



State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES

6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095
(603) 271-2147 FAX (603) 271-6588



WETLANDS AND NON-SITE SPECIFIC PERMIT

PERMIT#: 2000-00506
Permittee: Town of Durham, 100 Stone Quarry Drive, Durham, NH 03824
Project Location: Adjacent To Oyster River, Durham
Durham Tax Map/Lot No. 13 /
Waterbody: Oyster River

NOTED
CONDITIONS

APPROVAL DATE: 08/30/2000 EXPIRATION DATE: 08/30/2005

Based upon review of the above referenced application, in accordance with RSA 482-A and RSA 485-A:17, a Wetlands Permit and Non-Site Specific Permit was issued. This permit shall not be considered valid unless signed as specified below.

PERMIT DESCRIPTION: Impact a total of 5,650 sq. ft. of forested wetlands and the banks of the Oyster River for the extension of the water transmission pipe to the Town of Durham Water Treatment Plant.

THIS APPROVAL IS SUBJECT TO THE FOLLOWING PROJECT SPECIFIC CONDITIONS:

1. All work shall be in accordance with plans by Dufresne-Henry, Inc. dated March 2000, as received by the Department on June 20, 2000.
2. Any further alteration of wetlands on this property will require a new application and further permitting by the DES Wetlands Bureau.
3. Coastal staff shall be notified in writing prior to commencement of work and upon completion.
4. Orange construction fencing shall be placed at the limits of construction to prevent accidental encroachment on other wetland area in DES jurisdiction.
5. Appropriate siltation/erosion/turbidity controls shall be installed prior to construction, shall be maintained during construction, and shall remain in until the area is stabilized.
6. A siltation boom shall enclose the Oyster River impoundment work area.
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, by mulching with tack or netting and pinning on slopes steeper than 3:1.
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 and Erosion and Sediment Control Handbook for urban and Developing Areas in New Hampshire (August, 1992).
9. The impacts associated with the temporary work shall be removed immediately following construction and restored to its original condition.

GENERAL CONDITIONS WHICH APPLY TO ALL DES WETLANDS PERMITS:

1. A copy of this permit shall be posted on site during construction in a prominent location visible to inspecting personnel;
2. This permit does not convey a property right, nor authorize any injury to property of others, nor invasion of rights of others;
3. The Wetlands Bureau shall be notified upon completion of work;
4. This permit does not relieve the applicant from the obligation to obtain other local, state or federal permits that may be required (see attached form for status of federal wetlands permit);
5. Transfer of this permit to a new owner shall require notification to and approval by the Department;
6. This permit shall not be extended beyond the current expiration date.

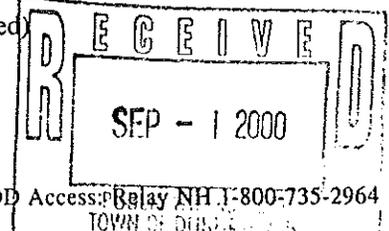
APPROVED: _____

Mailloux
DES Wetlands Bureau

BY SIGNING BELOW I HEREBY CERTIFY THAT I HAVE FULLY READ THIS PERMIT AND AGREE TO ABIDE BY ALL PERMIT CONDITIONS.

OWNER'S SIGNATURE (required)

CONTRACTOR'S SIGNATURE (required)





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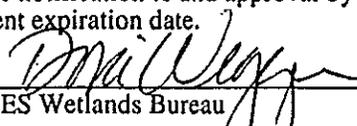
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DES Wetlands Bureau

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NOTICE TO RECIPIENTS OF MINOR IMPACT N.H. WETLANDS PERMITS

Your permit was approved by the New Hampshire Wetlands Bureau as a minor impact project, and your project will be reviewed by the U.S. Army Corps. of Engineers for possible approval under the Army Corps New Hampshire State Programmatic General Permit - SPGP. The Army Corps will notify you within thirty (30) days if they will require additional information or an individual federal permit application.

If you do not hear from the Army Corps within thirty (30) days, and your project meets the conditions of the SPGP (attached), your project will automatically be approved under the SPGP. You should contact the Army Corps, at 1-800-343-4789, if your project does not meet the conditions of the SPGP.

NO WORK SHOULD BE DONE WITHOUT AUTHORIZATION FROM THE ARMY CORPS UNLESS THIRTY (30) DAYS HAVE PASSED AFTER N.H. WETLANDS BUREAU APPROVAL, AND ALL CONDITIONS OF THE SPGP ARE MET.

THESE APPROVALS DO NOT RELIEVE YOU FROM OBTAINING ANY NECESSARY LOCAL PERMITS THAT MAY BE REQUIRED BY YOUR TOWN.

IF YOU HAVE ANY QUESTIONS, PLEASE FEEL FREE TO GIVE US A CALL AT 603-271-2147

THIS NOTICE WAS SENT WITH MINOR IMPACT PERMIT # 00-506 ON 8/30/00 BY DAP

CC: U.S. ARMY CORPS. OF ENGINEERS

Conditions for Corps of Engineers New Hampshire State Programmatic General Permit (SPGP) No.52

GENERAL REQUIREMENTS:

1. **Other Permits.** Authorization under this general permit does not obviate the need to obtain other Federal, state, or local authorizations required by law or to comply with all Federal, State of New Hampshire, or local laws.
2. **Applicability of this PGP shall be evaluated with reference to Federal jurisdictional boundaries using the 1987 Corps of Engineers Wetland Delineation Manual and subsequent Federal Guidance.** Applicants are responsible for ensuring that the boundaries used satisfy the federal criteria defined at Title 33 CFR 328-329.
3. **Minimal Effects.** Projects authorized by this general permit shall have minimal individual and cumulative adverse environmental impacts as determined by the Corps.
4. **Discretionary Authority.** Notwithstanding compliance with the terms and conditions of this permit, the Corps of Engineers retains discretionary authority to require an application for an individual permit for any project based on concerns for the aquatic environment or for any other factor of the public interest. This authority is invoked on a case-by-case basis whenever the Corps determines that the potential consequences of the proposed activity warrant individual review based on the concerns stated above. This authority may be invoked for projects with cumulative environmental impacts that are more than minimal, or if there is a special resource or concern associated with a particular project that is not already covered by the remaining conditions of the PGP and that warrants greater review. Whenever the Corps notifies an applicant that an individual permit may be required, authorization under this PGP is void, and no work may be conducted until the individual Corps permit is obtained, or until the Corps notifies the applicant that further review has demonstrated that the work may proceed under this PGP.
5. **Single and Complete Projects.** This PGP shall not be used for piecemeal work and shall be applied to single and complete projects. All components of a single project shall be treated together as constituting one single and complete project. All planned phases of multi-phased projects shall be treated together as constituting one single and complete project. However, this PGP can be used to permit a single phase of a multi-phase project in which only one phase will be constructed in the life of the permit (5 years) or for those projects which have "stand alone" aspects. This PGP shall not be used for any activity that is part of an overall project for which an individual permit is required.
6. That the Corps' review procedures for the following work are not altered by this PGP; this work will continue to require submission of an application to, and written authorization from, the Corps of Engineers before work may proceed:
 - a. Any activity associated with new boating facilities or with the extension of the areal limits of existing boating facilities. For the purpose of this condition, "boating facilities", are marinas, yacht clubs, boat clubs and other entities that rent or sell mooring space. However, the vessels using the structures may be used for commercial purposes.
 - b. Projects involving moorings within the horizontal limits, or with moored vessels that extend within the limits, of a Corps Federal Navigation project, except those in Federal anchorages.
 - c. Any structure, pier or float that extends, or with docked or moored vessels that extend, within the horizontal limits of a Corps Federal Navigation Project.

NATIONAL CONCERNS:

7. **Historic Properties.** Any activity authorized by this PGP shall comply with Section 106 of the National Historic Preservation Act. Information on the location and existence of historic resources can be obtained from the New Hampshire Historic Preservation Office and the National Register of Historic Places.

Applicants with minor or major impact projects which will undergo the screening process, shall submit a copy of their application materials to the New Hampshire State Historic Preservation Officer (SHPO) (address on page 12 of this document) to be reviewed for the presence of historic/archaeological resources in the permit area that may be affected by the proposed work. The Corps will then be notified by the SHPO if there are State concerns that the proposed work will have an effect on historic resources. The applicant should include with their State application, either a copy of their cover letter, or a statement of having sent their application materials to the SHPO. If the permittee, during construction of work authorized herein, encounters a previously unidentified archaeological or other cultural resource within the area subject to Corps jurisdiction that might be eligible for listing in the National Register of Historic Places, he/she shall stop work and immediately notify the District Engineer and the SHPO.

8. National Lands. Activities authorized by this PGP shall not impinge upon the value of any National Wildlife Refuge, National Forest, National Estuarine Research Preserves, or any other area administered by the U.S. Fish and Wildlife Service, U.S. Forest Service, or National Park Service.

9. Endangered Species. No activity is authorized under this PGP which may affect a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act (ESA); or which is likely to destroy or adversely modify the critical habitat of such species; or which would result in a "take" of any threatened or endangered species of fish or wildlife, or which would result in any other violation of Section 9 of the ESA protecting threatened or endangered species of plants. Applicants shall notify the Corps if any listed species or critical habitat is in the vicinity of the project and shall not begin work until notified by the District Engineer that the requirements of the Endangered Species Act have been satisfied and that the activity is authorized. Information on the location of threatened and endangered species and their critical habitat can be obtained from the U.S. Fish and Wildlife Service (F&WS) and National Marine Fisheries Service (NMFS)(addresses on page 14 of this document). If consultation with the F&WS or NMFS results in project modifications or permit conditions which resolve the issue, the Corps may issue a PGP.

10. Wild and Scenic Rivers. Any activity that occurs in a component of, or within 0.25 miles up or downstream of the main stem or tributaries of a river segment of, the National Wild and Scenic River System, must be reviewed by the Corps under the screening procedures of this PGP. This condition applies to both designated Wild and Scenic Rivers and rivers designated by Congress as Study Rivers for possible inclusion while such rivers are in an official study status. Currently, Wildcat Creek starting in the White Mountain National Forest running to Jackson, NH, the Lamprey River from the southern Lee town line to the confluence with the Piscassic River, and the Merrimack River from Franklin, NH to the dam in Concord, NH are designated as Wild and Scenic Rivers in the State of New Hampshire.

11. Federal Navigation Project. Any structure or work that extends closer to the horizontal limits of any Corps navigation project than a distance of three times the project's authorized depth (see attached map for locations of these projects) shall be reviewed under the screening procedures and shall be subject to removal at the owner's expense prior to any future Corps dredging or the performance of periodic hydrographic surveys.

12. Navigation. There shall be no unreasonable interference with navigation by the existence or use of the activity authorized herein, and no attempt shall be made by the permittee to prevent the full and free use by the public of all navigable waters at or adjacent to the activity authorized herein.

MINIMIZATION OF ENVIRONMENTAL IMPACTS:

13. Minimization. Discharges of dredged or fill material into waters of the United States shall be avoided and minimized to the maximum extent practicable.

14. Work in Wetlands. Heavy equipment working in wetlands shall be avoided if possible. If such work is unavoidable, when site conditions are such that rutting, soil compaction, erosion or other disturbance would result, equipment shall be placed on mats or other measures taken such as delaying work until frozen or dry ground conditions exist to minimize adverse effects to soil and vegetation. Disturbed areas in wetlands shall be restored to preconstruction contours and conditions upon completion of the work. In many cases the mats are considered a discharge of fill material and must be included in the quantification of impact area and authorized by this PGP.

15. Temporary Fill. Temporary fill in waters and wetlands authorized by this PGP (e.g. access roads, cofferdams) shall be properly stabilized during use to prevent erosion. In addition, temporary fill in tidal, navigable or inland waters of the U.S. should consist of a material that minimizes impacts to water quality (e.g. sandbags or clean, gravel and/or stone). Temporary fill in wetlands shall be placed on geotextile fabric which is laid on the existing wetland grade. Temporary fills shall be disposed of at an upland site and suitably contained to prevent erosion and/or transport to a waterway or wetland. All areas of temporary fill shall be restored to their original elevations.

16. Sedimentation and Erosion Control. Adequate sedimentation and erosion control management measures, practices and devices, such as phased construction, vegetated filter strips, geotextile silt fences or other devices, shall be installed and properly maintained to reduce erosion and retain sediment on-site during and after construction. They shall be capable of preventing erosion, of collecting sediment, suspended and floating materials, and of filtering fine sediment. These devices shall be removed upon completion of work and the disturbed areas shall be stabilized. The sediment collected by these devices shall be removed and placed at an upland location, in a manner that will prevent its later erosion into a waterway or wetland. All exposed soil and other fills shall be permanently stabilized at the earliest practicable date.

17. Waterway/Wetland Crossings.

(a) All temporary and permanent crossings of waterbodies and wetlands shall be suitably culverted, bridged, or otherwise designed to withstand and to prevent the restriction of high flows, to maintain existing low flows, and so as not to obstruct the movement of aquatic life indigenous to the waterbody beyond the actual duration of construction.

(b) No open trench excavation in flowing waters shall be allowed unless the activity is screened pursuant to the minor impact project procedures and conditioned to protect the aquatic environment.

(c) Temporary bridges, culverts, or cofferdams shall be used for equipment access across streams (note: areas of fill and/or cofferdams must be included in total waterway/wetlands impacts to determine applicability of this general permit).

(d) For projects that meet the definition of a Minimum Impact Project, unconfined in-stream construction work shall be conducted during the low flow period of July 1 - October 1 in any year. Projects that are conducted outside of that time period do not qualify for Minimum Impact Project procedures under this PGP and shall be screened pursuant to Minor Impact Project procedures, regardless of the waterway and wetland fill and/or impact area.

18. Discharge of Pollutants. All activities involving any discharge of pollutants into waters of the United States authorized under this general permit shall be consistent with applicable water quality standards, effluent limitations, standards of performance, prohibitions, and pretreatment standards and management practices established pursuant to the Clean Water Act (33 U.S.C. 1251), and applicable state and local laws. If applicable water quality standards, limitations, etc., are revised or modified during the term of this permit, the authorized work shall be modified to conform with these standards within 6 months of the effective date of such revision or modification, or within a longer period of time deemed reasonable by the District Engineer in consultation with the Regional Administrator of the Environmental Protection Agency. Applicants may presume that state water quality standards are met with issuance of the Section 401 Water Quality Certification (Applicable only to the Section 404 activity).

19. Spawning Areas. Discharges into known: a) fish and shellfish spawning or nursery areas; or b) amphibian and waterfowl breeding areas, during spawning or breeding seasons shall be avoided. Impacts to these areas shall be minimized to the maximum extent practicable during all other times of the year.

20. Storage of Seasonal Structures. Coastal structures such as pier sections, floats, etc., that are removed from the waterway for a portion of the year shall be stored in an upland location, located above mean high water and not in a vegetated wetland.

21. Environmental Values. The permittee shall make every reasonable effort to carry out the construction or operation of the work authorized herein in a manner so as to maintain as much as is practicable, and to minimize any adverse impacts on, existing fish, and wildlife, and natural environmental values.

PROCEDURAL CONDITIONS:

22. Inspections. The permittee shall allow the District Engineer or his authorized representative(s) to make periodic inspections at any time deemed necessary in order to ensure that the work is being performed in accordance with the terms and conditions of this permit. The District Engineer may also require post-construction engineering drawings for completed work, and post-dredging survey drawings for any dredging work.

23. Maintenance. The permittee shall maintain the work or structures authorized herein in good condition, including maintenance to ensure public safety. Note that this does not include maintenance of dredging projects.

24. Property Rights. This PGP does not convey any property rights, either in real estate or material, or any exclusive privileges, nor does it authorize any injury to property or invasion of rights or any infringement of federal, state, or local laws or regulations.

25. Modification, Suspension, and Revocation. This PGP may be either modified, suspended, or revoked in whole or in part pursuant to the policies and procedures of 33 CFR 325.7; any such action shall not be the basis for any claim for damages against the United States.

26. Restoration. The permittee, upon receipt of a notice of revocation of authorization under this PGP, shall restore the wetland or waterway to its former conditions without expense to the United States, and as directed by the Secretary of the Army or his authorized representative. If the permittee fails to comply with such a directive, the Secretary or his designee may restore the wetland or waterway to its former condition, by contract or otherwise, and recover the cost from the permittee.

27. Special Conditions. The Corps may impose other special conditions on a project authorized pursuant to this PGP that are determined necessary to minimize adverse environmental effects or based on any other factor of the public interest. These may be based on concerns from a State or Federal Resource Agency. Failure to comply with all conditions of the authorization, including special conditions, will constitute a permit violation and may subject the permittee to criminal, civil, or administrative penalties or restoration.

28. False or Incomplete Information. If the Corps makes a determination regarding the eligibility of a project under this PGP, and subsequently discovers that it has relied on false, incomplete, or inaccurate information provided by the permittee, the permit shall not be valid and the U.S. government may institute legal proceedings.

29. Abandonment. If the permittee decides to abandon the activity under this PGP, unless such abandonment is merely the transfer of property to a third party, he/she may be required to restore the area to the satisfaction of the District Engineer.

30. Enforcement cases. This general permit does not apply to any existing or proposed activity in Corps jurisdiction associated with a Corps of Engineers or EPA enforcement action until such time as the enforcement action is resolved or the Corps determines that the activity may proceed independently without compromising the enforcement action.

DURATION OF AUTHORIZATION / GRANDFATHERING:

31. Duration of Authorization. The expiration date for individual projects authorized under this PGP coincides with that of the State authorization for that particular project.

This PGP will expire on June 2, 2002, however, activities authorized under this PGP which are under construction or are under contract to begin construction in reliance upon this authorization will remain authorized provided the activity is completed within twelve months of June 2, 2002, unless:

- a) the PGP is either modified or revoked, or
- b) discretionary authority has been exercised in accordance with 33 CFR 325.2(e)(2).

Activities completed under this PGP will continue to be authorized by the PGP after the expiration date.

32. Previously Authorized Activities.

- a) Projects that have received written authorization from the Corps under the Nationwide permits or under the previous New Hampshire PGP prior to issuance of this PGP shall remain authorized as specified in each authorization.
- b) Non-reporting nationwide permit activities or NH PGP minimum impact activities which have commenced, (i.e., are under construction or are under contract to commence) prior to the issuance date of this PGP, remain authorized provided the activity is completed within twelve months of the date of issuance of this PGP. These activities are still subject to discretionary authority on a case-by-case basis in accordance with Condition 4. The applicant must be able to document to the satisfaction of the Corps that the project was under construction or contract by the appropriate date.
- c) Activities authorized pursuant to 33 CFR Part 330.3 (activities occurring before certain dates) are not affected by this PGP.