

Wetlands Bureau Decision Report

Decisions Taken
01/14/2008 to 01/20/2008

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

2007-00053 SARTELL, EDWARD
LACONIA Lake Winnepesaukee

Requested Action:

Deny request to amend the existing permit to expand the existing major docking facility by extending one existing 2 ft x 16 ft seasonal finger dock to a 29 ft length on 220 ft of frontage in Laconia on Lake Winnepesaukee.

Inspection Date: 03/09/2007 by Chris T Brison

DENY AMENDMENT:

Deny request to amend the existing permit to expand the existing major docking facility by extending one existing 2 ft x 16 ft seasonal finger dock to a 29 ft length on 220 ft of frontage in Laconia on Lake Winnepesaukee.

With Findings:

Standards of Approval:

1. This amendment request reclassifies the proposal to a Major impact project per Administrative Rule Env-Wt 303.02(d), construction or modification of an existing major docking facility.
2. 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."
3. In accordance with Rule Env-Wt 302.04(a)(1), Requirements for Application Evaluation, the applicant shall demonstrate the need for the proposed project.
4. In accordance with both Rules Env-Wt 302.04(a)(2) and Env-Wt 302.03, Avoidance, Minimization, and Mitigation, 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.
5. In accordance with 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 the project will cause random or unnecessary destruction of wetlands.
6. In accordance with Rule Env-Wt 302.04(e)(2), the Department shall not grant a permit if the applicant fails to meet the requirements of Rule Env-Wt 302.03, or address all of the requirements of Rule Env-Wt 302.04.
7. Pursuant to Rule Env-Wt 402.20 Modification of Existing Structures the Department shall not approve any change in size, location or configuration of an existing structure unless the applicant demonstrates, and the department finds, that the modification is less environmentally-impacting or provides for fewer boat slips and less construction surface area over public submerged lands than the current configuration.

Findings of Fact:

8. On January 7, 2008, the Department received a request to amend the existing docking facility repair permit #2007-53, to include the extension of an existing seasonal finger dock from a 2 ft x 16 ft to a 2 ft x 29 ft dock.
9. The previous amendment request submitted September 17, 2007, stated that the docking facility's 12 finger piers have been always permanent.
10. Since the July 19, 1999 permit issuance File #1998-404, Methodist Circle has not been removing the finger piers in accordance with the conditions of Permit #1998-404,
11. This amendment request proposes to increase the square footage of the non-conforming structure by 26 sq ft.

Findings in Support of Denial:

12. Approving amendment proposal would not be consistent with Rule Env-Wt 402.20, and therefore this amendment proposal has been denied.

13. The existing constructed project is not in compliance with the pre-existing permit 1998-404.
14. The applicant failed to submit additional fees due for the expansion of the seasonal finger pier.

2007-02060 NEWMAN, KEVIN & TONJA ROUSSIN
MEREDITH Lake Winnepesaukee

Requested Action:

Repair approximately 40 linear ft of breakwater and 26 linear ft of stone retaining wall and place 4 ft wide steps along the front of an existing 30 ft x 14 ft perched beach, reset stones dislodged from rip-rap along the frontage, remove a 6 ft x 30 ft seasonal pier and construct a 6 ft x 30 ft piling pier, drive three 3-piling ice clusters and 6 pilings to support a permanent boatlift and a 14 ft x 30 ft seasonal canopy, and retain an existing seasonal boatlift on an average of 120 ft of frontage on Lake Winnepesaukee.

DENY PERMIT:

Repair approximately 40 linear ft of breakwater and 26 linear ft of stone retaining wall and place 4 ft wide steps along the front of an existing 30 ft x 14 ft perched beach, reset stones dislodged from rip-rap along the frontage, remove a 6 ft x 30 ft seasonal pier and construct a 6 ft x 30 ft piling pier, drive three 3-piling ice clusters and 6 pilings to support a permanent boatlift and a 14 ft x 30 ft seasonal canopy, and retain an existing seasonal boatlift on an average of 120 ft of frontage on Lake Winnepesaukee.

With Findings:

Standards for Approval

1. In accordance with RSA 482-A:3 XIV(b)"Any request for additional information shall specify that the applicant submit such information as soon as practicable and shall notify the applicant that if the requested information is not received within 120 days of the request, the department shall deny the application."
2. In accordance with RSA 482-A:2 VII "boat slip" means on water bodies of 10,000 acres or more, a volume of water 25 ft long, 8 ft wide, and 3 ft deep.
3. Pursuant to Rule Env-Wt 302.03, Avoidance, Minimization, and Mitigation, the applicant shall provide evidence that demonstrates that impacts have been avoided to the maximum extent practicable and that any unavoidable impacts have been minimized.
4. In accordance with Rule Env-Wt 501.02, Additional Data, the applicant shall provide drawings which are to scale or completely dimensioned showing all existing and proposed structures and all other relevant features necessary to clearly define the project.

Findings of Fact

5. On September 4, 2007 the Department issued a Notice of Administrative Completeness for a Standard Dredge and Fill Application to repair a breakwater and stone retaining wall and place 4 ft wide steps along the front of an existing perched beach, reset stones dislodged from rip-rap along the frontage, remove a seasonal pier and construct a piling pier, drive three 3-piling ice clusters and 6 pilings to support a permanent boatlift and a seasonal canopy, and retain an existing seasonal boatlift on property identified as Meredith Tax Map S18, lot 7.
6. This project is classified as a major impact project per Rule Env-Wt 303.02(d) construction or modification of any dock adjacent to a breakwater.
7. In recognition of the fact that boats tied within a slip must have room to move on their lines due to wind and wave action, the department routinely allows up to 2 ft of "navigational space" between the define slip and other objects such as docks and other boats.
8. The Applicant is proposing to use a permanent lift. Boats secured within lifts raised out of the water are held in a fixed position and not subject to movement cause by wind and wave action.
9. Cross sections submitted with the application were not completely dimensioned, nor were they drawn to scale.
10. On November 16, 2007 the Department issued a Request for More Information to the Agent listed in the application, with a copy sent to applicant, stating that in order to meet the requirements of Rule Env-Wt 302.03 and minimize the footprint of the facility, the proposal should be revised to recess the lift support pilings closest to the pier into the deck surface. The Request also stated that cross sections that were either drawn to scale or completely dimensioned were required per Rule Env-Wt 501.02 and were necessary to complete the application.

- 11. Recessing the pilings into the deck surface would shift the lift system and overhead canopy approximately 1 ft closer to the deck surface and could reduce the construction surface area by approximately 30 sq ft.
- 12. On December 19, 2007 and December 21, 2007, the Agent submitted a responses to the Department's November 16, 2007 Request for More Information.
- 13. The Responses did not include a revised proposal to minimize the footprint by recessing the pilings into the pier as requested. The Agent states in the response that the pilings cannot be recessed into the dock as requested due to load bearing requirements and manufacturer's recommendation. The Agent did not include any information from the manufacturer to further support the structural requirement for pilings that were not recessed into the dock surface.
- 14. The Agent cited multiple cases to support the position that they should not be required to recess the lift support pilings into the deck surface. These cases fail to support his argument as some of the projects indicate that the pilings will be recessed in the manner requested by the Department.
- 15. The cross sections submitted with the response were not drawn to scale and failed to show any dimensions of the existing retaining wall as required per Rule Env-Wt 501.02 and requested on November 16, 2007.

Rulings in Support of the Decision

- 16. The Applicant has failed to provide evidence that demonstrates that impacts have been avoided to the maximum extent practicable and that any unavoidable impacts have been minimized as required per Rule Env-Wt 302.03.
- 17. The Applicant has failed to provide the information requested on November 16, 2007 and, therefore, the application is denied in accordance with RSA 482-A:3 XIV (b).

MINOR IMPACT PROJECT

2005-00754 MATHEWSON REAL ESTATE HOLDING LLC
HANCOCK Unnamed Wetland

Requested Action:

Approve amendment request to extend the deadline of condition #4 of the original approval to September 1, 2008 and change the property owner to Mathewson Real Estate Holdings, LLC, 160 Norway Hill Road, Hancock, NH 03449.

APPROVE AMENDMENT:

Dredge and fill 1,237 square feet of palustrine forested and emergent wetlands and 60 linear feet of intermittent stream at two (2) wetlands crossings including the installation of a 48-inch x 30-foot half round culvert and associated headwalls impacting 709 square feet and 30 linear feet of channel and the installation of a 24-inch x 30-foot culvert and associated headwalls impacting 528 square feet and 30 linear feet of channel to construct a driveway along an existing logging road for access to a single family building lot; and restore 1,652 square feet of impacts to palustrine forested and emergent wetlands to bring the roadway into compliance.

With Conditions:

- 1. All work shall be in accordance with plans by Seth R. Kallman dated June 2006, as received by the DES Wetlands Bureau on June 27, 2006.
- 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 during low flow.
- 4. The restoration portion of this project shall be completed under low flow conditions and no later than September 1, 2008.
- 5. All material removed during restoration activities shall be removed down to the level of the original soils.
- 6. Dredged material shall be placed outside of the jurisdiction of the DES Wetlands Bureau.
- 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; 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. 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. Appropriate siltation/erosion/turbidity controls shall be in place prior to construction, shall be maintained during construction, and remain until the area is stabilized.

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

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. Within three days following the last activity in the restoration area or where restoration activities are suspended for more than 3 days, all soils exposed by restoration activities shall be stabilized by seeding and mulching.

13. An initial monitoring report with photographs shall be provided to the DES Wetlands Bureau within 10 days of the completion of the restoration portion of this project. The initial monitoring report shall include, but not be limited to, documentation of erosion control deployment, construction sequencing, restoration activities and status of restoration at the time of the initial monitoring report. Photographs should depict all stages of restoration sequencing.

14. A subsequent monitoring report shall be submitted to the DES Wetlands Bureau during the growing season of the calendar year immediately following completion of the restoration but no later than September 1, 2008. The report shall be submitted to DES with photographs demonstrating the conditions on the restoration site, include any necessary remedial actions, and contain a schedule for completing the remedial actions. The DES Wetlands Bureau shall require subsequent monitoring and may require corrective measures if the area is not adequately stabilized and restored.

15. All wetlands restoration areas shall have at least 75% successful establishment of wetlands vegetation after one (1) growing season, or the areas shall be replanted until a functional wetland is established to the satisfaction of the DES Wetlands Bureau.

16. 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 within the restoration area during this same period.

17. Proper headwalls shall be constructed within seven days of culvert installation.

18. Construction equipment shall be inspected daily for leaking fuel, oil, and hydraulic fluid prior to entering or working near surface waters or wetlands.

19. Faulty equipment shall be repaired prior to entering or working near jurisdictional areas.

20. 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.

21. All refueling of equipment shall occur outside of surface waters or wetlands during construction.

With Findings:

The Department reaffirms findings 1-6 of the original approval:

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). For intermittent streams, this distance shall be measured along the thread of the channel.

2. The need for the proposed impacts has been demonstrated by the applicant per Env-Wt 302.01. The impacts are necessary to construct a driveway for access to a single family building lot and to bring the roadway into compliance.

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 DES Wetlands Bureau'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. On April 19, 2005, the DES Wetlands Bureau received a complaint referencing the subject property stating that the property owner was conducting road work through a wetland. The DES Wetlands Bureau issued a letter to the applicant dated April 21, 2005 stating that the DES received a complaint of possible violations on the subject property.

6. The DES Wetlands Bureau finds that the proposed upgrades of the existing road and restoration of non-permitted impacts fulfill the requirements of the enforcement action on the subject property.

and makes the following additional finding:

7. The property changed hands August 30, 2007, and restoration work could not be completed by the new property owner in the

time frame specified.

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

2007-00276 PAOLUCCI REALY TRUST, PETER PAUL

ALTON Lake Winnepesaukee

Requested Action:

Deny reconsideration.

Conservation Commission/Staff Comments:

Con Com submitted comments stating no need for new wall

NH NHI and NH Fish and Game will not be submitting comments

Inspection Date: 08/15/2007 by Chris T Brison

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 applicant feels that the additional information provided by DES on October 26, 2007 was done without a complete and thorough analysis of all the information submitted by NH Environmental Consultants, LLC.
2. The applicant requested an open line of communication and resolution with DES.
3. Some of the elements of the plan came about as a direct result of the conversation and requests for more information from DES.
4. The applicant believes that if DES reviewed the applicant's information earlier in the process a denial could have been avoided.
5. The applicant sees an inconsistency between DES finding that the project is not approvable as there is no demonstrated need (DES finding # 9), and the request for more information to demonstrate a need.
6. In Mr. Paul's April 25, 2007 letter he requested a meeting with DES and received no phone call to set up a meeting.
7. The applicant proposed riprapping the stream bed because of DES erosion concerns. The applicant would remove this from the proposal if DES had indicated that this was not approvable.
8. The only wetlands the applicant showed on the lot were the ones that would be impacted by this proposal and did not intend to show all the wetlands present as they would have to subcontract a certified wetland scientist to do so.
9. It is incorrect to compare the applicant's plan to Varney 2003 plan as they were for different purposes. The applicant suggests that perhaps they incorrectly assumed that since DES permitted the building of the new house and the wetlands impact on site that the project had been follow up on and signed off on as complete (Referencing DES finding # 13).
10. The "need" for the wall was the gradient of the 32% in front of the house and the lack of space between the house and reference line.
11. Since the DES rules do not define how to prove "need" (Referencing DES finding # 14) the applicant feels DES interpretation

of "need" is subjective.

12. The applicant would caution DES from comparing plans done as part of the original wetlands application and the plans done supplying more information for a wall application (See DES finding #15 and 16).

13. Setback distance information was not shown on the plan submitted for the prior wetlands permit. In addition, the applicant's plan did not put ties from the primary structure to the reference line, because the applicant would only do so when receiving certification from a licensed land surveyor (See DES finding #16).

14. The applicant did not perform wetlands mapping as part of the submission of this information. The riprap present on the frontage was mapped and noted that it was in what appeared to be a drainage swale. If this area was previously delineated wetland, the applicant was unaware of that fact when the field mapping was done.

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:11, III (a) if the conservation commission makes a recommendation to the department in its intervention report, the department shall specifically consider such recommendation and shall make written findings with respect to each issue raised in such report which is contrary to the decision of the department.

6. Env Wt 404.01 provides that shoreline stabilization shall be by the least intrusive but practical method.

7. Env Wt 404.03 provides that natural vegetation shall be left intact to the maximum extent possible.

8. Riprap shall be considered only when the applicant demonstrates that anticipated turbulence, flows, restricted space, or similar factors render vegetative and diversion methods physically impractical.

9. Env Wt 302.04 provides that for any major or minor project, the applicant shall demonstrate "need" for the proposed project.

C. Findings of Fact and Rulings of Law

1. Under previous Wetlands file 2003-2560, on November 13, 2003, Peter Paul filed an application requesting to fill approximately 352 sq. ft. of wetlands to construct a driveway to an existing cottage, install a sewer pump line.

2. On January 23, 2004 DES issued a wetlands permit to Peter Paul to "Temporarily impact 335 square feet of forested wetlands for the removal of the existing structure and impact 177 square feet of forested wetland for the construction of a driveway to access the new proposed residence" at Alton tax map 65, Lot 65 on Lake Winnepesaukee.

3. Condition #1 of the wetlands permit required that "All work shall be in accordance with plans by Thomas Varney dated November 7, 2003 and revised through December 31, 2003, as received by the Department on January 2, 2004."

4. On April 1, 2004 DES inspected the property to monitor the progress of the work. DES observed that the silt fences in some

areas were down and not correctly toed in. No permit was posted on site. DES called and alerted Mr. Paul of the deficiencies. Mr. Paul indicated he would have the silt fences corrected that day.

5. On June 9, 2004 DES inspected the property and noted posted permit and identified deficiencies with the installation of the sediment and erosion controls on site. DES notified on-site workers of the necessary corrective action.

5. On February 8, 2007 DES received an application from Paolucci Realty Trust c/o Peter Paul requesting to construct a 50 linear feet stone wall 4 feet high at Alton Tax map 65, Lot 65 on Lake Winnepesaukee. In explaining the need for the project the applicant stated the project was "Needed to provide safe access to waterfront". Photo 1 of 2 submitted with the application shows a historic small stone wall along a stable vegetated shoreline.

6. On February 23, 2007 DES received written comments from the Alton Conservation Commission which states that "The Commission has no objection to the repair of the existing 20' stonewall but feels that a need was demonstrated to construct a new 4' high stonewall and alter the character of the natural shoreline."

7. On March 28, 2007 DES Requested More Information from the applicant for 8 items.

8. On April 30, 2007 DES received a letter and from Mr. Paul explaining his desire to bury a plastic culvert eliminating granite riprap, his proposal to allow the culvert drain a wetland, and proposal to add steps and a granite wall. The photos showed a well-vegetated shoreline with recently deposited riprap and sand placed along the shoreline.

9. On August 15, 2007 DES inspected the property and found the following:

- a. Beach sand placed into a stream;
- b. Boat lifts and PWC lifts in the water not shown on the plans;
- c. Fill in wetlands delineated on previous permit application plan to be only temporarily impacted.

10. The inspection by DES staff on August 15, 2007 showed that the plans as submitted by the applicant were not accurate or complete.

11. The applicant failed to show restoration of wetland areas and shoreline areas were impacted through sand and/or riprap.

12. The DES rules explain "need" requirements for shoreline stabilization projects through Env Wt 404.

13. The photographs, data and information supplied by the applicant fail to demonstrate the need for any additional wall construction based on the well vegetated and stabilized shoreline that exists.

14. The applicant not met his burden of proving that the DES's decision was unlawful or unreasonable.

2007-00933 GOODE ET AL, JOHN GOODE
GILFORD Lake Winnepesaukee

Requested Action:

Deny reconsideration

Conservation Commission/Staff Comments:

Con Com recommends removeing one outside boatslip

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 applicant references DES finding # 1 and concurs citing Env Wt 401.01 Purpose of Shoreline Structure rules. The applicant references NH Supreme Court case that has found that a shorefront property owner has greater rights than those of the public and specifically that the littoral owner has rights which are more extensive than those of the public and that this includes the area adjacent to their shore.
2. The applicant references DES finding # 2 citing Env Wt 402.09 Structures Disallowed and concurs and rule and states that "this is an existing grandfathered boathouse (see # 11)".
3. The applicant references DES finding # 3 citing Env Wt 402.20 and concurs noting that the applicant's proposal does not alter the size, location or configuration of the existing boathouse except as allowed (there is a reduction of 168 sq. [sic] in as required by Env Wt 402.20). The work proposed to the boathouse structure reduces the surface area over public submerged lands and is not "structural".
4. The applicant references DES finding # 4 citing Env Wt 402.12 and concurs without comment.
5. The applicant references DES finding # 5 citing RSA 482-A:3, XIV(b) and concurs without comment.
6. The applicant references DES finding # 6 citing Env Wt 302.03 and concurs noting that this requirement is under Wetlands Rules (RSA 482-A) not under Shoreland Rules (RSA 483-B).
7. The applicant references DES finding # 7 Env Wt 302.04(a)(2) and concurs noting that this specifically deals with "wetlands or surface waters" not upland areas and that our proposal is similar to many other approved projects with similar impacts and designs.
8. The applicant references DES finding # 8 Env Wt 302.04(d) and concurs noting that above must be balanced with a shorefront owner's greater rights to occupy the waters adjacent to their shore."
9. The applicant references DES finding # 9 as to the date when DES issued its administrative completeness letter (May 9, 2007) and concurs without comment.
10. The applicant references DES finding # 10 as to the classification of the project as a minor project and concurs without comment.
11. The applicant references DES finding # 11 which states that the existing boathouse over public waters could not be approved under NH rules and therefore the docking facility is considered to be nonconforming. The applicant concurs without comment.
12. The applicant references DES finding # 12 which provides the date of July 20, 2007 when DES issued a request for more information and the deadline for submission. The applicant concurs noting that this information was submitted and is congruent with numerous other approved projects with similar circumstances.
13. The applicant references DES finding # 13 where DES issued a Request For More Information letter informing the applicant that the Department required among other items, an explanation of how spreading the docking facilities across the length of the frontage rather than consolidating the structures in one confined area on the frontage would be the last impacting method of providing the 4 slips requested as well as evidence that the project would meet Env Wt 402.20. This information was necessary to complete the application. The applicant concurs with this finding without comment.
14. The applicant references DES finding # 14 which states that DES received a response to its July 20, 2007 Request For More Information letter. The applicant concurs without comment.
15. The applicant references DES finding # 15 which provides that the DES did not view the applicant's response as complete as it did not address the overall impact to the shoreline frontage associated with the existing and proposed structures or the impacts to the shoreline associated with multiple points of access to the structures as opposed to a single point of access. The applicant concurs

and notes that nothing under RSA 483-B, CSPA states that upland issues, such as "multiple points of access" must be minimized or are not allowed (See examples below). There are no rules or statute requiring one access point and numerous permits have been approved contrary to this sudden change in internal policy (see below). Further Mr. Goode has rights to his own land which are not under the "least impacting" requirement and passing over his own land is not under review under our permit application proposal.

16. The applicant references DES finding # 16 references the applicant's argument that Env Wt 402.20 applies only to individual structures and does not apply to docking facilities as a whole. The applicant concurs noting this change does not reduce the surface area over public submerged lands (less 168 sq in) and reduces the number of boatslips by one slip. The Bureau has consistently, until this decision, held that by adding another structure is not modification of the "structure" as noted in Env Wt 402.20. This theory is consistent with numerous other approved projects.

17. The applicant references DES finding # 17 which provides that the installation for the proposed seasonal dock requires the modification of the boathouse in order to meet the slip density requirement of Env Wt 402.20. The applicant concurs noting above.

18. The applicant references DES ruling -(See # 18) which provides that "since the installation for the new seasonal dock is entirely dependent upon the modification of the boathouse it would be inappropriate to consider the new dock and existing boathouse separately as opposed to a single, 4-slip docking facility." The applicant states that this ruling is false and comments that this ruling is contrary to numerous other approvals of similar circumstances (see below) and Env Wt 402.20 makes no mention of other structures or what may, or may not, be required to meet the intent of the rule.

19. The applicant references DES ruling (see # 19) which provides that "the proposed structural modifications of the boathouse will not decrease the construction surface area of the structure over public submerged lands nor will it reduce the environmental impact of the structure. The purpose of the proposed modification to the existing boathouse is to allow the construction of a second structure which will provide an increased number of slips on the frontage, will impact an increased area of lake bed, and an increased length of shoreline. The proposed modification of the existing boathouse does not meet the intent of Env Wt 402.20". The applicant states that this ruling is false and provides that the applicant's proposal is to add a dock does not alter the existing structure and as such, we have proposed a separate structure similar to numerous other approvals. Our proposal to block off the existing boatslip without changing the existing structure is also similar to other approvals. To be very picky the applicant is removing 7 tie posts which result in a reduction in surface area impacts of approximately 168 square inches. This type of reasoning has been used by the Bureau relating to numerous other approvals cited.

20. The applicant states that DES ruling is false that the applicant has failed to provide the least impacting alternative. This proposal is similar to numerous other approvals.

21. The applicant states that the DES ruling is false and that the applicant has provided information congruent with other responses and substantive enough to approve this project under similar circumstances to other approvals.

22. The applicant has referenced 11 other Bureau files where it has issued approvals.

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.

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. The subject application was determined to be administratively complete on May 9, 2007.
3. By letter dated July 20, 2007, DES requested more information pursuant to RSA 482-A:3, XIV(b) ("RFMI"). Specifically, DES requested the applicant to address the following:
 - a. This project is classified as a minor project per Rule Env-Wt 303.03 (d) as it involves permanent docking facilities and will provide 3 to 4 slips. In accordance with Rule Env-Wt 302.04, (a) Requirements for Application Evaluation, applicants for minor projects shall demonstrate by plan and example that the factors outlined in Rule Env-Wt 302.04 (a) 1 - 20 have been considered in the projects design and in assessing the impact of the proposed project on areas and environments under the Department's jurisdiction. No documentation addressing these 20 items was included in the application. Please submit this required information.
 - b. In addressing the items required in #1 above please given additional consideration to impacts as they may relate to the public launch facility adjacent to the proposed pier.
 - c. Please explain how spreading the docking facilities across the length of the frontage rather than consolidating the impacts in area is the least impact method of providing the 4 slips requested.
 - d. Please address Rule Env-Wt 402.20, Modification of Existing Structures, which requires that any modification of the docking facilities result in a reduction in the construction surface area over public submerged lands, the number of slips provided, or in environmental impact.
 - e. Please submit an additional \$2.40 in fees for impacts associated with the concrete pad.
 - f. What is the "actual natural navigable shoreline frontage" of the property?
 - g. Please indicate any right of ways or easements over the property.
4. DES did not receive a complete response to the RFMI. The applicant failed to provide information by plan and example pursuant to Env Wt 302.04(d) that the applicant's proposal is the least impacting alternative (see ruling 20 and 21).
5. In *Sundell v. Town of New London*, 119 NH 839, 884 (1979) the Court has held that "the rights of these riparian owners are subservient to the public interest in those waters. The Court has held that "the rights of these owners are burdened with a servitude in favor of the State which comes into operation when the State exercises its power to control, regulate and utilize such waters." Opinion of the Justices, 139 NH at 90.
6. Review of the 11 files cited by the applicant shows that these docks are distinct from the application proposed here as: in these files either there was no modification of existing boathouses or docking (For example in West, Crimble, and Wood) or where a modification was proposed there was a reduction or boatslips and or square footage over the lake proposed (See 04-645 and 06-2775) or the file provided unique needs for access (See Shumway - island property).
7. Based on RSA 482-A:3, XIV(c) DES denied the application because the issues raised in the RFMI were not addressed.
8. The applicant has not met his/her burden of proving that the DES's decision was unlawful or unreasonable.

2007-01535 **CONEY PARTNERS LLC**
PETERBOROUGH **Unnamed Wetland**

Requested Action:

Dredge and fill approximately 6,700 square feet of palustrine forested wetlands along approximately 167 linear feet of intermittent

stream for road access to a 12-lot subdivision on \pm 202 acres.

APPROVE PERMIT:

Dredge and fill approximately 6,700 square feet of palustrine forested wetlands along approximately 167 linear feet of intermittent stream for road access to a 12-lot subdivision on \pm 202 acres.

With Conditions:

1. All work shall be in accordance with plans by SVE Associates dated June 29, 2007, and revised through December 19, 2007, as received by the Department 20, 2007.
2. 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.
3. "All activity shall be in accordance with the current Comprehensive Shoreland Protection Act, RSA 483-B (see attached sheet for new permitting requirements starting April, 2008)."
4. This permit is contingent on approval by the DES Alteration of Terrain Program.
5. This permit is contingent on approval by the DES Subsurface Systems 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. 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.
9. Work shall be done during low flow conditions.
10. Work shall be conducted in a manner so as to minimize turbidity and sedimentation to surface waters and wetlands.
11. 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.
12. Orange construction fencing shall be placed at the limits of construction within or directly adjacent to wetlands or surface waters to prevent accidental encroachment on wetlands.
13. Dredged material shall be placed outside of the jurisdiction of the DES Wetlands Bureau.
14. Proper headwalls shall be constructed within seven days of culvert installation.
15. Culverts shall be laid at original grade.
16. 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).
17. 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 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. In correspondence dated August 16, 2007, the Environmental Protection Agency (EPA) requested a vernal pool survey and cluster development alternatives.
3. In the submittal dated December 19, 2007, the agent indicated no vernal pools were observed on site; and stated the proposed subdivision will preserve a significant portion of each of the 12 lots into a conservation easement to the Monadnock Conservancy.
4. In email correspondence dated January 03, 2008, the EPA indicated they accept the proposed subdivision.
5. There are no planned impacts in the Shoreland Protection Zone.

6. In correspondence dated January 17, 2008, the applicant indicated the proposed walking trail identified on the easement plan will follow the path of an existing overgrown trail and that the trail is not expected to impact wetlands, remove trees, require any fill materials and no underlying soil will be disturbed.
7. The need for the proposed impacts has been demonstrated by the applicant per Env-Wt 302.01.
8. 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.
9. 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.

2007-01629 BRATZLER, LORI
HOLDERNESS Squam Lake

Requested Action:

Applicant requests reconsideration of the Department's December 14, 2007 denial based on revised plans submitted on December 21, 2007.

APPROVE RECONSIDERATION:

Reconsider and approve permit to: Install 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 Conditions:

1. All work shall be in accordance with plans by Watermark Marine Construction as revised on December 19, 2007, and received by DES on December 21, 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 installation.
3. These shall be the only structures on this water frontage and all portions of the docking structures shall be at least 20 ft from the abutting property lines or the imaginary extension of those lines into the water.
4. The seasonal piers shall be removed from the lake for the non-boating season.
5. No portion of the piers shall extend more than 40 feet from the shoreline at full lake elevation.
6. Dredged or excavated material related to the beach construction shall be placed outside of the DES Wetlands Bureau jurisdiction.
7. Stone placed along the beach front for the purpose of retaining sand shall be placed above and/or landward of those rocks currently located along the high water line (Elevation 562.2). Those rocks existing at the high water line shall remain otherwise undisturbed such that the natural shoreline remains identifiable.
8. The steps installed for access to the water shall be located completely landward of the high water line.
9. No more than 10 cu yd of sand may be used and all sand shall be located above the high water line.
10. This permit shall be used only once, and does not allow for annual beach replenishment.
11. The permittee shall provide appropriate diversion of surface water runoff to prevent erosion of beach area.
12. Revegetation of trees, shrubs and ground covers representing the density and species diversity of the existing stand of vegetation removed for this project shall begin at a distance no greater than 5 feet landward from the beach area.
13. Appropriate siltation, erosion, and turbidity controls shall be in place prior to construction, shall be maintained during construction, and shall remain until the area is stabilized.
14. 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(d), construction of a 3 slip docking structure.
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 applicant has an average of 200 feet of shoreline frontage along Squam Lake.
6. A maximum of 3 slips may be permitted on this frontage per Rule Env-Wt 402.12, Frontage Over 75'.
7. The proposed docking facility will provide 3 slips as defined per RSA 482-A:2, VIII and therefore meets Rule Env-Wt 402.12.
8. The applicant has revised the plans to correct the deficiencies that had been the basis for the denial.

2007-01904 DEARBORN PROPERTIES REALTY TRUST, LORRAINE LAVOIE
EPPING Unnamed Wetland

Requested Action:

Dredge and fill 2,850 sq. ft. of wetlands, impacting 65' of intermittent stream, and install a 50' x 36" imbedded culvert for construction of a road crossing to a 20-unit clustered condominium development on approximately 24 acres.

APPROVE PERMIT:

Dredge and fill 2,850 sq. ft. of wetlands, impacting 65' of intermittent stream, and install a 50' x 36" imbedded culvert for construction of a road crossing to a 20-unit clustered condominium development on approximately 24 acres.

With Conditions:

1. All work shall be in accordance with revised plans by Jones & Beach Engineers, Inc. dated 11/27/2007, as received by the Department on 12/17/2007.
2. This permit is contingent on approval by the DES Alteration of Terrain Program.
3. This permit is contingent on approval by the DES Subsurface Systems Bureau.
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.
5. There shall be no further alteration of wetlands for lot development, driveways, culverts, or for septic setback.
6. The deed which accompanies the sales transaction for each of the lots in this subdivision shall contain condition #5 of this approval.
7. 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).
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 shall remain until the area is stabilized.
10. Silt fencing must be removed once the area is stabilized.
11. 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.
12. 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.
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. Proper headwalls shall be constructed within seven days of culvert installation.
15. Culvert outlets shall be protected with smooth stone riprap, with the minimum amount necessary placed in an embedded manner consistent with the embedded culvert and so as to not impede aquatic species passage.
16. Dredged material shall be placed outside of the jurisdiction of the DES Wetlands Bureau.
17. Work shall be done during low flow.

With Findings:

1. This is a minor impact project per Administrative Rule Env-Wt 303.03(1), project that disturb the course of less than 200 linear feet of an intermittent stream that do not meet the criteria for minimum impact per Env-Wt 303.04(n).
2. The need for the proposed impacts has been demonstrated by the applicant per Env-Wt 302.01. It is necessary to cross wetlands at some location on the property to access the 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 has limited the development to cluster units in one upland area on the property with only one crossing. There are other uplands on the property that, if the development was spread out, could be used, requiring additional crossings.
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 addressed the concerns regarding NH Heritage Bureau species of concern: the brook floater has been shown to be located off site and not to be impacted by the proposal; the culvert design has been modified to the satisfaction of NH Fish & Game and DES relative to passage of blundings turtles.
5. The Epping Conservation Commission did not intervene on the application.

2007-02048 GRIFFITH, TOM & JANICE
GREENLAND Great Bay

Requested Action:

Impact a total of 4,570 square feet of jurisdictional area to include: Retain 2,456 square feet of impact within the 100-foot tidal buffer zone for the replacement of a failed septic system under an emergency authorization; Restore 2,027 square feet of tidal mud flats; and, temporarily impact 87 square feet of forested wetland for the installation of underground utility lines on a single family residential lot of 1.2 acres located on Great Bay.

Conservation Commission/Staff Comments:

No comments were received from the Greenland Conservation Commission.

APPROVE PERMIT:

Impact a total of 4,570 square feet of jurisdictional area to include: Retain 2,456 square feet of impact within the 100-foot tidal buffer zone for the replacement of a failed septic system under an emergency authorization; Restore 2,027 square feet of tidal mud flats; and, temporarily impact 87 square feet of forested wetland for the installation of underground utility lines on a single family residential lot of 1.2 acres located on Great Bay.

With Conditions:

1. All work shall be in accordance with plans by NHSC, Inc. dated September 2007, as received by DES on October 26, 2007.
2. DES staff shall be notified in writing prior to commencement of work and upon its completion.
3. 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.
4. Work shall be done during low tide only and under seasonal low flow conditions.
5. All activity shall be in accordance with the Comprehensive Shoreland Protection Act, RSA 483-B (see attached fact sheet).
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. Dredged material shall be placed outside of the jurisdiction of the DES Wetlands Bureau.
8. The restoration area shall be regraded to original contours following completion of work.
9. Temporary impacts to wetlands shall be restored to their pre-construction conditions within 5 days of backfill.
10. A post-construction report documenting status of wetlands restoration shall be submitted to the Wetlands Bureau within 30-days of the completion of construction.
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.

With Findings:

1. This is a minor impact project per Administrative Rule Env-Wt 303.03(a) Projects in any bank, flat, marsh, or swamp or in and adjacent to any waters of the state or within 100 feet of the highest observable tide line that do not meet any of the criteria of Env-Wt 303.02, Env-Wt 303.04 or Env-Wt 303.05;
2. The previous septic system failed and the construction of a new system was done with an emergency authorization dated, August

- 31, 2007. Additionally, the applicant will be installing utilities to the dwelling. Lastly, the applicant is restoring a tidal flat area. Therefore; the need for the proposed impacts has been demonstrated by the applicant per Env-Wt 302.01.
3. The impacts within the 100-tidal buffer zone were necessary to relocate the leach field landward of the highest observable tide line. 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(a) & (c) Requirements for Application Evaluation, has been considered in the design of the project.

2007-02528 BRIDGESTONE BUILDERS
CONCORD Unnamed Wetland

Requested Action:

Restore 790 square feet of wetland and dredge and fill 3975 square feet of palustrine forested wetland including installation of a 79-foot x 15-inch culvert for access in a cluster subdivision of 60.39 acres into 10 single family units.

APPROVE PERMIT:

Restore 790 square feet of wetland and dredge and fill 3975 square feet of palustrine forested wetland including installation of a 79-foot x 15-inch culvert for access in a cluster subdivision of 60.39 acres into 10 single family units.

With Conditions:

1. All work shall be in accordance with plans by Keyland Enterprises Inc dated May 2005, and revised through September 12, 2007 as received by the Department on October 22, 2007.
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. 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 Registry of Deeds Office by the Permittee. A copy of the recorded permit shall be submitted to the DES Wetlands Bureau.
7. 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 Office in Concord, NH to review the conditions of this wetlands permit and the NHDES Site Specific Permit. It shall be the responsibility of the permittee to schedule the pre-construction meeting, and the meeting shall be attended by the permittee, his/her professional engineer(s), wetlands scientist(s), and the contractor(s) responsible for performing the work.
8. Orange construction fencing shall be placed at the limits of construction to prevent accidental encroachment on wetlands.
9. Work shall be done during periods of non-flow.
10. Appropriate siltation/erosion controls shall be in place prior to construction, shall be maintained during construction, and remain until the area is stabilized.
11. Dredged material shall be placed outside of the jurisdiction of the DES Wetlands Bureau.
12. Proper headwalls shall be constructed within seven days of culvert installation.
13. All material removed during restoration activities shall be removed down to the level of the original hydric soils.
14. All material removed during work activities shall be placed out of DES's jurisdiction.
15. Mulch within the restoration area shall be straw.
16. Seed mix within the restoration 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.
17. 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.
18. 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.
19. 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.

20. Silt fencing must be removed once the area is stabilized.

21. A post-construction report documenting the status of the restored 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 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.

2007-02530 BATEMAN, GERALDINE
NEWBURY Lake Sunapee

Requested Action:

Rebuild and modify existing nonconforming dwelling/boathouse constructed over water with an additional 5 sq ft expansion on 60 ft of frontage in Newbury on Lake Sunapee.

DENY PERMIT:

Deny the application to rebuild and modify existing nonconforming dwelling/boathouse constructed over water with an additional 5 sq ft expansion on 60 ft of frontage in Newbury on Lake Sunapee.

With Findings:

Standards for Approval:

1. In accordance with RSA 482-A:3, "No person shall excavate, remove, fill, dredge or construct any structures in or on any bank, flat, marsh, or swamp in and adjacent to any waters of the state without a permit from the department."
2. In accordance with Rule Env-Wt 303.03(d) modification to a docking system that exceeds the minimum requirements per Rule Env-Wt 303.02 shall be classified as a Minor project.
3. Pursuant to RSA 483-B:4 XIV. "Primary structure" means a structure as defined in paragraph XXII of this section that is central to the fundamental use of the property and is not an accessory to the use of another structure on the same premises.
4. Pursuant to RSA 483-B:4 XXII. "Structure" means anything built for the support, shelter or enclosure of persons, animals, goods, or property of any kind, as well as anything constructed or erected with a fixed location on or in the ground, exclusive of fences.
5. Pursuant to RSA 482-A:26 IV. (a) "Dwelling over water" means any structure suitable for use as a dwelling which extends in any part beyond the shoreline of any public water or public-owned water body.
6. Pursuant to RSA 482-A:26 IV. (c) "Suitable for use as a dwelling" means any structure which is suited for residential purposes by one or more persons, or which contains kitchen, bathroom, shower, or toilet facilities."
7. Pursuant to Rule Env-Wt 302.04, (a)(2) The alternative proposed by the applicant is the one with the least impact to wetlands or surface waters on site.
8. Pursuant to Rule Env-Wt 302.04, (a)(1) The applicant shall demonstrate by plan and example that there is a supported need for the proposed impact.
9. Pursuant to Rule Env-Wt 402.20, The Department shall not approve any change in size, location, or configuration of an existing structure unless the applicant demonstrates, and the department finds, that the modification is less environmentally-impacting or provides for fewer boat slips and less construction surface area over public submerged lands than the current configuration.
10. Pursuant to Rule Env-Wt 501.02(2)(g) Additional Data. Plans must show all existing and proposed structures and all other relevant features necessary to clearly define the project.
11. In accordance with RSA 483-B:3, Consistency Required, the Wetlands Bureau shall issue permits only when the proposed

project are consistent with the policies of the Comprehensive Shoreland Protection Act ("CSPA").

12. Pursuant to RSA 482-A:26 III.(a) Existing dwellings over water which were constructed or converted to made suitable for use as a dwelling in accordance with the law in effect at the time of construction or conversion, may be repaired or reconstructed, for maintenance purposes only, using any modern technologies, provided the result is a functionally equivalent use. Such repair or reconstruction may alter the interior design or existing cribwork, but no expansion of the existing footprint or outside dimensions shall be permitted.

13. Pursuant to RSA 483-B:11, II. When reviewing requests for the redevelopment of sites that contain nonconforming primary structures erected prior to July 1, 1994, the commissioner shall review proposals which are more nearly conforming than the existing structures, and may waive some of the standards specified in RSA 483-B:9, so long as there is at least the same degree of protection provided to public waters. For the purpose of this section, "more nearly conforming" means a proposal for significant changes to the location or size of existing structures that bring the structures to greater conformity.

14. Pursuant to Rule Env-Wq 1409.02 Coordination of Permit Applications. (b) If the property is located in a protected shoreland zone, the applicant shall: (2) For permits or approvals required from the department, submit all applications concurrently.

Findings of Fact:

1. On October 22, 2007, the Wetlands Bureau received an application to facilitate a 185 sq ft expansion/footprint change, repair, and change of cribwork to an existing nonconforming dwelling over water with boathouse docking facilities (the "Primary Structure"), within the 50 ft primary building setback on 60 ft of frontage on property identified as Newbury Tax Map 20, Lot 327, 448.
2. The Department has not received an application for and/or has not approved a shoreland waiver for the proposed expansion to a primary structure within 50 ft of the reference line.
3. The applicants proposed modification results in a 5 sq ft expansion to the existing dwelling constructed over water that encroaches within the 50 ft primary building setback.
4. Proposal does not reduce the nonconforming structures size, environmental impact, and boat slips provided.

Ruling in support of the Decision:

1. Pursuant to Rule Env-Wt 1409.02 (b)(2) the applicant failed to submit all applicable applications concurrently and therefore, this application is denied.
2. Pursuant to RSA 483-B:11, II, the Department has not received an application for and/or has not approved a shoreland waiver for the proposed expansion to a primary structure within 50 ft of the reference line and therefore, this application is denied.
3. The proposal is not more nearly conforming Pursuant to RSA 483-B:11, II., and therefore, the application is denied.
4. The proposal is not consistent pursuant to RSA 483-B:3 Consistency Required, and therefore, this application is denied
5. The applicant failed to provide plans to modify the grandfathered nonconforming docking system so that it conforms to current rules and law pursuant to Rule Env-Wt 402.20, and therefore, the application is denied.
6. The application proposes a 5 sq ft expansion of an existing dwelling constructed over water and is not approvable pursuant to RSA 482-A:26 III.(a).

MINIMUM IMPACT PROJECT

**2007-00291 GALUZZO, COURTNEY
NEWBURY Unnamed Wetland**

Requested Action:

Dredge and fill 370 square feet of wetlands for access to and fill for lot development for a proposed single-family residence; and temporarily impact 490 square feet of wetlands for workspace and 100 square feet of intermittent stream for waterline installation.

APPROVE PERMIT:

Dredge and fill 370 square feet of wetlands for access to and fill for lot development for a proposed single-family residence; and temporarily impact 490 square feet of wetlands for workspace and 100 square feet of intermittent stream for waterline installation.

With Conditions:

1. All work shall be in accordance with plans by Blakeman Engineering, Inc. dated October 11, 2006, as received by the Department on November 14, 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 low flow conditions.
4. Work shall be conducted in a manner so as to minimize turbidity and sedimentation to surface waters and wetlands.
5. 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.
6. Orange construction fencing shall be placed at the limits of construction within or directly adjacent to wetlands or surface waters.
7. Dredged material shall be placed outside of the jurisdiction of the DES Wetlands Bureau.
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. 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.

RESTORATION:

10. This permit is contingent upon the restoration of 490 square feet of wetlands and 100 square feet of intermittent stream channel in accordance with plans received November 14, 2007, within 30 days of completion of construction.
11. Native material removed from the streambed during waterline installation, shall be stockpiled separately and reused to restore the natural channel bottom. Any new materials used must be similar to the natural stream substrate and shall not include angular rip-rap.
12. The permittee shall designate a qualified professional who will be responsible for monitoring and ensuring that the restoration areas are constructed in accordance with the restoration plan. Monitoring shall be accomplished in a timely fashion and remedial measures taken if necessary. The DES 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.
13. Wetland restoration 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.
14. Stream restoration shall be properly constructed, landscaped, monitored and remedial actions taken that may be necessary to create a healthy riverine system that is replicated in a manner satisfactory to the DES Wetlands Bureau. Remedial measures may include replanting, relocating plantings, removal of invasive species, changing stream sinuosity, changing the slope of the stream, and changing the hydrologic regime.
15. All material removed during work activities shall be placed out of DES's jurisdiction.
16. Filter fabric shall be installed under the temporary fill areas to isolate fill from the natural hydric soils.
17. Only native plant species appropriate to the area shall be planted.
18. Seed mix within the restoration area shall be a conservation seed mix appropriate to the area, and not containing invasive species as listed by the Department of Agriculture and shall be applied in accordance with manufacturer's specifications.
19. Mulch used within the wetland restoration areas shall be natural straw or equivalent.
20. The permittee shall attempt to control invasive, weedy species such as purple loosestrife (*Lythrum salicaria*) and common reed (*Phragmites australis*) by measures agreed upon by the DES Wetlands Bureau if the species is found in the mitigation areas during construction and during the early stages of vegetative establishment.
21. Wetland restoration areas shall have at least 75% successful establishment of wetlands vegetation after one (1) growing season, or shall be replanted and re-established until a functional wetland is replicated in a manner satisfactory to the DES Wetlands Bureau.
22. A post-construction report documenting the status of the restored jurisdictional area, including photographs shall be submitted to the Wetlands DES within sixty (60) days of the completion of construction.

23. The permittee or a designee shall conduct a follow-up inspection after the first growing season, to review the success of the restoration areas 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 1st of that year.

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 DES Subsurface Systems Bureau approval has been obtained, CA2007090734.
3. The applicant has reduced permanent wetland impacts by 650 square feet with the use of retaining walls.
4. This permit is contingent upon restoration of 100 square feet of intermittent stream and 490 square feet of wetlands.

2007-00964
HAMPTON

RUSSELL, JAMES

Requested Action:

In-kind repair to a rip rap stone seawall that sustained heavy damage during the April 2007 storms on the Atlantic Ocean.

CONFIRM EMERGENCY AUTHORIZATION:

In-kind repair to a rip rap stone seawall that sustained heavy damage during the April 2007 storms on the Atlantic Ocean.

With Conditions:

1. 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.

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, and that results in no change in height, length, location, or configuration.
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.

2007-00966
HAMPTON

BOARS HEAD CONDO ASSOC

Requested Action:

In-kind repair to a rip rap stone seawall that sustained heavy damage during the April 2007 storms on the Atlantic Ocean with 50 feet of shoreline frontage.

CONFIRM EMERGENCY AUTHORIZATION:

In-kind repair to a rip rap stone seawall that sustained heavy damage during the April 2007 storms on the Atlantic Ocean with 50 feet of shoreline frontage.

With Conditions:

1. 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.

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, and that results in no change in height, length, location, or configuration..
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.

**2007-01946 BRADFORD, TOWN OF
BRADFORD**

Requested Action:

Confirm Emergency Authorization issued on August 20, 2007, to repair undermined Center Road bridge footings at Hoyt Brook.

CONFIRM EMERGENCY AUTHORIZATION:

Repair undermined Center Road bridge footings at Hoyt Brook.

With Conditions:

1. Riprap not necessary to bridge protection shall be removed from the Hoyt Brook bed.
2. Photographs of site conditions before, during and after riprap removal shall be submitted to the DES Wetlands Bureau within 10 days of removal.
3. No wetland or surface water impacts shall result from riprap removal.

With Findings:

1. This project is classified as a minimum impact project per Rule Wt 303.04(x) maintenance, repair, or replacement of a nondocking structure such as a culvert, headwall.
2. The project was necessary to prevent further damage to the Center Road Bridge.
3. A Time Extension Emergency Authorization for this work was issued by DES Wetlands Bureau Staff on August 27, 2007.
4. Review of the application submitted pursuant to the Emergency Authorization indicates that work has been completed in accordance with the emergency authorization.

**2007-02213 HIGH ROCK DEVELOPMENT LLC
WEARE Unnamed Wetland**

Requested Action:

Withdraw Standard Dredge and Fill Application to replace existing culverts for access to a proposed subdivision and install a dry hydrant in Daniels Lake.

Conservation Commission/Staff Comments:

F&G Hit

WITHDRAW APPLICATION:

Withdraw Standard Dredge and Fill Application to replace existing culverts for access to a proposed subdivision and install a dry hydrant in Daniels Lake.

With Findings:

1. On January 03, 2008, DES received a request to withdraw the application.

2007-02226 **FALLON, EDITH**
HARRISVILLE **Silver Lake**

Requested Action:

Repair/replace existing nonconforming patio extending over water "in-kind" on 136 ft of frontage in Harrisville on Silver Lake.

APPROVE PERMIT:

Repair/replace existing nonconforming patio extending over water "in-kind" on 136 ft of frontage in Harrisville on Silver Lake.

With Conditions:

1. All work shall be in accordance with revised plans by David Quimby, as received by DES on January 7, 2008.
2. Dredged material shall be placed outside of the jurisdiction of the DES Wetlands Bureau.
3. 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.
4. Work shall be carried out in a time and manner such that disturbance to migratory waterfowl breeding and nesting areas shall be avoided.
5. Repair shall maintain existing size, location and configuration.
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. 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.
8. This permit does not allow for maintenance dredging.
9. Seasonal T-shaped dock shall remain seasonal and must be removed annually, 5 months during the nonboating season.
10. 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(v) repair or replacement of existing structures.
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.

2007-02382 **STRAFFORD, TOWN OF**
STRAFFORD **Unnamed Stream**

Requested Action:

Dredge and fill a total of 320 sq. ft. to replace in-kind two deteriorated metal culverts with one 5' x 40' plastic culvert and one 3' x 40' plastic culvert on Barn Door Gap Road.

APPROVE PERMIT:

Dredge and fill a total of 320 sq. ft. to replace in-kind two deteriorated metal culverts with one 5' x 40' plastic culvert and one 3' x 40' plastic culvert on Barn Door Gap Road.

With Conditions:

1. All work shall be in accordance with plans by Greg Messenger, Town of Strafford Road Agent dated 10/2/2007, as received by DES on 10/5/2007.
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. 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. Area shall be regraded to original contours following completion of work.
5. Dredged material shall be placed outside of the jurisdiction of the DES Wetlands Bureau.
6. Proper headwalls shall be constructed within seven days of culvert installation.
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. 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 of a non-docking structure such as a culvert.
2. The need for the proposed impacts has been demonstrated by the applicant per Env-Wt 302.01. The existing culverts are deteriorated and need to be replaced.
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 NH Heritage Bureau species of concern reported in the vicinity of this project.
5. The Strafford Conservation Commission did not intervene on the application.

**2007-02619 PITTSFIELD YOUTH BASEBALL ASSOCIATION, LARRY BERKS
PITTSFIELD Unnamed Wetland**

Requested Action:

Fill 1415 square feet of palustrine forested wetland for expansion of an existing athletic facility.

APPROVE PERMIT:

Fill 1415 square feet of palustrine forested wetland for expansion of an existing athletic facility.

With Conditions:

1. All work shall be in accordance with plans by Brown Engineering dated September 14, 2007, and revised through October 9, 2007, as received by the Department on November 2, 2007.
2. This permit is contingent on approval by the DES Alteration of Terrain Program.
3. This permit is contingent on the establishment of a planted buffer as depicted on sheet 6 of 6 of the approved plans and the narrative by Stoney Ridge Environmental.
4. 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.
5. Work shall be conducted during low water conditions.
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. 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), 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. The applicant has provided a planted buffer along the existing stream where no buffer existed previously.

FORESTRY NOTIFICATION

2007-02926 WINTERSET INC
COLEBROOK Unnamed Stream

COMPLETE NOTIFICATION:
Colebrook Tax Map R12, Lot# 174 & 175

2008-00046 SALEM TOWN FOREST, TOWN OF
SALEM Unnamed Stream

COMPLETE NOTIFICATION:
Salem Tax Map 46, Lot# 6494

2008-00047 GAYNOR, CATHLEEN & NANCY
LANCASTER Unnamed Stream

COMPLETE NOTIFICATION:
Lancaster Tax Map R3, Lot# 2

EXPEDITED MINIMUM

2006-02455 DRISCOLL, TIMOTHY & MARY ANN
NEW CASTLE Piscataqua River

Requested Action:
Impact 2,688 square feet of previously disturbed 100-foot tidal buffer zone for the demolition of the existing dwelling; reconstruction of a new dwelling, within the same foot print; removal of the pavement immediately adjacent to Cranfield Road; construction of a deck; and construction of a pervious parking area on the Piscataqua River with 200 feet of shoreline frontage.

Conservation Commission/Staff Comments:
The New Castle Conservation Commission signed the Minimum Impact Expedited Application.

Inspection Date: 08/02/2006 by Eben M Lewis

APPROVE PERMIT:

Impact 2,688 square feet of previously disturbed 100-foot tidal buffer zone for the demolition of the existing dwelling; reconstruction of a new dwelling, within the same foot print; removal of the pavement immediately adjacent to Cranfield Road; construction of a deck; and construction of a pervious parking area on the Piscataqua River with 200 feet of shoreline frontage.

With Conditions:

All work shall be in accordance with the site plans prepared by Appledore Engineering Inc. dated March 22, 2007, as received by DES on March December 17, 2007 and profile drawings by A.E. Dutton Studio dated July 19, 2006, as received by DES on November 15, 2006

2. DES shall be notified in writing prior to commencement of work and upon its completion.
3. This permit is contingent upon the approval of the CSPA waiver 2006-2485.
3. All activity shall be in accordance with the Comprehensive Shoreland Protection Act, RSA 483-B (see attached fact sheet).
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. The surface of the parking area shall remain pervious.
6. All downspouts from roof gutters shall drain to vegetated areas.
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. All plantings shall be native coastal species.
9. 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.

With Findings:

1. This is a minimum impact project per Administrative Rule Env-Wt 303.04(b), projects in previously developed upland areas within 100 feet of the highest observable tide line.
2. The applicant requests to reconstruct the existing dwelling therefore, the need for the proposed impacts has been demonstrated by the applicant per Env-Wt 302.01.
3. The proposed impacts will remain within the foot print of the existing dwelling 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. DES received a memo dated 10/5/2006, from the Nongame and Endangered Wildlife Program, NH Fish and Game Department (NHFG) with record of the Common turn being a State endangered species and species of concern within vicinity of the project. In said memo, the NHFG "discourages any additional habitat alteration including lawn creation with the tidal buffer zone."
6. DES finds the aforementioned species will not be impacted as a result of this project as this site is previously developed.

2007-01992 TODD, SANDRA
BEDFORD Baboosic Brook

Requested Action:

Dredge and fill approximately 300 sq. ft. (40 linear ft.) of stream bank (Baboosic Brook) to repair and replace an existing 10 ft. wide x 22 ft. span bridge with a proposed 12 ft. wide x 36 ft. span bridge for access to a proposed single family residence.

Conservation Commission/Staff Comments:

1. The Conservation Commission for the Town of Bedford and Town of Merrimack signed the respective Minimum Impact Expedited application waiving their right to intervene on the proposed project.
2. The Bedford Conservation Commission recommended that DES review, consider and sign the application.

APPROVE PERMIT:

Dredge and fill approximately 300 sq. ft. (40 linear ft.) of stream bank (Baboosic Brook) to repair and replace an existing 10 ft.

wide x 22 ft. span bridge with a proposed 12 ft. wide x 36 ft. span bridge for access to a proposed single family residence.

With Conditions:

1. All work shall be in accordance with plans by Sanford Survey and Engineering revision dated December 13, 2007 and narratives dated December 13, 2007, as received by DES on December 20, 2007.
2. This permit is contingent on approval by the DES Subsurface Systems Bureau.
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. There shall be no excavation or operation of construction equipment in flowing water.
5. 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.
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.
7. Work shall be done during low flow.
8. 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.
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. 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. Construction equipment shall be inspected daily for leaking fuel, oil and hydraulic fluid. Faulty equipment shall be repaired immediately.
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.

With Findings:

1. This is a minimum impact project per Administrative Rule Env-Wt 303.04(h), Installation of a bridge.
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 proposed bridge will replace an existing bridge that is undersized. The existing bridge provides a cross-sectional opening of 109 square feet. The proposed bridge will provide a cross-sectional opening of 255 square feet.
6. The Natural Heritage Bureau (NHB) review found that there is an exemplary natural community (Red maple floodplain forest) near the project site. NHB provided comments that the project should not have negative impacts on this community and recommended that no trees be removed from the community.
7. There are no impacts or cutting of trees proposed within the red maple floodplain forest.
8. The Town of Bedford has a 25 foot no disturb buffer along Baboosic Brook.
9. The New Hampshire Fish and Game Department did not submit comments regarding the proposed project.

2007-02683 ATWOOD, DAVID
EXETER Unnamed Wetland

Requested Action:

Dredge and fill 950 square feet of forested wetland for the construction of a residential driveway and installation of three (3) 12-inch culverts for access to a single family residential dwelling on 4.44 acres.

Conservation Commission/Staff Comments:

The Exeter Conservation Commission signed the Minimum Impact Expedited Application.

APPROVE PERMIT:

Dredge and fill 950 square feet of forested wetland for the construction of a residential driveway and installation of three (3) 12-inch culverts for access to a single family residential dwelling on 4.44 acres.

With Conditions:

1. All work shall be in accordance with plans by Ross Engineering dated November 5, 2007 and revised November 10, 2007, as received by DES on November 16, 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. DES staff shall be notified in writing prior to commencement of work and upon its completion.
4. Work shall be done during seasonal low flow conditions.
5. 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.
6. 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.
7. 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).
8. 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(f), alteration of less than 3,000 square feet of forested wetland.
2. The impacts are necessary to access buildable uplands, therefore; the need for the proposed impacts has been demonstrated by the applicant per Env-Wt 302.01.
3. The impacts occur at the narrowest portion of wetland, 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.

2007-02710 DAILEY, THOMAS / JOYCE
WOLFEBORO Lake Wentworth

Requested Action:

Construct a 12 ft x 18 ft perched beach with 10 cubic yards of sand, relocate existing seasonal dock to a point that is 25 ft from the most southerly abutting property line on 153 ft of frontage in Wolfeboro on Lake Wentworth.

APPROVE PERMIT:

Construct a 12 ft x 18 ft perched beach with 10 cubic yards of sand, relocate existing seasonal dock to a point that is 25 ft from the most southerly abutting property line on 153 ft of frontage in Wolfeboro on Lake Wentworth.

With Conditions:

1. All work shall be in accordance with revised plans by NH Environmental Consultants LLC dated January 7, 2008, as received by DES on January 9, 2008.
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 installation.
3. All portions of the dock shall be at least 20 ft from abutting property lines or the imaginary extension of those lines into the water.
4. No trees or shrubs shall be removed or destroyed.
5. Unnecessary removal of vegetation is strictly prohibited.
6. Seasonal pier shall be removed from the lake for five months during the non-boating season.
7. No portion of the seasonal dock shall extend more than 40 feet from the shoreline at full lake elevation.
8. Dredged or excavated material shall be placed outside of the DES Wetlands Bureau jurisdiction.
9. Stone placed along the beach front for the purpose of retaining sand shall be placed above and/or landward of those rocks currently located along the normal high water line. Those rocks existing at the normal high water line shall remain otherwise undisturbed such that the natural shoreline remains identifiable.
10. The steps installed for access to the water shall be located completely landward of the normal high water line.
11. No more than 10 cu yd of sand may be used and all sand shall be located above the normal high water line.
12. This permit shall be used only once, and does not allow for annual beach replenishment.
13. The permittee shall provide appropriate diversion of surface water runoff to prevent erosion of beach area.
14. 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.
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 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(d), construction of a beach.
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.

2007-02953 ANDERSON, CHRIS
MOULTONBOROUGH Lake Winnepesaukee

Requested Action:

Repair/replace existing crib and piling supported docking structure "in-kind" on 118 ft of frontage in Moultonborough on Lake Winnepesaukee.

APPROVE PERMIT:

Repair/replace existing crib and piling supported docking structure "in-kind" on 118 ft of frontage in Moultonborough on Lake Winnepesaukee.

With Conditions:

1. All work shall be in accordance with revised plans by Winnepesaukee Waterfront Management as received by DES on January 10, 2008.
2. This permit shall not be effective until it has been recorded with the county Registry of Deeds office by the Permittee. A copy of the registered permit shall be submitted to the DES Wetlands Bureau prior to construction.

3. Appropriate siltation/erosion/turbidity controls shall be in place prior to construction, maintained during construction, and shall remain until the area is stabilized.
4. Repair shall maintain existing size, location and configuration.
5. All debris from the original cribs shall be placed outside of the jurisdiction of the DES Wetlands Bureau.
6. This permit does not allow for maintenance dredging.
7. This permit to replace or repair existing structures shall not preclude the Department of Environmental Services from taking any enforcement action or revocation action if the Department of Environmental Services later determines that these "existing structures" were not previously permitted or grandfathered.
8. 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.
9. Work shall be carried out in a time and manner such that disturbance to migratory waterfowl breeding areas and spawning areas shall be avoided.
10. 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(v), repair and/or replacement of and existing crib supporting docking facility.
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.

2008-0002 KONING, ROBERT & MARY LOU
GILFORD Lake Winnepesaukee

Requested Action:

Repair an existing 125 linear feet of retaining wall in kind, on Lake Winnepesaukee, Gilford.

Conservation Commission/Staff Comments:

Con Com signed Exp Application

APPROVE PERMIT:

Repair an existing 125 linear feet of retaining wall in kind, on Lake Winnepesaukee, Gilford.

With Conditions:

1. All work shall be in accordance with plans by Ames Associates dated November 2007, as received by DES on January 02, 2008.
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. Repair shall maintain existing size, location and configuration.
4. Dredged material shall be placed outside of the jurisdiction of the DES Wetlands Bureau.
5. 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.
6. Work shall be done during drawdown.
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(c), repair of existing retaining walls with no change in height, length, location or configuration.

TRAILS NOTIFICATION

2007-02344 DELANOY, RICHARD & SUSAN
BRIDGEWATER Unnamed Stream

LAKES-SEASONAL DOCK NOTIF

2008-00063 LACROIX, MICHAEL
WEST CHESTERFIELD Vernon Dam

COMPLETE NOTIFICATION:
West Chesterfield, NH Tax map 25A Lot A5
Vernon Dam

2008-00065 LACROIX, MICHAEL
WEST CHESTERFIELD Vernon Dam

COMPLETE NOTIFICATION:
West Chesterfield, NH Tax map 25A Lot A1
Vernon Dam

PERMIT BY NOTIFICATION

2007-02625 CRAMER, BRUCE
WALPOLE Unnamed Pond

Requested Action:
Maintenance dredge 2,000 square feet of an existing man-made pond.

PBN IS COMPLETE:
Maintenance dredge 2,000 square feet of an existing man-made pond.

With Findings:

1. The Conservation Commission signed the PBN waiving their right to intervene pursuant to RSA 482-A:3:11.
2. This project meets the criteria of NH Administrative Rule Env-Wt 506.01(a)(3), maintenance dredging that meets the criteria in Env-Wt 303.04(k).
3. No comments were submitted from the NHFG Nongame and Endangered Wildlife Program or the Natural Heritage Bureau.

4. The applicant obtained a temporary NHDOT driveway access permit for access to the proposed pond dredge.

**2007-02886 CENTER HARBOR, TOWN OF
CENTER HARBOR Lake Winnepesaukee**

Requested Action:

Dredge and fill 200 square feet for the replacement of an existing dry hydrant in the bed and bank of Lake Winnepesaukee, Center Harbor.

APPROVE PERMIT:

Dredge and fill 200 square feet for the replacement of an existing dry hydrant in the bed and bank of Lake Winnepesaukee, Center Harbor.