



The State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES



Thomas S. Burack, Commissioner

June 22, 2011

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 AT ✓
 GAR ✓
 FILE

David Cedarholm, P.E.
 Town Engineer
 Department of Public Works
 Town of Durham
 100 Stone Quarry Dr.
 Durham, NH 03824

RE: NHDES Wetlands File # 2011-00109 Town of Durham - Wiswall Dam /Denil Fishway-Lamprey River, Durham Tax Map/Lot # 1717

Dear Mr. Cedarholm:

Attached please find Wetlands Permit # 2011-00109 to impact a total of 17,024 square feet of riverine wetlands, including 15,908 square feet of temporary impact for construction preparation, access and coffer dam installation; and 1,116 square feet of permanent impact to conduct repairs to Wiswall Dam and to construct a Denil fishway fish passage structure. Waive Rule Env-Wt 301.01(g), requirement for wetland delineation plan to be stamped by a certified wetland scientist.

The decision to approve this application was based on the following findings:

1. This is a minor impact project per Administrative Rule Env-Wt 303.03(h), alteration of less than 20,000 square feet in the aggregate of non-tidal surface waters, and per Env-Wt 303.03(l), projects that disturb less than 200 linear feet of stream banks or channel.
2. The need for the proposed impacts has been demonstrated by the applicant per Env-Wt 302.01. The project represents necessary repairs to the Wiswall dam, a significant hazard dam, in response to Administrative Order WD 05-01 issued on 1/28/2005, requiring necessary repairs, and which has been outstanding for over six years. In addition to the necessary repairs, fish passage is obstructed by the existing dam design.
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 temporary construction access impacts are limited to immediately adjacent to the structure on bank and bedrock bottom areas; the construction of the Denil fishway structure will open 43 miles of the Lamprey River to fish passage.
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 permit has been conditioned to include dewatering and re-watering time frames in response to NHFG concerns; the permit has further been conditioned to include the NH Natural Heritage Bureau's recommendations for avoidance of impact to the state-threatened knotty pondweed located approximately 350 feet downstream.
5. The Durham Conservation Commission provided comments on 2/15/2011, to which the Town Engineer responded to the Commission's satisfaction, and other concerns have been addressed by DES in permit conditions.
6. Administrative Rule Env-Wt 301.01(g)(1), the requirement for plans for minor and major projects to be stamped by the certified wetland scientist responsible for the wetlands delineation, is waived. DES finds that granting the request meets the requirements of Env-Wt 204.04(a)(1), and that the request further meets the requirements of Env-Wt 204.04(a)(a), as, although not specifically certified, the professional responsible for the delineation is a member of NRCS, and has demonstrated adequate knowledge, experience and delineation ability to meet the intent and purpose of the certified wetland scientist stamp requirement rule.

Any party may apply for reconsideration with respect to any matter determined in this action within 30 days from the date of this letter. A motion for reconsideration must specify all grounds upon which future appeals may be based, and should include information not available to DES when the decision was made. DES may grant reconsideration if, in its opinion, good reason is provided in the motion.

Your permit must be signed, and a copy must be posted in a prominent location on site during construction. If you have any questions, please contact our office at (603) 559-1507.

Sincerely,

 Dori Wiggin
 East Region Supervisor
 DES Wetlands Bureau

cc: Durham Conservation Commission
 Durham Municipal Clerk
 Stephens Associates
 DES Dam Bureau
 NHFG