

Twin State Sand and Gravel
Warren Ames, President
Hartford, Vermont 05001

WATER QUALITY CERTIFICATION

In Fulfillment of

NH RSA 485-A:12

WQC # 2012-404P-004

Activity Name	Seasonal Water Withdrawal from the Connecticut River for Aggregate Washing
Activity Location	Lebanon, New Hampshire 03784
Affected Surface waters	Connecticut River
Owner/Applicant	Warren Ames, President Twin State Sand and Gravel Hartford, Vermont 05001
Appurtenant State permit(s) (and any amendments):	DES Wetlands Permit: 2013-00781
Applicable Federal permit(s):	NH Programmatic General Permit NAE-R-2012-00339 issued by the U.S. Army Corps of Engineers
DATE OF APPROVAL (subject to Conditions below)	May 7, 2013

A. INTRODUCTION

Twin State Sand and Gravel (Applicant) intends to withdraw water from the Connecticut River for an on-site aggregate wash system (Activity) at its facility in Hartford, Vermont. A more complete description of the Activity is provided in section D-1 of this Certification.

This Water Quality Certification (WQC) documents laws, regulations, determinations and conditions related to the Activity for the attainment and maintenance of NH surface water quality standards, including the provisions of NH RSA 485-A:8 and NH Code of Administrative Rules Env-Wq 1700, for the support of designated uses identified in the standards.

B. WATER QUALITY CERTIFICATION APPROVAL

Based on the findings and conditions noted below, the New Hampshire

Department of Environmental Services (DES) has determined that construction and operation of the Activity will not violate surface water quality standards, or cause additional degradation in surface waters not presently meeting water quality standards. DES hereby issues this certification with conditions (see Section E of this certification) in accordance with RSA 485-A:12, III and condition E-3 of certification WQC # 2012-404P-002 issued by DES on August 2, 2012 for the federal Clean Water Act section 404 Programmatic General Permit for New Hampshire (General Permit No: NAE-R-2012-00339) issued by the New England District of the U.S. Army Corps of Engineers.

C. STATEMENT OF FACTS AND LAW

- C-1 Section 401 of the United States Clean Water Act (CWA, 33 U.S.C. 1341) states, in part: "Any applicant for a federal license or permit to conduct any activity including, but not limited to, the construction or operation of facilities, which may result in any discharge into the navigable waters, shall provide the licensing or permitting agency a certification from the State in which the discharge originates or will originate...that any such discharge will comply with the applicable provisions of sections 301, 302, 303, 306, and 307 of this title....No license or permit shall be granted until the certification required by this section has been obtained or has been waived...No license or permit shall be granted if certification has been denied by the State..."
- C-2 Section 401 further states, in part "Any certification provided under this section shall set forth any effluent limitations and other limitations, and monitoring requirements necessary to assure that any applicant for a Federal license or permit will comply with any applicable effluent limitations and other limitations...and shall become a condition on any Federal license or permit subject to the provisions of this section."
- C-3 RSA 485-A:12, III. No activity, including construction and operation of facilities, that requires certification under section 401 of the Clean Water Act and that may result in a discharge, as that term is applied under section 401 of the Clean Water Act, to surface waters of the state may commence unless the department certifies that any such discharge complies with the state surface water quality standards applicable to the classification for the receiving surface water body. The department shall provide its response to a request for certification to the federal agency or authority responsible for issuing the license, permit, or registration that requires the certification under section 401 of the Clean Water Act. Certification shall include any conditions on, modifications to, or monitoring of the proposed activity necessary to provide assurance that the proposed discharge complies with applicable surface water quality standards. The department may enforce compliance with any such conditions, modifications, or monitoring requirements as provided in RSA 485-A:22.
- C-4 Env-Wq 1702.46 "Surface waters" means "surface waters of the state" as defined in RSA 485-A:2, XIV and waters of the United States as defined in 40 CFR 122.2.

- C-5 RSA 485-A:12, IV. No activity that involves surface water withdrawal or diversion of surface water that requires registration under RSA 488:3, that does not otherwise require the certification required under paragraph III, and which was not in active operation as of the effective date of this paragraph, may commence unless the department certifies that the surface water withdrawal or diversion of surface water complies with state surface water quality standards applicable to the classification for the surface water body. The certification shall include any conditions on, modifications to, or monitoring of the proposed activity necessary to provide reasonable assurance that the proposed activity complies with applicable surface water quality standards. The department may enforce compliance with any such conditions, modifications, or monitoring requirements as provided in RSA 485-A:22.
- C-6 RSA 488:3 Registration Required. –
- I. No person shall withdraw or discharge a cumulative amount of more than 20,000 gallons of water per day, averaged over any 7-day period, or more than 600,000 gallons of water over any 30-day period, at a single real property or place of business without registering the withdrawal or discharge with the department. Transfers of such volume of water shall also be registered. Registration shall be in addition to any required permits.
- II. No registration shall be transferred to another person without written notification to the commissioner.
- C-7 485:61 Rules for Water Conservation, –
- I. The department shall adopt rules, pursuant to RSA 541-A, for water conservation practices for water users. These rules shall strike a reasonable balance between environmental, energy, and economic impacts and be consistent with current industry standards and practices for different types of water users.
- II. The water conservation rules in paragraph I of this section shall apply to all new permit applicants and applications for water withdrawals subject to the provisions of RSA 485:3, RSA 485:48, RSA 485-C:21 and section 401 of the Clean Water Act.
- III. Water conservation rules shall be consistent with applicable state or federal rules and regulations. Water Conservation Rules were adopted May 14, 2005 codified as Env-Wq 2101.
- C-8 Env-Wq 2101.10 Application. A water user shall submit a report that demonstrates compliance with Env-Wq 2101.01 through Env-Wq 2101.08 in accordance with this section, as follows:(e) For a new withdrawal from a surface water body associated with a project requiring a 401 Water Quality Certification, the report shall be submitted with the application for a 401 Water Quality Certification pursuant to Section 401 of the federal Clean Water Act.
- C-9 Env-Wq 1702.07 "Biological integrity" means the ability of an aquatic ecosystem to support and maintain a balanced, integrated, adaptive community of organisms having a species composition, diversity, and

functional organization comparable to that of similar natural habitats of a region.

- C-10 Env-Wq 1702.17 "Designated uses" means those uses specified in water quality standards for each water body or segment whether or not such uses are presently occurring.
- C-11 Env-Wq 1702.23 "Existing uses" means those uses, other than assimilation or waste transport, which actually occurred in the water body on or after November 28, 1975, whether or not they are included in the water quality standards.
- C-12 Env-Wq 1702.46 defines surface waters as "perennial and seasonal streams, lakes, ponds and tidal waters within the jurisdiction of the state, including all streams, lakes, or ponds bordering on the state, marshes, water courses and other bodies of water, natural or artificial," and waters of the United States as defined in 40 CFR 122.2."
- C-13 Env-Wq 1703.01 (c) states that "All surface waters shall provide, wherever attainable, for the protection and propagation of fish, shellfish and wildlife, and for recreation in and on the surface waters."
- C-14 Env-Wq 1703.01 Water Use Classifications.
 - (a) State surface waters shall be divided into class A and class B, pursuant to RSA 485-A:8, I, II and III. Each class shall identify the most sensitive use which it is intended to protect.
 - (b) All surface waters shall be restored to meet the water quality criteria for their designated classification including existing and designated uses, and to maintain the chemical, physical, and biological integrity of surface waters.
 - (c) All surface waters shall provide, wherever attainable, for the protection and propagation of fish, shellfish and wildlife, and for recreation in and on the surface waters.
 - (d) Unless the flows are caused by naturally occurring conditions, surface water quantity shall be maintained at levels adequate to protect existing and designated uses.
- C-15 Env-Wq 1703.19 Biological and Aquatic Community Integrity.
 - (a) The surface waters shall support and maintain a balanced, integrated, and adaptive community of organisms having a species composition, diversity, and functional organization comparable to that of similar natural habitats of a region.
 - (b) Differences from naturally occurring conditions shall be limited to non-detrimental differences in community structure and function.
- C-16 Env-Wq 1708.02 Applicability. Antidegradation shall apply to:
 - (a) Any proposed new or increased activity, including point source and nonpoint source discharges of pollutants, that would lower water quality or affect the existing or designated uses;
 - (b) Any proposed increase in loadings to a water body when the proposal is associated with existing activities;

- (c) Any increase in flow alteration over an existing alteration; and
- (d) Any hydrologic modifications, such as dam construction and water withdrawals.

C-17 Env-Wq 1708.07 Protection of Water Quality in High Quality Waters.

- (a) Subject to (b), below, high quality waters shall be maintained and protected, except that insignificant changes in water quality, as determined by the department in accordance with Env-Wq 1708.09, shall be allowed.
- (b) Degradation of significant increments of water quality, as determined in accordance with Env-Wq 1708.09, in high quality waters shall be allowed only if it can be demonstrated to the department, in accordance with Env-Wq 1708.10, that allowing the water quality degradation is necessary to accommodate important economic or social development in the area in which the receiving waters are located.
- (c) Economic/social benefits demonstration and alternatives analysis shall not be required for authorization of an insignificant lowering of water quality. However, in allowing a lowering of water quality, significant or insignificant, all reasonable measures to minimize degradation shall be used.
- (d) If the water body is Class A Water, the requirements of Env-Wq 1708.06 shall also apply.

C-18 Env-Wq 1708.09 Significant or Insignificant Determination.

- (a) Any discharge or activity that is projected to use 20% or more of the remaining assimilative capacity for a water quality parameter, in terms of either concentration or mass of pollutants, or volume or flow rate for water quantity, shall be considered a significant lowering of water quality. The department shall not approve such a discharge or activity unless the applicant demonstrates that the proposed lowering of water quality is necessary to achieve important economic or social development, in accordance with Env-Wq 1708.10, in the area where the water body is located.
- (b) Subject to (d), below, those activities that cause an insignificant lowering of water quality shall not be required to demonstrate that they are necessary to provide important economic or social development.
- (c) Activities under (b), above shall include, but not be limited to:
 - (1) Short term or intermittent discharges such as hydrostatic testing of pipelines, fire pump test water, and uncontaminated stormwater discharges or site clean-up activities;
 - (2) Permanent discharges such as uncontaminated noncontact or uncontaminated geothermal cooling water, uncontaminated groundwater seepage, or unchlorinated or dechlorinated swimming pool water;
 - (3) Facilities whose nonpoint source runoff is controlled through the use of best management practices; and
 - (4) Any discharge or activity that is projected to use less than 20% of the remaining assimilative capacity for a water quality parameter, in terms of either concentration or mass for pollutants.

C-19 Env-Wq 1708.12 Transfer of Water.

- (a) In this section, "transfer" means the intentional conveyance of water from one surface water to another surface water for the purpose of

increasing the volume of water available for withdrawal from the receiving surface water. The term does not include the transfer of stormwater, for the purpose of managing stormwater during construction, between basins created or otherwise lawfully used for stormwater detention or treatment, or both, and does not include the discharge of stormwater from a detention or treatment basin to a surface water.

(b) A transfer shall be exempt from (c) and (d), below, unless one or more of the following apply:

(1) The transfer was not in active operation prior to the effective date of the 2011 readoption of this section, as determined pursuant to (f) through (i), below;

(2) The transfer is causing or contributing to a violation of surface water quality standards in the source water or receiving water; or

(3) A change that could impact any designated use of the source water or receiving water is made to the transfer on or after the effective date of the 2011 readoption of this section such that a water quality certification is required under RSA 485-A:12, III or IV.

(c) The transfer of water from one surface water to another shall not be allowed unless all of the following conditions are met:

(1) The transferred water does not contain exotic aquatic species or other species of aquatic life that could result in a violation of Env-Wq 1703.19, relative to the integrity of the biological and aquatic community, in the receiving water;

(2) Existing and designated uses will be maintained and supported in the source water and in the receiving water;

(3) The withdrawal from the source water and transfer to the receiving water either:

a. Will not result in any degradation of water quality; or

b. Have both been reviewed under the process specified in Env-Wq 1708.10 and determined by the department to meet the criteria specified for approval in Env-Wq 1708.10(b)(1)-(3);

and

(4) A water conservation plan that meets the water conservation requirements set forth in Env- Wq 2101 has been approved by the department and is being complied with.

(d) Transferred water may be treated to comply with the requirements of this section.

(e) If a transfer is exempt under (b), above, or if all of the conditions specified in (c), above, are met, the transfer of water shall not constitute a discharge under RSA 485-A:8, I, or RSA 485-A:13, I(a).

(f) A transfer shall be deemed to have been in active operation prior to the effective date of the 2011 readoption of this section if all of the following are true:

(1) The infrastructure necessary for the transfer is in place and in usable condition;

(2) Water has been transferred for at least one day in each of at least 3 years from 2000 through 2011; and

(3) At the time of its original initiation, the transfer complied with applicable legal requirements.

(g) If a transfer does not meet the conditions specified in (f), above, the person responsible for the transfer may request the department to make a determination that the transfer was in active operation by submitting the following information in writing:

- (1) The reason(s) why the infrastructure necessary for the transfer is not in place or is not in usable condition, if applicable;
- (2) The total time span, in years, over which the transfer has occurred from the first known transfer to the present;
- (3) The most recent year during which the transfer occurred; and
- (4) Why, based on the information provided in (1)-(3), above, it would be a fair and just result for the department to determine that the transfer qualifies as a transfer that was in active operation prior to the effective date of the 2011 readoption of this section.

(h) If the department determines, based on information provided pursuant to (g), above, that it would be fair and just to determine that the transfer qualifies as a transfer that was in active operation prior to the effective date of the 2011 readoption of this section, then the department shall make that determination.

(i) The department shall notify the person who requested a determination pursuant to (g), above, in writing of its decision.

C-20 In 2010, DES published guidance (hereinafter called the 2010 instream flow guidance or 2010 ISF guidance) for estimating instream flow requirements for the protection of aquatic life for situations. The guidance is available at: <http://des.nh.gov/organization/commissioner/pip/publications/wd/document/s/wd-11-3.pdf>.

C-21 On August 3, 2012, the New England District of the U.S. Army Corps of Engineers reissued the federal Programmatic General Permit for New Hampshire (General Permit No: NAE-R-2012-00339). The expiration date of the NH Programmatic General Permit (PGP) is August 3, 2017. The PGP expedites review of minimal impact work in coastal and inland waters and wetlands within the State of New Hampshire. Subject to certain exclusions and conditions, the PGP eliminates the need to apply for separate approval from the Corps for most minor, non-controversial work in New Hampshire when that work is authorized by the DES Wetlands Bureau. The PGP covers the following:

- a) Work and structures that are located in, or that affect, navigable waters of the United States (U.S.) [33 CFR 328.4(c)] (regulated by the Corps under Section 10 of the Rivers and Harbors Act of 1899);
- b) The discharge of dredged or fill material into waters of the U.S. (regulated by the Corps under Section 404 of the Clean Water Act) and;
- c) The transportation of dredged material for the purpose of disposal in the ocean (regulated by the Corps under Section 103 of the Marine Protection, Research and Sanctuaries Act). The term "discharge of dredged or fill material" also includes certain discharges resulting from excavation. Applicants should contact the Corps to determine if a particular excavation discharge occurring within waters or wetlands is a regulated activity.

C-22 In accordance with Clean Water Act (CWA) Section 401 and NH statute RSA 485-A:12, III, the New Hampshire Department of Environmental Services (DES) issued a 401 Water Quality Certification (WQC # 2012-404P-002) for the current PGP on August 2, 2012. Conditions E-1 through E-6 of WQC # 2012-404P-002 state the following:

E-1. Construction or operation of all projects included under the PGP shall meet NH surface water quality standards.

E-2. Applications for projects included under the PGP shall be subject to DES review to determine whether additional conditions or an individual 401 Certification application is necessary to ensure compliance with surface water quality standards.

E-3. If DES determines that surface water quality standards are being violated by the specific project or there is reasonable potential to expect that water quality standards will be violated if more project specific conditions are not included in the 401 Certification, DES may modify this 401 Certification for the specific project to include additional conditions to ensure compliance with surface water quality standards.

E-4. Construction on any specific project permitted under the PGP shall not commence until all other applicable permits and approvals have been granted, including those permits issued through DES Wetlands Bureau and, if necessary, DES Alteration of Terrain Program.

E-5. All applicable conditions in the NH PGP shall be followed.

E-6. DES reserves the right to inspect any project permitted under the PGP and the effects of the project on affected surface waters at any time to monitor compliance with the NH surface water quality standards.

C-23 On October 3, 2012, the Applicant submitted information for Water Quality Certification to DES.

C-24 The boundary between New Hampshire and Vermont is the low water mark of the Connecticut River on the western (Vermont) side, as it existed before the creation of the reservoirs.

C-25 In accordance with section 401 of the CWA, this certification was issued for public comment from April 1, 2013 through April 30, 2013. No comments were received.

D. FINDINGS

D-1 The Activity reviewed for this Certification is a proposed water withdrawal from the Connecticut River near West Lebanon, New Hampshire for use in the Applicant's aggregate washing facility located in Hartford, Vermont. The

water withdrawn from the Connecticut River will be used as start-up water and make-up water as required. The approximate coordinates for the Activity are N 43° 36' 30.73", W 72° 19' 53.26" (WGS84).

- a. The proposed withdrawal system will include a variable speed, float mounted vertical pump installed in a protected backflow area on the Connecticut River adjacent to the Applicant's facility.
 - b. The location of the withdrawal system will be approximately 20 feet from the Hartford, Vermont shoreline and will be outside of the navigable river channel. The pump will be anchored in position by waste concrete blocks and cables to be located above the high water mark on the Vermont side of the Connecticut River.
 - c. The pump will be installed prior to the beginning of the operating season for the Activity which will be no earlier than April 15th of each year. The pump will be removed prior to the beginning of winter conditions and the Activity shutdown no later than December 24th of each year.
 - d. The pump will only be run when wash water make-up cannot be satisfied by other on-site water collection systems such as stormwater and recycled wash water.
 - e. A flexible hose and other fixed piping will convey water to a portable wash system within the permitted pit area. The piping will pass under the railroad right-of-way in an existing unused culvert with permission from the railroad.
 - f. The on-site aggregate wash water system is designed to settle and remove fines washed from the product. During typical operation of the Activity 50 percent of the wash water will be recycled for reuse with the remainder infiltrating through on-site soils ultimately returning to the river via the subsurface.
 - g. The Activity will have a maximum withdrawal rate of 2 cubic feet per second (cfs) [900 gallons per minute (gpm)]. A variable speed controller will limit flow to the permitted instantaneous withdrawal rate.
- D-2 The Applicant is responsible for construction and operation of the Activity.
- D-3 The New England District of the U.S. Army Corps of Engineers (Corps) has determined that the Activity requires a federal Clean Water Act Section 404 permit for the discharge of dredge or fill material into waters of the U.S. and that the Section 404 NH Programmatic General Permit (PGP) satisfies this requirement (see section C-22 of this certification for further information about the PGP).
- D-4 Condition E-3 of 401 Water Quality Certification (WQC # 2012-404P-002) issued by DES for the current PGP allows DES to modify the 401 certification issued for the PGP to include additional conditions to ensure compliance with surface water quality standards (see section C-22 of this certification). DES

has determined that additional conditions are necessary to ensure compliance of this Activity with surface water quality standards and that the 401 certification issued for the PGP therefore needs to be modified for this Activity.

- D-5 Named and unnamed streams, rivers, lakes, ponds and wetlands, potentially affected by any Activity, are surface waters under Env-Wq 1702.46. DES has assigned Assessment Unit (AU) identification numbers to surface waters that appear on 1:24,000 scale hydrography. Consequently, not all surface waters currently have an AU number. Surface waters that do not have an AU number are still considered surface waters of the State in accordance with Env-Wq 1702.46. Surface waters that could potentially be affected by this Activity and their associated AU numbers (where available) include the following:

Surface Water Name and AU Numbers	Class	Description
Connecticut River NHRIV801060302-05	B	Section of the Connecticut River between the Mascoma River and Bloods Brook

- D-6 The Activity is in a free-flowing (i.e., unimpounded) portion of the Connecticut River.

- D-7 According to the 2012 list of impaired waters, the following surface waters in the vicinity of the proposed Activity which have assigned AU numbers are listed as impaired. All impairments, with the exception of those highlighted in bold (which have approved TMDLs), are on the Section 303(d) List. The Activity is not expected to impact any of the impairments listed below.

Assessment Unit (AU)	Water body Name	Cause of Impairment (Designated Use Impaired)
Connecticut River NHRIV801060302-05	Connecticut River	E. Coli (PCR) Mercury (FC)
<p>Notes: AL = Aquatic Life, PCR = Primary Recreation, SCR = Secondary Recreation, FC = Fish Consumption, SFC = Shellfish Consumption</p> <p>Impairments highlighted in bold have approved TMDLs. All other impairments are on the Section 303(d) List.</p>		

- D-8 The Applicant has registered the water use with DES under RSA 483:3 (Water User ID 20949).

- D-9 The Activity includes construction of a structure in surface waters of the state. The 401 Certification decision relies, in part, on an approved permit from the DES Wetlands Bureau for the potential construction-related impacts to surface waters of the state. Through its processing and issuance, the DES wetlands permit addresses the impacts of the structure on surface waters of the state.
- D-10 The Applicant has applied to the Vermont Office of the US Army Corps of Engineers New England District for a review of the Activity under Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403) that specifically prohibits the unauthorized obstruction or alteration of any navigable water of the United States.
- D-11 The proposed Activity includes the withdrawal of water from the Connecticut River through an intake pipe. This withdrawal of water may alter stream flow in the river. Stream flow is an important characteristic of habitat for the aquatic community. Therefore, the proposed withdrawal of water may cause the water quality criteria for biological and aquatic community integrity (Env-Wq 1703.19, item 5) to be violated in the river.
- D-12 DES has determined that violations of the water quality criteria for biological and aquatic community integrity (Env-Wq 1703.19) are not likely to occur due to the Activity.
- a. The potential for violations of the criteria was evaluated by comparing the proposed withdrawal to the expected stream flow in the Connecticut River.
 - b. Stream flow data for the Connecticut River were obtained from a United States Geological Survey (USGS) stream gauge: Gauge# 01144500 Connecticut River at West Lebanon. The median of August mean flow between 1912 and 2011 at this gauge was 2,637 cfs. During the Activity operating period of April to December, the lowest flows in the Connecticut River are in August.
 - c. The estimated maximum withdrawal for the Activity (900 gpm or 2 cfs) would be a negligible amount of the median August flow in the Connecticut River. Therefore, the Activity is expected to have a minimal effect on water flow in the Connecticut River and Env-Wq 1703.19 is not expected to be violated.

E. WATER QUALITY CERTIFICATION CONDITIONS

Unless otherwise authorized by DES, the following conditions shall apply.

- E-1. This certification is a modification of the 401 Water Quality Certification (WQC # 2012-404P-002) issued by DES for the NH Programmatic General Permit (PGP) issued by the New England District of the U.S. Army Corps of Engineers (Corps) in 2012 (see sections D-3 and D-4 of this certification). The conditions

specified herein are in addition to the conditions included in certification WQC # 2012-404P-002 (see section C-22) and only apply to this Activity.

- E-2. The Activity shall not cause or contribute to a violation of surface water quality standards. DES may modify this Water Quality Certification to include additional conditions to ensure the Activity complies with surface water quality standards.
- E-3. The Applicant shall allow DES to inspect the Activity and its effects on affected surface waters at any time to monitor compliance with the conditions of this Water Quality Certification.
- E-4. The Applicant shall consult with DES regarding any proposed modifications to the Activity, including construction or operation, to determine whether this Water Quality Certification requires modification in the future.
- E-5. Transfer of this Certification to a new owner shall require notification to and approval by DES.
- E-6. The Activity shall not withdraw more than a maximum of 900 gpm (2 cfs) from the Connecticut River and shall not operate outside of the approved period of April 15 to December 24 of each year.
- E-7. The withdrawal pipe for the Activity shall be removed from the river and riverbank areas between December 25 and April 14 of each year.
- E-8. The Applicant shall register, measure, and report all withdrawals with the DES Water Use Registration and Reporting Program in accordance with RSA 488:3 and its supporting regulations, Env-Wq 2102.
- E-9. Prior to implementing a withdrawal from the Connecticut River as described in this Water Quality Certification (WQC # 2012-404P-004), the Applicant shall obtain DES approval of and begin implementation of a water conservation plan that meets the water conservation requirements set forth in Env-Wq 2101.
- E-10. The intake pipes shall have a screen so that fish will not become entrained in the system. The screen mesh size and intake design shall be approved by the NH Fish and Game Department. Written evidence of NH Fish and Game Department approval shall be provided to DES prior to withdrawing any water from the river.
- E-11. Prior to withdrawing any water from the river, the Applicant shall submit photographs to DES of the installed pumping system.
- E-12. Prior to conducting work in the Connecticut River associated with the withdrawal pipe and appurtenant structures, the Applicant shall obtain a DES Wetlands permit. The applicant shall then comply with the conditions of the DES Wetlands permit, including any amendments. The conditions of this permit shall become conditions of this 401 Certification upon issuance of this 401 Certification.

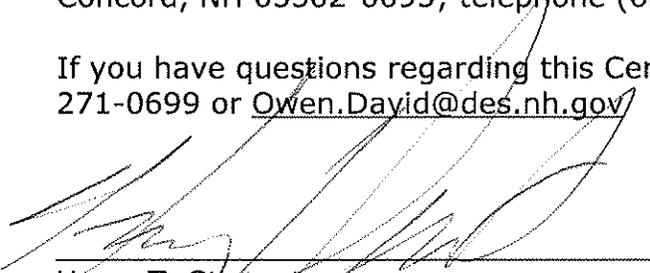
E-13. The Applicant shall keep records of the dates of operation, including the dates when the intake pipe was installed and removed from the river, for every year that the withdrawal is conducted. The Applicant shall provide these records to DES upon request.

E-14. If it is determined that a federal license or permit is required for the Activity under Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403), this certification shall satisfy the section 401 Water Quality Certification requirements for the Section 10 Rivers and Harbors Act permit or license.

APPEAL

If you are aggrieved by this decision, you may appeal the decision to the Water Council. Any appeal must be filed within 30 days of the date of this decision, and must conform to the requirements of Env-Wq 200. Inquiries regarding appeal procedures should be directed to NHDES Council Appeals Clerk, 29 Hazen Drive, PO Box 95, Concord, NH 03302-0095; telephone (603) 271-6072.

If you have questions regarding this Certification, please contact Owen David at (603) 271-0699 or Owen.David@des.nh.gov



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