6-29-07 (last revised 10-24-07), as received by DES on November 27, 2007.
2. Any further alteration of areas on this property that are within the jurisdiction of the DES Wetlands Bureau will require a new

application and further permitting by the Bureau.

3. This permit is contingent on approval by the DES Dam Safety Program.
4. NH DES Wetlands Bureau Southeast Region staff shall be notified in writing prior to commencement of work and upon its completion.
5. Work shall be done during low flow conditions.
6. Appropriate siltation/erosion/turbidity controls shall be in place prior to construction, shall be maintained during construction, and remain in place until the area is stabilized. Silt fence(s) must be removed once the area is stabilized.
7. Within three days of final grading or temporary suspension of work in an area that is in or adjacent to wetlands or surface waters, all exposed soil areas shall be stabilized by seeding and mulching during the growing season, or if not within the growing season, by mulching with tack or netting and pinning on slopes steeper than 3:1.
8. Construction equipment shall be inspected daily for leaking fuel, oil and hydraulic fluid prior to entering surface waters or wetlands.
9. Faulty equipment shall be repaired prior to entering jurisdictional areas.
10. The contractor shall have appropriate oil spill kits on site and readily accessible at all times during construction and each operator shall be trained in its use.
11. All refueling of equipment shall occur outside of surface waters or wetlands during construction.

**2007-01951 SAU 18, DONNA CLAIRMONT
FRANKLIN Unnamed Wetland**

Requested Action:

Dredge and fill 1178 square feet of man made ditch to maintenance dredge and expand existing parking area. Recreate existing ditch area by expanding laterally new ditch area shall be 1215 square feet.

APPROVE PERMIT:

Dredge and fill 1178 square feet of man made ditch to maintenance dredge and expand existing parking area. Recreate existing ditch area by expanding laterally new ditch area shall be 1215 square feet.

With Conditions:

1. All work shall be in accordance with plans by Appledore Engineering dated August 14, 2007, and revised through November 5, 2007, as received by the Department on November 15, 2007.
2. Any future work on this property that is within the jurisdiction of the DES Wetlands Bureau as specified in RSA 482-A will require a new application and approval by the Bureau.
3. Work shall be done during periods of non-flow.
4. Orange construction fencing shall be placed at the limits of construction to prevent accidental encroachment on wetlands.
5. Appropriate siltation/erosion controls shall be in place prior to construction, shall be maintained during construction, and remain until the area is stabilized. Silt fence(s) must be removed once the area is stabilized.
6. All material removed during work activities shall be placed out of DES's jurisdiction.
7. Mulch within the new ditch area shall be straw.
8. Seed mix within the new ditch area shall be a wetland seed mix appropriate to the area and shall be applied in accordance with manufacturers specifications. The receipt and contents of the wetland mix shall be supplied to NHDES within 10 days of application.
9. Within three days of final grading or temporary suspension of work in an area that is in or adjacent to wetlands or surface waters, all exposed soil areas shall be stabilized by seeding and mulching during the growing season, or if not within the growing season, by mulching with tack or netting and pinning on slopes steeper than 3:1.
10. A post-construction report documenting the status of the restored and stabilized jurisdictional area, including photographs shall be submitted to the Wetlands Bureau within 60 days of the completion of construction.

With Findings:

1. This is a minimum impact project per Administrative Rule Env-Wt 303.04(f), projects involving alteration of less than 3,000 square feet in swamps or wet meadows that are not in prime wetlands or do not meet the requirements of Env-Wt 303.02(k), provided that no previous department permit has placed restrictions on the property of the applicant.

2. The applicant has provided evidence which demonstrates that this proposal is the alternative with the least adverse impact to areas and environments under the department's jurisdiction per Env-Wt 302.03.
3. The applicant has demonstrated by plan and example that each factor listed in Env-Wt 302.04(b) Requirements for Application Evaluation, has been considered in the design of the project.

FORESTRY NOTIFICATION

2007-02722 SIROIS, RICHARD
BARRINGTON Unnamed Stream Prime Wetland #43

COMPLETE NOTIFICATION:
Barrington Tax Map 101, Lot# 60, 61 & 65

2007-02875 TAYLOR JR, THEODORE
HOLDERNESS Unnamed Stream

COMPLETE NOTIFICATION:
Holderness Tax Map 242, Lot# 5

2007-02876 WOODARD, JOHN
WOLFEBORO Unnamed Stream

COMPLETE NOTIFICATION:
Wolfeboro Tax Map 111, Lot# 2

2007-02877 CLOWARD, ESTATE OF S F
WAKEFIELD Unnamed Stream

COMPLETE NOTIFICATION:
Wakefield Tax Map/Lot# 37/4 & 42/3, 4 & 9

2007-02878 DAVIS, JAMES
SOMERSWORTH Unnamed Stream

COMPLETE NOTIFICATION:
Somersworth Tax Map 17, Lot# 3

2007-02880 BERNET, EDWIN & ALICE
KEENE Unnamed Stream

COMPLETE NOTIFICATION:
Keene Tax Map 924, Lot# 11-4

2007-02881 **KELLEY, SAM & ANNE**
NORTHWOOD Unnamed Stream

COMPLETE NOTIFICATION:
Northwood Tax Map 230, Lot# 22

2007-02883 **DAVIS, THOMAS & KATHLEEN MORRIS**
RINDGE Unnamed Stream

COMPLETE NOTIFICATION:
Rindge Tax Map 46, Lot# 37

2007-02884 **WEDEN, HENRY**
DORCHESTER Unnamed Stream

COMPLETE NOTIFICATION:
Dorchester Tax Map 8, Lot# 397

2007-02894 **CONCORD, CITY OF**
CONCORD Unnamed Stream

COMPLETE NOTIFICATION:
Concord Tax Map 103, Lot# 1

2007-02896 **DRED**
HILLSBOROUGH Unnamed Stream

COMPLETE NOTIFICATION:
Hillsboro Tax Map 3, Lot# 1 Low State Forest

2007-02899 **DOUCET, RODNEY**
DUNBARTON Unnamed Stream

COMPLETE NOTIFICATION:
Dunbarton Tax Map R4, Lot# 1

2007-02900 **HEATH, STEWART**
EATON Unnamed Stream

COMPLETE NOTIFICATION:
Eaton Tax Map R9, Lot# 6

2007-02901 **HEATH, JOANNE**
EATON Unnamed Stream

COMPLETE NOTIFICATION:

Eaton Tax Map R9, Lot# 4

2007-02902 PROSPECT FARM - LANCASTER LLC, JOHN DAVIDGE III
LANCASTER Unnamed Stream

COMPLETE NOTIFICATION:

Lancaster Tax Map R27, Lot# 12 & 12A

2007-02904 BIELZNA, DIANE
HOOKSETT Unnamed Stream

COMPLETE NOTIFICATION:

Hooksett Tax Map 48, Lot# 19

2007-02905 STOWELL REALTY LP, DAVID WESTGATE
JAFFREY Unnamed Stream

COMPLETE NOTIFICATION:

Jaffrey Tax Map 201, Lot# 2

2007-02906 GREEN CROW CORP
ANDOVER Unnamed Stream

COMPLETE NOTIFICATION:

Andover Tax Map 20, Lot# 473,233

2007-02907 BRUNET, NICHOLAS
CAMPTON Unnamed Stream

COMPLETE NOTIFICATION:

Campton Tax Map 8, Lot# 4-11

2007-02908 PARTNERS FARM LLC
HILLSBOROUGH Unnamed Stream

COMPLETE NOTIFICATION:

Hillsboro Tax Map 7, Lot# 119

2007-02909 MURPHY, JAMES & FRANCIS
FREEDOM Unnamed Stream

COMPLETE NOTIFICATION:

Freedom Tax Map 7, Lot# 35 & 3-2

EXPEDITED MINIMUM

**2006-02705 LANDING BOAT CLUB, GERALD GULLEY
NEWBURY Lake Sunapee**

Requested Action:

Appellant requests reconsideration of the Departments decision to issue a permit to repair an existing docking facility.

Conservation Commission/Staff Comments:

Con Com signed Exp application

DENY PERMIT-INSUFFICIENT & UNTIMELY RESP:

Deny reconsideration on the basis that it was filed in an untimely manner.

With Findings:

Standards for Approval

1. In accordance with RSA 482-A:10, II Appeals, "a request for reconsideration shall be filed with the department within 20 days of issuance of the department's decision or order."
2. By statute, the Department has no discretion to waive or extend this deadline.
3. In accordance with RSA 482-A:10, Appeals, on reconsideration the Department shall any new and additional information presented.

Findings of Fact

4. The Department issued its decision on the applicant's request to repair an existing major docking facility by way of a letter dated and mailed on November 08, 2006.
5. The deadline to make a request for reconsideration of the Department's decision was November 28, 2006.
6. The Motion for Reconsideration, dated June 04, 2007, was received by the Department on June 05, 2007, 189 days after the issuance of the Department's decision.

Ruling in Support of the Decision

7. The department did not receive a timely request for reconsideration and, therefore, the decision stands as issued.

**2007-02102 PSNH, ATTEN DAVID PLANTE, P.E.
GOFFSTOWN Unnamed Wetland**

Requested Action:

Permanently impact approximately 43 square feet of palustrine scrub-shrub and emergent wetlands for the replacement/installation of pole structures and guy wires and temporarily impact approximately 4,525 square feet for associated swamp mat installation for access along the 3.9 mile Goffstown portion of a 20-mile existing electric aerial power line (F162).

APPROVE PERMIT:

Permanently impact approximately 43 square feet of palustrine scrub-shrub and emergent wetlands for the replacement/installation of pole structures and guy wires and temporarily impact approximately 4,525 square feet for associated swamp mat installation for access along the 3.9 mile Goffstown portion of a 20-mile existing electric aerial power line (F162).

With Conditions:

1. All work shall be in accordance with plans by Ambient Engineering dated August 10, 2007, and revised November 14, 2007, restoration sequence as received by the DES Wetlands Bureau on November 20, 2007, and plans depicting Prime Wetland boundaries stamped by Lawrence E. Morse, CWS, dated December 14, 2007 and received by DES on December 14, 2007.
2. All activity shall be in accordance with the Comprehensive Shoreland Protection Act, RSA 483-B (see attached fact sheet).
3. Easements shall be obtained for proposed work and recorded at the registry of deeds prior to the commencement of construction.
4. Any future work in the utility right-of-way that is within the jurisdiction of the DES Wetlands Bureau as specified in RSA 482-A will require a new application and approval by the Bureau.
5. All work shall be conducted under low flow or low groundwater conditions or during frozen ground conditions.
6. There shall be no excavation or operation of construction equipment in flowing water.
7. All stream crossings shall be conducted during low flow conditions and in a manner so as to minimize turbidity.
8. No intermittent or perennial stream temporary or permanent impacts shall occur.
9. In the event an intermittent stream crossing is needed that will result in stream impacts for a stream with a bed of 10-feet or less the applicant shall submit stream crossing plans shall be submitted to the Department for approval prior to construction.
10. In the event a stream crossing is needed that will result in stream impacts for an intermittent with a bed greater than 10 feet or for a perennial stream the applicant shall file a permit amendment with the Department.
11. Prior to the installation; swamp mats shall be inspected for and removed of all vegetative matter.
12. Equipment used shall be designed to have low ground contact pressure or placed on temporary swamp mats so as to minimize rutting of the soils. Swamp mats shall be removed immediately upon completion of work in a particular area so as not to result in permanent impacts.
13. Prior to installation, new pole structures; and upon removal, old pole structures and appurtenances shall be placed outside of the jurisdiction of the DES Wetlands Bureau.
14. The contractor shall remove the stumps of the old wood-pole structures in wetlands. If removal of the stump(s) will result in increased wetlands impacts, due to increased soil disturbance, the pole(s) shall be cut off at ground level.
15. Discharge from dewatering of work areas shall be to sediment basins that are: a) located in uplands; b) lined with hay bales or other acceptable sediment trapping liners; c) set back as far as possible from wetlands and surface waters, in all cases with a minimum of 20 feet of undisturbed vegetated buffer.
16. Dredged material shall be placed outside of the jurisdiction of the DES Wetlands Bureau.
17. Appropriate siltation/erosion/turbidity controls shall be in place prior to construction, shall be maintained during construction, and remain until the area is stabilized.
18. Silt fence(s) must be removed once the area is stabilized.
19. Within three days of final grading or temporary suspension of work in an area that is in or adjacent to wetlands or surface waters, all exposed soil areas shall be stabilized by seeding and mulching during the growing season, or if not within the growing season, by mulching with tack or netting and pinning on slopes steeper than 3:1.
20. Construction shall be inspected by a qualified wetland scientist, erosion control specialist, or professional engineer to ensure that appropriate protective measures are properly implemented, including those outlined in the plans and documents supporting this permit application and the conditions of this authorization.
21. All temporary impacts to wetlands shall be restored to natural grade, stabilized, and replanted with native vegetation where necessary.
22. All temporary impact to wetland shall be regraded to original contours and stabilized within 72 hours following the completion of work and 30 days of the start of work.
23. Any clearing required in utility line rights-of-way shall be in accordance with the "Best Management Practices for Erosion Control on Timber Harvesting Operations in New Hampshire." Timber, slash and/or chips shall be removed from wetland areas and shall not be buried in wetlands.
24. Wetland topsoil shall be stripped and segregated from subsoil and stockpiled separately from subsoil during construction. Soils shall be properly backfilled and restored to pre-existing grades.
25. Mulch within the restoration areas shall be straw or seedless hay.
26. Seed mix within the restoration areas shall be a wetland seed mix appropriate to the area and shall be applied in accordance with manufacturer's specifications.
27. The right-of-way shall be monitored and a written report documenting its condition shall be submitted to the DES Wetlands Bureau by July 15 of the year following project completion. The report shall include photographic documentation. The DES Wetlands Bureau shall require subsequent monitoring and may require corrective measures if the right-of-way is not adequately stabilized and restored.

- 28. Wetland restoration shall not be considered successful if sites are newly invaded by nuisance species such as common reed or purple loosestrife during the first full growing season following project completion. The applicant shall work with the DES Wetlands Bureau to attempt to eradicate nuisance species newly found along the right-of-way during this same period.
- 29. Wetland restoration of temporary impact areas shall have at least 75% successful establishment of wetlands vegetation after two (2) growing seasons, or they shall be replanted and re-established until a functional wetland is replicated in a manner satisfactory to the DES Wetlands Bureau.
- 30. Construction equipment shall be inspected daily for leaking fuel, oil and hydraulic fluid prior to entering wetlands.
- 31. Faulty equipment shall be repaired prior to entering wetlands.
- 32. The contractor shall have appropriate oil spill kits on site and readily accessible at all times during construction and each operator shall be trained in its use.
- 33. All refueling of equipment shall occur 100 feet away from surface waters or wetlands during construction.

With Findings:

- 1. This is a minimum impact project per Administrative Rule Env-Wt 303.04(af), temporary impacts associated with the inspection, maintenance, and repair of existing utility lines within an existing utility corridor; and Env-Wt 303.04(f), projects that impacts less than 3,000 square feet of wetlands.
- 2. The need for the proposed impacts has been demonstrated by the applicant per Env-Wt 302.01.
- 3. The applicant has provided evidence which demonstrates that this proposal is the alternative with the least adverse impact to areas and environments under the department's jurisdiction per Env-Wt 302.03.
- 4. The applicant has demonstrated by plan and example that each factor listed in Env-Wt 302.04(b) Requirements for Application Evaluation, has been considered in the design of the project.
- 5. This approval is associated with four DES Wetland Bureau Files, No.'s 2007-02100, 2007-02101, 2007-02177 and 2007-02179 for the replacement of utility poles and overhead power lines and associated swamp mat installation along a 20-mile, 100-foot wide utility corridor located within five towns Hillsborough, New Boston, Goffstown, Deering and Weare for a total of 38,080 square feet of temporary wetland impact for swamp mat installation, 92 square feet of impact for guy wire installation and 40 square feet of impact for new pole installation.
- 6. The applicant's agent has field verified the prime wetland boundary and demonstrated that all work will be located outside of the 100 foot prime wetland buffer.
- 7. This approval is associated with required DES Wetlands Bureau, Enforcement Section follow-up by the applicant as a result of unpermitted jurisdictional impacts within the right-of-way and along a class IV road, used for access.
- 8. No comments were submitted from the Local Advisory Committee, the NH Fish and Game Department, or the Natural Heritage Bureau.
- 9. The Conservation Commission signed the expedited application.

2007-02316 GRAY, MARK
MOULTONBOROUGH Lake Winnepesaukee

Requested Action:

Permanently remove 126 linear feet of existing concrete retaining wall, regrade the slopes to a flatter slope and plant and revegetate the disturbed areas on Lake Winnepesaukee, Moultonborough.

APPROVE PERMIT:

Permanently remove 126 linear feet of existing concrete retaining wall, regrade the slopes to a flatter slope and plant and revegetate the disturbed areas on Lake Winnepesaukee, Moultonborough.

With Conditions:

- 1. All work shall be in accordance with plans by MATJRM II, LLC, dated November 29, 2007, as received by DES on December 12, 2007.
- 2. This permit shall not preclude the Department of Environmental Services (DES) from taking any enforcement or revocation

action if the DES later determines that any of the structures depicted as "existing" on the plans submitted by the applicant were not previously permitted or grandfathered.

3. Appropriate siltation/erosion/turbidity controls shall be in place prior to construction, shall be maintained during construction, and remain in place until the area is stabilized. Silt fence(s) must be removed once the area is stabilized.
4. Dredged material shall be placed outside of the jurisdiction of the DES Wetlands Bureau.
5. This permit does not allow for any beach replenishment or expansion of the existing beach area.
6. All impacted areas shall be stabilized and planted with as noted on the approved plan.
7. All activity shall be in accordance with the Comprehensive Shoreland Protection Act, RSA 483-B (see attached fact sheet).

With Findings:

1. This is a minimum impact project per Administrative Rule Env-Wt 303.04(o), projects deemed minimum impact by the department based on the degree of environmental impact.
2. The need for the proposed impacts has been demonstrated by the applicant per Env-Wt 302.01. 3. The applicant has submitted a letter from the town of Moultonborough approving the proposed work on the town of Moultonborough lot.

**2007-02546 F.S. 123 NOMINEE TRUST, PETER HORNE TTEE
NORTH HAMPTON Mill Pond**

Requested Action:

Temporarily impact 200 square feet of bank/bed for the removal of accumulated sediment and in-kind repair of the dam at Mill Pond on the Little River to restore operability.

Conservation Commission/Staff Comments:

The North Hampton Conservation Commission signed the Minimum Impact Expedited Application.

APPROVE PERMIT:

Temporarily impact 200 square feet of bank/bed for the removal of accumulated sediment and in-kind repair of the dam at Mill Pond on the Little River to restore operability.

With Conditions:

1. All work shall be in accordance with plans by HTE Northeast Inc. dated September 27, 2007, as received by DES on October 25, 2007.
2. Any further alteration of areas on this property that are within the jurisdiction of the DES Wetlands Bureau will require a new application and further permitting by the Bureau.
3. This permit is contingent on approval by the DES Dam Safety Program.
4. Work shall be done during seasonal low flow conditions.
5. Appropriate turbidity controls shall be installed prior to construction, shall be maintained during construction such that no turbidity escapes the immediate dredge area, and shall remain until suspended particles have settled and the water at the work site has returned to normal clarity.
6. Dredged material shall be placed outside of the jurisdiction of the DES Wetlands Bureau.
7. Repair shall maintain existing size, location and configuration.

With Findings:

1. This is a minimum impact project per Administrative Rule Env-Wt 303.04(x) Maintenance, repair, or replacement of a nondocking structure such as a culvert, headwall, bridge, dam, residential utility line, or rip-rap slope of less than 50 linear feet.
2. The structural integrity of the dam is compromised; therefore the need for the proposed impacts has been demonstrated by the applicant per Env-Wt 302.01.
3. The repairs will be done in-kind; therefore the applicant has provided evidence which demonstrates that this proposal is the alternative with the least adverse impact to areas and environments under the department's jurisdiction per Env-Wt 302.03.
4. The applicant has demonstrated by plan and example that each factor listed in Env-Wt 302.04(b) Requirements for Application Evaluation, has been considered in the design of the project.
5. A letter dated, January 8, 2007, from NH DES Dam Safety Bureau, referenced an outstanding Letter of Deficiency ("LOD"),

dated February 22, 2000, that identified repairs needed at the dam. These letters requested a schedule for repairs on the dam.

6. When this project is approved by NH DES Dam Safety, the approval of this permit will satisfy the requests of the aforementioned letters.

7. In accordance with Env-Wt 304.04, the applicant received written, notarized concurrence from the abutter identified at Carolyn R. Congdon, North Hampton Tax Map 6 Lot 148, for work within 20-feet of the property boundary.

2007-02670 NH NORTHCOAST CORP
SOMERSWORTH Unnamed Wetland Stream

Requested Action:

Dredge and fill 300 sq. ft. to replace existing failed stone culvert under rail bed with a 30' x 30' concrete culvert.

APPROVE PERMIT:

Dredge and fill 300 sq. ft. to replace existing failed stone culvert under rail bed with a 30' x 30' concrete culvert.

With Conditions:

1. All work shall be in accordance with plans by Blue Moon Environmental Inc. dated 10/2007, as received by the Department on 11/29/2007.
2. Additional expedited minimum impact applications shall be accepted for the subject property for a period of 12 months only if the applicant demonstrates by plan that the additional project(s) are wholly unrelated or separate from the original application and when considered with the original application are not classified as minor or major.
3. No fill shall take place in Atlantic white cedar swamps.
4. Work authorized shall be carried out such that discharges shall be avoided in spawning or nursery areas during spawning seasons, and impacts to such areas shall be avoided or minimized to the maximum extent practicable during all times of the year.
5. Orange construction fencing shall be placed at the limits of construction to prevent accidental encroachment on wetlands.
6. Appropriate siltation/erosion/turbidity controls shall be in place prior to construction, shall be maintained during construction, and remain in place until the area is stabilized. Silt fence(s) must be removed once the area is stabilized.
7. Proper headwalls shall be constructed within seven days of culvert installation.
8. Culvert outlets shall be properly rip rapped.
9. Dredged material shall be placed outside of the jurisdiction of the DES Wetlands Bureau.
10. Within three days of final grading or temporary suspension of work in an area that is in or adjacent to wetlands or surface waters, all exposed soil areas shall be stabilized by seeding and mulching during the growing season, or if not within the growing season, by mulching with tack or netting and pinning on slopes steeper than 3:1.
11. Work shall be done during low flow.

With Findings:

1. This is a minimum impact project per Administrative Rule Env-Wt 303.04(x), repair or replacement of a non-docking structure such as a culvert. DES finds that the dimensional increase in culvert size will be of benefit to stream flow and crossing integrity and does not exceed the intent of the minimum impact rule.
2. The need for the proposed impacts has been demonstrated by the applicant per Env-Wt 302.01. The exiting stone dry stack culvert has failed under the railbed.
3. The applicant has provided evidence which demonstrates that this proposal is the alternative with the least adverse impact to areas and environments under the department's jurisdiction per Env-Wt 302.03.
4. The applicant has demonstrated by plan and example that each factor listed in Env-Wt 302.04(b) Requirements for Application Evaluation, has been considered in the design of the project. There were no species of concern reported by the NH Heritage Bureau for the project location or vicinity.
5. The Somersworth Conservation Commission signed the expedited application.

2007-02671 RINDGE, TOWN OF
RINDGE Unnamed Wetland North Branch Millers River

Requested Action:

Dredge and fill 1,636 square feet of perennial stream and associated scrub-shrub wetlands to upgrade existing road, replace failed 48-inch and 38-inch CMP culverts with a 8-foot x 4-foot x 20-foot open-bottomed precast concrete arch culvert and repair/replace an existing 24-inch x 20-foot culvert (includes 12-inch culvert extension) for town recreational and emergency access across Meadow Pond.

APPROVE PERMIT:

Dredge and fill 1,636 square feet of perennial stream and associated scrub-shrub wetlands to upgrade existing road, replace failed 48-inch and 38-inch CMP culverts with a 8-foot x 4-foot x 20-foot open-bottomed precast concrete arch culvert and repair/replace an existing 24-inch x 20-foot culvert (includes 12-inch culvert extension) for town recreational and emergency access across Meadow Pond.

With Conditions:

1. All work shall be in accordance with plans by October 25, 2007, as received by the Department on November 15, 2007.
2. Work shall be done during annual low flow conditions.
3. In the event construction cannot be completed during times of non-flow, a stream diversion plan shall be submitted to the department prior to construction. Those plans shall detail the timing and method of stream flow diversion during construction, and show temporary siltation/erosion/turbidity control measures to be implemented.
4. Appropriate siltation/erosion/turbidity controls shall be in place prior to construction, shall be maintained during construction, and remain until the area is stabilized. Silt fence(s) must be removed once the area is stabilized.
5. Work shall be conducted in a manner so as to minimize turbidity and sedimentation to wetlands and surface waters.
6. Dredged material shall be placed outside of the jurisdiction of the DES Wetlands Bureau.
7. There shall be no excavation or operation of construction equipment in flowing water.
8. Prior to commencing work on a substructure located within surface waters, a cofferdam shall be constructed to isolate the substructure work area from the surface waters.
9. Discharge from dewatering of work areas shall be to sediment basins that are: a) located in uplands; b) lined with hay bales or other acceptable sediment trapping liners; c) set back as far as possible from wetlands and surface waters, in all cases with a minimum of twenty (20) feet of undisturbed vegetated buffer.
10. Work within the stream, inclusive of work associated with installation of a cofferdam, shall be done during periods of low flow. High flows can be caused by seasonal runoff or precipitation; the permittee shall monitor local forecasts to review weather conditions.
11. No work within the confined area shall proceed until the cofferdam is fully effective, and water flow is controlled.
12. Temporary cofferdams shall be entirely removed immediately following construction.
13. Proper headwalls shall be constructed within seven days of culvert installation.
14. The contractor responsible for completion of the work shall utilize techniques described in the DES Best Management Practices for Urban Stormwater Runoff Manual (January, 1996) and the Stormwater Management and Erosion and Sediment Control Handbook for Urban and Developing Areas in New Hampshire (August, 1992).
15. Materials used to emulate a natural channel bottom within the culvert, between wingwalls and beyond must be rounded and smooth stones similar to the natural stream substrate and shall not include angular riprap or gravel.
16. The channel at the culvert inlets and outlets shall match the natural grade of the stream channel.
17. The recreated stream channel bed must maintain a consistent streambed elevation and not impede stream flow.
18. Construction equipment shall be inspected daily for leaking fuel, oil and hydraulic fluid.
19. The contractor shall have appropriate oil spill kits on site and readily accessible at all times during construction and each operator shall be trained in its use.
20. All refueling of equipment shall occur outside of surface waters or wetlands during construction.
21. Within three days of final grading or temporary suspension of work in an area that is in or adjacent to wetlands or surface waters, all exposed soil areas shall be stabilized by seeding and mulching during the growing season, or if not within the growing season, by mulching with tack or netting and pinning on slopes steeper than 3:1.

With Findings:

1. This is a minimum impact project per Administrative Rule Env-Wt 303.04(f), alteration of less than 3,000 square feet of wetlands.

2. The proposed perennial stream culvert replacement will restore the natural perennial stream channel bottom.
3. No comments were submitted from the NHFG Nongame and Endangered Wildlife Program, the Natural Heritage Bureau, or the Rindge Conservation Commission.
4. The need for the proposed impacts has been demonstrated by the applicant per Env-Wt 302.01.
5. The applicant has provided evidence which demonstrates that this proposal is the alternative with the least adverse impact to areas and environments under the department's jurisdiction per Env-Wt 302.03.
6. The applicant has demonstrated by plan and example that each factor listed in Env-Wt 302.04(b) Requirements for Application Evaluation, has been considered in the design of the project.

2007-02720 FREEMAN/ RICE, ROLAND & HERBERT
FARMINGTON Unnamed Stream

Requested Action:

Dredge and fill 158 sq. ft. of intermittent stream wetland to install a 24" x 15' culvert for a driveway crossing to a single family house lot.

APPROVE PERMIT:

Dredge and fill 158 sq. ft. of intermittent stream wetland to install a 24" x 15' culvert for a driveway crossing to a single family house lot.

With Conditions:

1. All work shall be in accordance with plans by Varney Engineering LLC dated 11/9/2007, as received by the Department on 11/20/2007.
2. Additional expedited minimum impact applications shall be accepted for the subject property for a period of 12 months only if the applicant demonstrates by plan that the additional project(s) are wholly unrelated or separate from the original application and when considered with the original application are not classified as minor or major.
3. This permit is contingent on approval by the DES Subsurface Systems Bureau.
4. No fill shall be done to achieve septic setback and no dredging shall take place that would contradict the DES Subsurface Systems Bureau rules.
5. There shall be no further alteration of wetlands for lot development, driveways, or additional culverts.
6. No fill shall take place in Atlantic white cedar swamps.
7. Work authorized shall be carried out such that discharges shall be avoided in spawning or nursery areas during spawning seasons, and impacts to such areas shall be avoided or minimized to the maximum extent practicable during all times of the year.
8. Orange construction fencing shall be placed at the limits of construction to prevent accidental encroachment on wetlands.
9. Appropriate siltation/erosion/turbidity controls shall be in place prior to construction, shall be maintained during construction, and remain in place until the area is stabilized. Silt fence(s) must be removed once the area is stabilized.
10. Proper headwalls shall be constructed within seven days of culvert installation.
11. Culvert outlets shall be properly rip rapped.
12. Dredged material shall be placed outside of the jurisdiction of the DES Wetlands Bureau.
13. Within three days of final grading or temporary suspension of work in an area that is in or adjacent to wetlands or surface waters, all exposed soil areas shall be stabilized by seeding and mulching during the growing season, or if not within the growing season, by mulching with tack or netting and pinning on slopes steeper than 3:1.
14. Work shall be done during low flow.
15. The Department has determined that this project is in the vicinity of an impaired waterbody. Therefore stormwater runoff treatment for this project shall be designed and constructed so that the stormwater pollutant loads from the completed project are no greater than the stormwater pollutant loads that existed prior to the project for all pollutants causing impairment which are likely to be in stormwater discharged from the completed project.

With Findings:

1. This is a minimum impact project per Administrative Rule Env-Wt 303.04(z), installation of a culvert or bridge for access to a single family lot.
2. The need for the proposed impacts has been demonstrated by the applicant per Env-Wt 302.01.
3. The applicant has provided

evidence which demonstrates that this proposal is the alternative with the least adverse impact to areas and environments under the department's jurisdiction per Env-Wt 302.03.

- 4. The applicant has demonstrated by plan and example that each factor listed in Env-Wt 302.04(b) Requirements for Application Evaluation, has been considered in the design of the project. No species of concern were reported by the NH Heritage Bureau for the project location or vicinity. The project has been conditioned for 1 mile proximity to impaired waters.
- 5. The Farmington Conservation Commission signed the application.

2007-02755 JOHNSON, WINN
CHESTERFIELD Spofford Lake

Requested Action:

Replace and existing 60 linear feet of retaining wall and construct 12 linear feet or retaining wall under the porch, on Spofford Lake, Spofford.

Conservation Commission/Staff Comments:

Con Com signed Exp Application

APPROVE PERMIT:

Replace and existing 60 linear feet of retaining wall and construct 12 linear feet or retaining wall under the porch, on Spofford Lake, Spofford.

With Conditions:

- 1. All work shall be in accordance with plans by TF Moran dated November 09, 2007, revision date December 13, 2007, as received by DES on December 13, 2007.
- 2. Appropriate siltation/erosion/turbidity controls shall be in place prior to construction, shall be maintained during construction, and remain in place until the area is stabilized. Silt fence(s) must be removed once the area is stabilized.
- 3. Area shall be regraded to original contours following completion of work.
- 4. Repair shall maintain existing size, location and configuration.
- 5. Work shall be done during drawdown.
- 6. This permit does not allow for the dredging of the lake bed or regrading of the lakebed or bank.
- 7. All equipment shall operate above the existing water elevation. Equipment shall be operate on pads to protect the bank and existing soils.
- 8. All activity shall be in accordance with the Comprehensive Shoreland Protection Act, RSA 483-B (see attached fact sheet).

With Findings:

- 1. This is a minimum impact project per Administrative Rule Env-Wt 303.04(c) repair or replacement of existing retaining walls that is performed "in the dry" during drawdown of waters.

GOLD DREDGE

2007-02849 BRAMBLETT, JOHN
(ALL TOWNS) Unnamed Stream

Conservation Commission/Staff Comments:

cc: Bath Con Comm

TRAILS NOTIFICATION

2007-02796 KNIGHT, BRADFORD
AMHERST Unnamed Stream

COMPLETE NOTIFICATION:
Amherst Tax Map 4, Lot# 146 & 146-4

2007-02845 NH FISH & GAME DEPT
ALTON Unnamed Wetland

DISQUALIFY TRAILS OR FORESTRY NOTIFICAT.:
Alton Merrymeeting Marsh WMA

LAKES-SEASONAL DOCK NOTIF

2007-02850 WRIGHT, STEVEN
EAST WAKEFIELD Belleau Lake

COMPLETE NOTIFICATION:
East Wakefield, NH Tax map 61 Lot 45
Belleau Lake

2007-02857 SHELL ROCK REALTY TRUST, ALAN P AULSON
WASHINGTON Ashuelot Pond

COMPLETE NOTIFICATION:
Washington, NH Tax map 18 Lot 29 Block 3
Ashuelot Pond

2007-02859 ANDY, GARY
SUNAPEE Sunapee Lake

COMPLETE NOTIFICATION:
Sunapee, NH Tax map 146 Lot 36
Lake Sunapee

ROADWAY MAINTENANCE NOTIF

2007-02858 DRED
CAMBRIDGE Unnamed Stream

COMPLETE NOTIFICATION:
Clean ditch line, reset & replace 2 culverts

PERMIT BY NOTIFICATION

2007-01544 KENNEDY, KEITH
LYME Unnamed Pond

Requested Action:
Maintenance dredge an existing man-made pond.

Conservation Commission/Staff Comments:
Incomplete PBN. RFMI out 20 Jul 2007. MAM
12 /07/2007: No response. PBN Disqualified as per rules. See findings. 10 Dec 2007. MAM

PBN DISQUALIFIED:
Maintenance dredge an existing man-made pond.

With Findings:
1. Request for More Information Letter sent on July 20, 2007. 20 Day deadline for response. No response was received by this office as of December 10, 2007.
2. In accordance with Env-Wt506.02(g), the request for a PBN is incomplete and therefore, PBN disqualified accordingly.
3. The file is closed as PBN Disqualified.

2007-02491 COHEN, BRIAN
STRAFFORD Unnamed Stream Big Willey Pond

Requested Action:
Temporarily impact 200 sq. ft. of wetlands to remove an existing damaged culvert and replace with new concrete arched pipe.

Conservation Commission/Staff Comments:
Strafford Con. Com. signed application.

PBN IS COMPLETE:
Temporarily impact 200 sq. ft. of wetlands to remove an existing damaged culvert and replace with new concrete arched pipe.

2007-02492 COHEN, BRIAN
STRAFFORD Big Willey Pond

Requested Action:

Impact 200 sq. ft. of wetlands to install a dry hydrant.

Conservation Commission/Staff Comments:

Strafford Con. Com. signed application.

PBN IS COMPLETE:

Impact 200 sq. ft. of wetlands to install a dry hydrant.

2007-02835 RAMSAY, JANE
HEBRON Unnamed Wetland

Requested Action:

Disqualify Permit by Notification to dredge and fill 300 square feet and install a culvert for access in a 2 lot subdivision.

PBN DISQUALIFIED:

Disqualify Permit by Notification to dredge and fill 300 square feet and install a culvert for access in a 2 lot subdivision.

2007-02847 MEREDITH NAUTICAL CLUB, JOHN COONEY
MEREDITH Lake Winnepesaukee

Requested Action:

Repair/replace docking facility "in-kind".

PBN IS COMPLETE:

Repair/replace docking facility "in-kind".

With Findings:

1. This project is classified as a minimum impact project per Rule Env-Wt 303.04(v), repair of existing docking structures with no change in size, location or configuration.