

Wetlands Bureau Decision Report

Decisions Taken
04/21/2008 to 04/27/2008

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

**2007-00065 KWAKS, CHARLES & ROSE-ANNE
NEWMARKET Unnamed Wetland**

Requested Action:

Dredge and fill 39,154 sq. ft. of wetlands to construct a roadway for an 18 lot subdivision.

WITHDRAW APPLICATION:

Applicant requests that application be withdrawn per letter dated 4/11/2008 from NHSC Inc., as received on 4/14/2008.

**2007-01711 MERRILL JR, CHARLES
HANCOCK Jaquith & Dingle Brook**

Requested Action:

Dredge and fill 91,764 square feet of Jaquith Pond to replace existing twin 18-inch culverts with a 12-foot precast concrete span bridge, repair/reconstruct an existing earthen dam, install a fish ladder, dredge portions of the existing ponds and install a dry hydrant.

APPROVE PERMIT:

Dredge and fill 91,764 square feet of Jaquith Pond to replace existing twin 18-inch culverts with a 12-foot precast concrete span bridge, repair/reconstruct an existing earthen dam, install a fish ladder, dredge portions of the existing ponds and install a dry hydrant.

With Conditions:

1. All work shall be in accordance with plans by Meridian Land Services, Inc. dated March 28, 2008, and revised through March 28, 2008, as received by the Department on March 28, 2008.
2. Work shall be done during annual low flow conditions.
3. All work shall be done under draw down conditions.
4. This permit is contingent on approval by the DES Dam Safety Program.
5. This permit is contingent on approval by the DES Watershed Management Bureau.
6. This permit is contingent upon conversion of .85 acres of open water to scrub-shrub/emergent wetland area.
7. The applicant shall notify the DES Wetlands in writing no less than five (5) days prior to the commencement of construction.
8. 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.
9. The permittee shall designate a qualified professional who will be responsible for monitoring and ensuring that the project and alternative mitigation areas are constructed in accordance with the plan(s). 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.
10. Materials used to emulate a natural channel bottom within the culvert, between wingwalls and beyond must be rounded and smooth stones similar to the natural stream substrate and shall not include angular rip-rap or gravel.
11. Work shall not cause violations (sedimentation and turbidity) of surface water quality standards, in accordance with Env-Ws 1700.
12. Work shall be conducted in a manner so as to minimize turbidity and sedimentation.
13. Appropriate siltation and 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.
14. 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.

15. Machinery shall not be located within surface waters, where practicable.
16. Machinery shall be staged and refueled in upland areas.
17. There shall be no excavation or operation of construction equipment in flowing water.
18. Construction equipment shall be inspected daily for leaking fuel, oil and hydraulic fluid. Faulty equipment shall be repaired prior to entering jurisdictional areas.
19. The contractor shall have appropriate oil spill kits on site and readily accessible at all times during construction and each operator shall be trained in its use.
20. All refueling of equipment shall occur outside of surface waters or wetlands during construction.
21. Dredged material shall be placed outside of the jurisdiction of the DES Wetlands Bureau.
22. Prior to commencing work on a substructure located within surface waters, a cofferdam shall be constructed to isolate the substructure work area from the surface waters.
23. 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.
24. No work within the confined area shall proceed until the cofferdam is fully effective, and water flow is controlled.
25. Temporary cofferdams shall be entirely removed immediately following construction.
26. 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.
27. 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.
28. 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.
29. Area of temporary impact shall be regraded to original contours following completion of work.
30. Mulch within the restoration area shall be straw.
31. Seed mix within the restoration area shall be a native wetland seed mix appropriate to the area and shall be applied in accordance with manufacturer's specifications.
32. Areas from which vegetation has been cleared to gain access to the site shall be replanted with like native species.
33. 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.
34. A post-construction report documenting the status of the completed fish ladder with photographs shall be submitted to the DES Wetlands Bureau within sixty (60) days of the completion of construction.
35. A post-construction report documenting the status of the lowered surface water elevation with photographs shall be submitted to the DES Wetlands Bureau within sixty (60) days of the completion of construction.
36. The permittee or a designee shall conduct a follow-up inspection after the first growing season, to review the success of the transitional area and fish ladder and schedule remedial actions if necessary. A report outlining these follow-up measures and a schedule for completing the remedial work shall be submitted by December 1 of that year. Similar inspections, reports and remedial actions shall be undertaken in at least the second year.

With Findings:

1. This is a major impact project per Administrative Rule Env-Wt 303.02(c), projects that involve alteration of nontidal wetlands, nontidal surface waters, and banks adjacent to nontidal surface waters in excess of 20,000 square feet in the aggregate.
2. This permit is contingent upon approval by the DES Dam Bureau and DES Watershed Management Bureau.
3. In correspondence dated September 20, 2007, the United States Fish and Wildlife Service (USFWS) requested additional fish ladder information.
4. Fish ladder details were submitted to the USFWS on April 18, 2008.
5. In correspondence dated October 17, 2007, the Hancock Conservation Commission (HCC) stated support for the project given

the installed culvert is open-bottomed and a correct width (8-12 feet); the dam is built to proper specification and includes a fish ladder; water diversion for allow for trout passage; dredging maintains shallow areas; pond margins are minimally disturbed; the pond surface water elevation is lowered and the project is completed in 6-8 week spans during the appropriate time of year.

6. The proposal satisfied the HCC concerns.

7. Submitted abutter concerns include: 1) construction window; 2) details for boulder drilling for excavation and sediment and soil information to determine if the material will support slopes and proposed excavation; 3) proposed tool set and equipment methods, staging, hydraulic fluid or oil leakage control methods; and the dewatering culvert may be undersized for peak flows and lack of a contingency plan to deal with large flows.

8. The response submitted March 28, 2008, confirmed the construction window to a 6-8 week period during summer low flows, weekdays from 7:00 AM to 5:00 PM; blasting is not proposed and large rocks encountered during dredging will remain; specific sediment depths and soil types have not been previously determined; the precise toolset will be left to contractors, but given site topography and project scope likely equipment includes large bull dozer to push sediment, excavator to handle the dredge pile(s) and dump truck to transfer fill to the adjacent hay field; the construction will occur during low-flows and in the an excess water, flows will be directed to pond B; plans have been revised to include proposed access ways, staging and dewatering locations;

9. The applicant has placed 200 acres of land abutting Jaquith Pond in conservation easement.

10. Pursuant to Env-Wt 803.06, the proposed alternative mitigation includes: lowering the pond elevation to allow a transitional scrub-shrub/emergent wetland area to naturally revegetate; a fish ladder; replacing the undersized culverts with a 12-foot wide x 8-foot deep open-bottomed precast arch culvert.

11. The alternative mitigation proposal meets the criteria of Env-Wt 803.06.

12. A ditch and stone check dam is proposed along Jaquith Road to filter road runoff.

13. Letters of support from the Hancock Board of Selectman and the Hancock Highway Department dated March 03, 2008, and May 17, 2007, were received by the DES Wetlands Bureau on March 28, 2008.

14. The need for the proposed impacts has been demonstrated by the applicant per Env-Wt 302.01.

15. 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.

16. 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.

17. In accordance with RSA 428-A:8, DES finds that the requirements for a public hearing do not apply as the permitted project is not of substantial public interest, and will not have a significant impact on or adversely affect the values of the lacustrine resource, as identified under RSA 482-A:1.

2007-01794 127 WATER STREET REALTY INC
EXETER Squamscott River

Requested Action:

Requested reconsideration of denial

Conservation Commission/Staff Comments:

Comments and/or concerns regarding this seasonal docking facility received from the Exeter Conservation Commission and NH Dept of Fish & Game have been duly considered in the review of this application and addressed in project specific conditions and findings.

Inspection Date: 10/31/2007 by Frank D Richardson

With Findings:

A. Grounds for Reconsideration

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

1. The applicant specifically objects to Conditions number 5, 6, and 7 which limit the approval to "non-motorized watercraft" and "mid-July" installation.
2. Watermark, as agent for Pairpoint Group, LLC received wetlands permit 2005-788, a permit for a similar structure near this

property. This approval does not include any conditions. The agent did, however, agree to an installation date of mid-June to alleviate a NHFG concern.

3. Watermark feels it is unreasonable to have two docks that are only 55-60 feet apart installed at different times. It certainly makes no sense to install one dock and then wait 30 days to install the other. Watermark disputes the NHFG claim that the Pairpoint dock is at the "confluence of the mainstem channel and the branching channel in deeper water....Both docks are in similar position relative to the channel." Watermark requests that the condition number 5 be modified to substitute "mid-June" for "mid-July".

4. Watermark states that this area is used by powerboats during the upper half of the tidal cycle. There is no restriction on powerboats in this area and the Harbormaster has indicated this by stating that the project will have no negative impact on navigation in this area.

5. Watermark asserts that RSA 482-A provides no additional time for NH Ports & Harbors or NHFG to provide comments and that RSA 482-A:3, XIV states ..."the time limits prescribed by this paragraph shall supersede any time limits provided by any other provision of law." "In fact, we can find no reference in statute or administrative rule that provides a requirement for NH F&G or NH Ports & Harbors to comment or be involved in the process."

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. RSA 482-A:1 provides that it is found to be for the public good and welfare of this state to protect and preserve its submerged lands under tidal and fresh waters and its wetlands, (both salt water and fresh-water), as herein defined, from despoliation and unregulated alteration, because such despoliation or unregulated alteration will adversely affect the value of such areas as sources of nutrients for finfish, crustacea, shellfish and wildlife of significant value, will damage or destroy habitats and reproduction areas for plants, fish and wildlife of importance..."

5. Env-Wt 302.04 provides that(a) For any major or minor project, the applicant shall demonstrate by plan and example that the following factors have been considered in the project's design in assessing the impact of the proposed project to areas and environments under the department's jurisdiction:

(1) The need for the proposed impact;

(2) The alternative proposed by the applicant is the one with the least impact to wetlands or surface waters on site;

(3) The type and classification of the wetlands involved;

(4) The relationship of the proposed wetlands to be impacted relative to nearby wetlands and surface waters;

(5) The rarity of the wetland, surface water, sand dunes, or tidal buffer zone area;

(6) The surface area of the wetlands that will be impacted;

(7) The impact on plants, fish, and wildlife including:

a. Rare, special concern species;

b. State and federally listed threatened and endangered species;

c. Species at the extremities of their ranges;

d. Migratory fish and wildlife; and

e. Exemplary natural communities identified by the New Hampshire Natural Heritage program in the department of resources and economic development.

(8) The impact of the proposed project on public commerce, navigation and recreation;

(9) The extent to which a project interferes with the aesthetic interests of the general public. For example, where an applicant proposes the construction of a retaining wall on the bank of a lake, the applicant shall be required to indicate the type of material to be used and the effect of the construction of the wall on the view of other users of the lake;

(10) The extent to which a project interferes with or obstructs public rights of passage or access. For example, where the applicant proposes to construct a dock in a narrow channel, the applicant shall be required to document the extent to which the dock would block or interfere with the passage through this area;

- (11) The impact upon abutting owners pursuant to RSA 482-A:11, II. For example, if an applicant is proposing to rip-rap a stream, the applicant shall be required to document the effect of such work on upstream and downstream abutting properties;
 - (12) The benefit of a project to the health, safety, and well being of the general public;
 - (13) The impact of a proposed project on quantity or quality of surface and ground water. For example, where an applicant proposes to fill wetlands the applicant shall be required to document the impact of the proposed fill on the amount of drainage entering the site versus the amount of drainage exiting the site and the difference in the quality of water entering and exiting the site;
 - (14) The potential of a proposed project to cause or increase flooding, erosion, or sedimentation;
 - (15) The extent to which a project that is located in surface waters reflects or redirects current or wave energy which might cause damage or hazards;
 - (16) The cumulative impact that would result if all parties owning or abutting a portion of the affected wetland or wetland complex were also permitted alterations to the wetland proportional to the extent of their property rights. For example, an applicant who owns only a portion of a wetland shall document the applicant's percentage of ownership of that wetland and the percentage of that ownership that would be impacted;
 - (17) The impact of the proposed project on the values and functions of the total wetland or wetland complex;
 - (18) The impact upon the value of the sites included in the latest published edition of the National Register of Natural Landmarks, or sites eligible for such publication;
 - (19) The impact upon the value of areas named in acts of congress or presidential proclamations as national rivers, national wilderness areas, national lakeshores, and such areas as may be established under federal, state, or municipal laws for similar and related purposes such as estuarine and marine sanctuaries; and
 - (20) The degree to which a project redirects water from one watershed to another.
6. RSA 482-A:6 provides that the department may deny a petition or impose conditions in a permit to require remedial or protective measures as may be necessary.
7. RSA 212:3, The New Hampshire Endangered Species Conservation Act (ESA) is applicable to DES wetlands permitting review under RSA 482-A. The ESA provides that "[s]pecies of wildlife normally occurring within this state which may be found to be in jeopardy should be accorded such protection as is necessary to maintain and enhance their numbers... and that the state should assist in the protection of species of wildlife which are determined to be threatened or endangered by carefully regulating such activities with regard to threatened species". Additionally, the ESA requires state agencies to cooperate with the New Hampshire Fish and Game Department in protecting endangered species, and voids state laws inconsistent with its provisions. RSA 212-A:8, RSA 212-A:9, III.
8. Essential Fish Habitat (EFH) is defined in the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), as those waters and substrate necessary to fish for spawning, breeding, feeding, or growth to maturity. For the purpose of interpreting the definition of essential fish habitat: Waters include aquatic areas and their associated physical, chemical, and biological properties that are used by fish and may include aquatic areas historically used by fish where appropriate; substrate includes sediment, hard bottom, structures underlying the waters, and associated biological communities; necessary means the habitat required to support a sustainable fishery and the managed species' contribution to a healthy ecosystem; and spawning, breeding, feeding, or growth to maturity covers a species' full life cycle.
9. Pursuant to RSA 482-A:11, III(a) if a conservation commission makes a recommendation to the department in its 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.
10. Pursuant to Env Wt 303.02 (a) projects in tidal waters..except for repair of existing structures are a major project.

C. Findings of Fact and Rulings of Law

1. On July 30, 2007 DES received an application from 127 Water Street Realty, Inc. requesting to "repair an existing wall "in-kind" and to install a seasonal dock which is generally recognized as the least impacting alternative."
2. The project description proposes "to repair approximately 11 linear feet of existing reatining wall. This repair will only involve re-setting approximately 8-10 rocks which have fallen off the wall. This repair is adjacent to, and over, the adjoining property line such that we have included a notarized letter authorizing the work." "We are also proposing a single slip seasonal dock. This will be attached to a concerte pad on shore. This dockage will be removed for the non-boating season. There are no permanent impacts associated with this project."
3. With the wetlands application, the applicant submitted a Memo from the NH Natural Heritage Bureau noting that "This site is

within an area flagged for possible impacts on the state-listed *Alasmidonta varicosa* (brook floater) in the Exeter River."

4. Also included in the application was a listing of several other rare or Threatened species documented by the DRED- NHB in the area including: Climbing Hempweed (Listed Threatened), Small Spike-rush (Listed Threatened), Common Moorhen (not listed), Osprey (Listed Threatened); Pied-billed Grebe (Listed Threatened); Sora (not listed);

5. On August 28, 2007 DES received a letter from the Exeter Conservation Commission (ECC) strongly recommending denial. The ECC scheduled a public hearing to review the application and neither the applicant nor their representative appeared before the ECC. The failure of the applicant to appear at or before the ECC deprived the ECC (in their opinion) of local oversight.

6. Donald Clement, chair of the ECC also provided comments on the area of the proposed impact. "The waterfront area of the Squamscott River is a very fragile and complex body of water. It has a small channel, that by itself is restrictive to public navigation and fishing. About a hundred yards upstream of the proposed dock is the spawning ground for river smelt and herring. Directly across from the proposed dock is the spawning ground for river smelt and herring. Directly across from the proposed dock is a large gravel bar that also provides for spawning fish. This area is also one of the primary passages for migratory herring and alewives. Will this dock in any way alter the flow at these critical sites and therefore impact fishing, navigation and spawning. Except at the very high tide this is a very narrow channel. Administrative rule 402.11 specifies that frontage of less than 75 feet requires dock no larger than 4' by 24'. The applicant has proposed an 8' by 20' dock. This is 64 square feet larger than allowed. The applicant contends that this dock is recognized as the least impacting alternative. Our basic question is 'Compared to what and what are the alternatives?' We feel that the benefit of one individual must be weighed against the overall general benefit of the public and the potential success or failure of the migratory fish program."

7. On December 21, 2007 DES received a letter from the New Hampshire Fish and Game Department (NHFG) Marine Biologist, Cheri Patterson describing her site inspection of the property on November 15, 2007 and included NHFG concerns with, and recommendations for, the project.

8. In its letter dated 12-21-07 NHFG states that the proposed dock would be separated from the mainstem channel of the river by a gravel shoal (see photo 1), that the access to navigable waters may only be possible during the second half of a flood tide through the first half of an ebb tide, and that the existing dock (Photos 2) also has limited potential for navigation during a tide cycle. The letter states that the existing dock is located at the confluence of the mainstem channel and the branching channel in deep water. "This head-of-tide area is extensively utilized as a staging and spawning area for river herring and rainbow smelt, respectively." Secondly, "By placing docks in shallow reaches close to head-of-tide areas, substrate and habitat will be disturbed by boating activity. There may also be additional requests to dredge these areas to allow for easier access to permitted dockage. The essential fish habitat areas should be protected for all species, and more importantly protected for species of concern (such as diadromous fish) as defined by both NHFG and the National Marine Fisheries Service." 9. Therefore NHFG recommended, "in order of priority: 1) no further dockage upstream of the existing dock, or 2) seasonal restriction on the placement of docks in the river. If a dockage season is considered, NHFG recommended new docks to be allowed in this particular area from mid-July until ice-in conditions."

10. NHFG letter continues "however, if seasonal restrictions are considered, the NHFG would like documentation as to who will monitor and enforce the restrictions. Both options would accommodate the significant rainbow smelt and river herring populations that utilize this section of river during the winter through early summer months for feeding and/or spawning staging area. However, the seasonal restriction does not address habitat disruption to other resident species utilizing this area outside of the stated months."

11. On January 9, 2008 DES received a response from Watermark to the NHFG comments. Watermark notes that they addressed these issues for an abutter and that they reached a compromise based on the seasonal herring run. Watermark argues that the same consideration should be given for the subject dock which is only 55 - 60 feet away. "Also, please note that this dockage will typically be used for safe canoe and kayak access to the river. Obviously, a power-boat could use the dock, but only for a few hours each tide cycle and this is not the primary purpose for the structure. The impact of a paddle-powered vessel in shallow water is minimal at best and is certainly no different from anyone entering the area to fish as they do presently. In fact, there will most likely be less impact than the walking around in waders that many of the regular fisherman do in this area. There will be little, if any, disturbance of habitat by this boating activity."

12. On April 15, 2008 DES received another letter from NHFG dated April 15, 2008 commenting on the applicant's motion for reconsideration. NHFG reiterates their first recommendation to have no further dockage upstream of the existing nearby dock. Further, NHFG states "While we did indicate the second option of seasonal restriction placed on dock placement of mid-July until ice-in conditions will minimize impacts to the rainbow smelt, American shad, and river herring essential fish habitat and staging area, it does not address habitat disruption to other resident fish species using this area outside of the stated months."

13. DES would have been required to deny the proposed new dock and associated concrete anchor pad without the necessary protective conditions.

14. It was reasonable for DES to rely on the expertise of the Fish and Game Department with its recommendations on Essential Fish Habitat or impact to fisheries.

- 15. But for acceptance of the protective permit conditions, the applicant had failed to demonstrate that they had addressed 482-A:1, Env Wt 302.04(a)(2), or Wt 302.04(a)(7).
- 16. But for acceptance of the protective permit conditions, the applicant had failed to demonstrate that they had addressed the Exeter Conservation Commission concerns as required by pursuant to RSA 482-A:11, III (a).
- 17. It is within the Department's authority to impose permit conditions to ensure protection of fisheries as recommended by the Fish and Game Department.

-Send to Governor and Executive Council-

2007-02045 WHITNEY, STEVEN & REBECCA
OSSIPEE Ossipee Lake

Requested Action:

Deny reconsideration

Conservation Commission/Staff Comments:

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

DENY RECONSIDERATION:

Deny reconsideration

With Findings:

- 1. On December 14, 2007 DES issued a denail to Steven and Rebecca Whitney for their request fo construct 90 linear feet of retaining wall below elevation 410 and fill 1216 sqft landward of the proposed wall in Ossipee Lake.
- 2. The seven findings of fact and three rulings of law are reaffirmed in this decision.
- 3. In the motion for reconsideration dated January 3, 2008 submitted by Berry Surveying admits to DES finding # 1 and states plan could be labelled to address DES finding
- 4. The applicant states that the road to service two private residences should be considered "public use".
- 5. The applicant feels the road would provide safe passage for the public over that portion of South Shore Road.
- 6. Public waters are held in trust by the state of New Hampshire.
- 7. Pursuant to RSA 482-A:11, II before granting a permit under this chapter, the department may require reasonable proof of ownership by a private landowner-applicant.
- 8. Env-Wt 401.01 provides that the purpose of this chapter is to protect the public trust and other interests of the state of New Hampshire, by: (a) Establishing requirements for the design and construction of structures in order to prevent unreasonable encroachment on surface waters of the State; (b) Preserving the integrity of the surface waters of the state by requiring all structures to be constructed so as to insure safe navigation, minimize alterations in prevailing currents, minimize the reduction of water area available for public use, avoid impacts that would be deleterious to fish and wildlife habitat, and avoid impacts that might cause erosion to abutting properties; and (c) Ensuring that all projects are constructed using the least impacting alternatives, in a manner that meets the requirements of RSA 483-B and shoreline and bank alteration or stabilization requirements.
- 9. The application and plans as submitted do not allow the DES to meet Env Wt 401.01 or RSA 482-A:11, II.

2007-02262 GREENOVA LLC, C/O ALAN MCLAIN
BERLIN Androscoggin River

Requested Action:

Dredge and fill 102,260 square feet (2.35 acres) of palustrine emergent and forested wetlands to construct a wood pellet manufacturing facility within the Berlin Industrial Park. Compensatory mitigation includes a 5.9 acre on-site preservation area along the Androscoggin River and Home Brook, a 3.5 acre off-site preservation parcel along 532 feet of the Androscoggin River, and a 26.7 acre off-site preservation parcel near Mt. Jasper/Dead River area. Several restoration areas (9,810 square feet) and habitat enhancement areas (15,700 square feet) will also be completed pursuant to the plans.

Conservation Commission/Staff Comments:

On 1/14/08, the applicant's agent has requested a time extension of the DES initial review to 2/18/08 as plans are being revised and will be submitted by 2/4/08. The project has greater than 2 acres of proposed wetland impact.

Inspection Date: 07/18/2007 by Lori L Sommer

APPROVE PERMIT:

Dredge and fill 102,260 square feet (2.35 acres) of palustrine emergent and forested wetlands to construct a wood pellet manufacturing facility within the Berlin Industrial Park. Compensatory mitigation includes a 5.9 acre on-site preservation area along the Androscoggin River and Horne Brook, a 3.5 acre off-site preservation parcel along 532 feet of the Androscoggin River, and a 26.7 acre off-site preservation parcel near Mt. Jasper/Dead River area. Several restoration areas (9,810 square feet) and habitat enhancement areas (15,700 square feet) will also be completed pursuant to the plans.

With Conditions:

1. All work shall be in accordance with plans by H.E. Bergeron Engineers dated March 20, 2008, as received by DES on March 26, 2008.
2. This permit is contingent on approval by the DES Terrain Alteration 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. Work shall be done during low flow conditions.
5. Culvert outlets shall be protected in accordance with the DES Best Management Practices for Urban Stormwater Runoff Manual (January 1996) and the Stormwater Management and Erosion and Sediment Control Handbook for Urban and Developing Areas in New Hampshire (August 1992).
6. Discharge from dewatering of work areas shall be to sediment basins that are: a) located in uplands; b) lined with hay bales or other acceptable sediment trapping liners; c) set back as far as possible from wetlands and surface waters, in all cases with a minimum of 20 feet of undisturbed vegetated buffer.
7. Proper headwalls shall be constructed within seven days of culvert installation.
8. Orange construction fencing shall be placed at the limits of construction to prevent accidental encroachment on wetlands and designated buffers along the river.
9. Within three days of final grading in an area that is in or adjacent to wetlands or surface waters, all exposed soil areas shall be stabilized by seeding and mulching during the growing season, or if not within the growing season, by mulching with tack or netting and pinning on slopes steeper than 3:1.
10. Where construction activities have been temporarily suspended within the growing season, all exposed soil areas shall be stabilized within 14 days by seeding and mulching.
11. Where construction activities have been temporarily suspended outside the growing season, all exposed areas shall be stabilized within 14 days by mulching and tack. Slopes steeper than 3:1 shall be stabilized by matting and pinning.
12. The contractor responsible for completion of the work shall utilize techniques described in the DES Best Management Practices for Urban Stormwater Runoff Manual (January, 1996) and the Stormwater Management and Erosion and Sediment Control Handbook for Urban and Developing Areas in New Hampshire (August, 1992).
13. All activity shall be in accordance with the Comprehensive Shoreland Protection Act, RSA 483-B (see attached fact sheet).
14. A post-construction report documenting the status of the completed project with photographs shall be submitted to the Wetlands Bureau within 60 days of the completion of construction.

MITIGATION CONDITIONS:

15. This permit is contingent upon the execution of a conservation easement on three different parcels depicted on plans prepared by HE Bergeron Engineers, Inc. received March 26, 2008 and by draft management plans prepared by Lobdell Associates, Inc. received April 26, 2008.
16. The conservation easements to be placed on the preservation areas shall be written to run with the land, and both existing and future property owners shall be subject to this easement.
17. The plan noting the conservation easements with a copy of the final easement language shall be recorded with the Registry of Deeds Office for each appropriate lot. A copy of the recording from the County Registry of Deeds Office shall be submitted to the DES Wetlands Bureau prior to the start of construction.

18. The conservation easement area shall be surveyed by a licensed surveyor, and marked by monuments [signs] prior to construction.
19. The Wetlands Bureau shall be notified of the placement of the easement monuments [signs] to coordinate on-site review of their location prior to construction.
20. There shall be no removal of the existing vegetative undergrowth within the easement area and the placement of fill, construction of structures, and storage of vehicles or hazardous materials is prohibited.
21. Activities in contravention of the conservation easement shall be construed as a violation of RSA 482-A, and those activities shall be subject to the enforcement powers of the Department of Environmental Services (including remediation and fines).
22. The two trail sections to be abandoned on the Mt. Jasper/Dead River easement shall be relocated out of wetland areas and this work shall coincide with site construction.
23. The two trail sections noted above shall be restored to wetland conditions and shall have at least 75% successful establishment of wetlands vegetation after two (2) growing seasons, or it shall be replanted and re-established until a functional wetland is replicated in a manner satisfactory to the DES Wetlands Bureau.
24. The two trails to be restored shall be properly constructed, landscaped, monitored and remedial actions taken that may be necessary to create functioning wetland areas. 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.
25. Boulders to serve as a barrier at each end of the restored trails shall be placed to deter future use of the abandoned trails.
26. The permittee shall designate a qualified professional who will be responsible for monitoring and ensuring that the restoration and enhancement areas are constructed in accordance with the mitigation plan. Monitoring shall be accomplished in a timely fashion and remedial measures taken if necessary. The Wetlands Bureau shall be notified in writing of the designated professional prior to the start of work and if there is a change of status during the project.
27. The permittee or a designee shall conduct a follow-up inspection after the first growing season, to review the success of the restoration and enhancement 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 1 of that year. Similar inspections, reports and remedial actions shall be undertaken in at least the second and third years following the completion of each restoration and enhancement site.

With Findings:

1. This project is classified as a Major Project per NH Administrative Rule Env-Wt 303.02(c), as impacts are greater than 20,000 square feet.
2. The applicant and their agents held pre-application meetings with DES on February 9, 2007, July 9, 2007 and July 18, 2007 to give an overview of the proposed project within the existing industrial park, and representatives from ACOE, EPA, USFWS, NHF&G, and the City of Berlin were in attendance.
3. On August 15, 2007, an additional pre-application meeting was held with DES and an EPA representative to discuss mitigation proposals.
4. A Standard Dredge and Fill Application was submitted to DES on September 19, 2007 proposing to impact 106,510 square feet (2.45 acres) of wetlands to construct the wood pellet manufacturing facility.
5. The property is owned by the Berlin Industrial Development & Park Authority (BIDPA), which is a department of the City of Berlin that was established under RSA 162-G to promote industrial development.
6. The industrial park was formed in the early 1980's with federal funding, and is served by municipal water, sewer, and natural gas.
7. Approximately half of the site is currently maintained as open fields, and historically the site was part of the Brown Paper Company which managed the fields for the horses that were used in area logging operations.
8. Other manufacturing facilities currently exist within the industrial park, as well as the original Brown Paper Company barns which are now owned by the local historical society.
9. Portions of the property are located within the 100-year floodplain of the Androscoggin River; however, cut and fill volume calculations provided by the applicant's engineer indicate that there will be no loss in flood storage volume.
10. Approximately 88% of the wetlands that are proposed to be impacted are palustrine emergent wetlands that are located within existing fields and have been previously disturbed by past farming, logging and ditching activities. Overall, these previously impacted wetlands have limited functions and values.
11. The applicant (Greenova, LLC) conducted an alternative analysis to search for additional parcels that meet their site requirements, and for numerous reasons, the proposed site within the industrial park was selected.
12. On November 6, 2007, DES representatives conducted a site inspection of the areas that are proposed to be impacted within the industrial park. In addition, several potential mitigation parcels were inspected that qualified as upland buffer preservation. DES

made several on-site recommendations to modify the plans to reduce the overall impact by increasing buffer areas along the brook and river. Overall, DES determined that if the buffer areas are increased then the wetland impacts associated with the development were reasonable given the disturbed condition of the wetlands, and the fact that the industrial park and supporting infrastructure have been well established since the 1980's.

13. On January 14, 2008, the applicant's agent requested a time extension for the initial review timeframe due to plan revisions that were being completed based on the inspection recommendations. The agent agreed to have revised plans submitted to DES by February 4, 2008, and agreed to the initial review being completed by February 18, 2008.

14. On January 15, 2008, DES agreed with the time extension request that the initial review would be completed by February 18, 2008.

15. On January 28, 2008, revised plans were received by DES so that the initial review process could be completed.

16. DES completed the initial review and requested additional information from the applicant on February 7, 2008 based on deficiencies and questions that were found during the review of the application.

17. On March 26, 2008, DES received newly revised plans that addressed comments and concerns that were noted in the request for additional information.

18. The applicant is proposing to mitigate wetland impacts by placing conservation easements on three parcels, which includes a 5.9 acre on-site preservation area along the Androscoggin River and Horne Brook, a 3.5 acre off-site preservation parcel along 532 linear feet of the Androscoggin River, and a 26.7 acre off-site preservation parcel near Mt. Jasper/Dead River area. Several restoration and habitat enhancement measures will also be completed pursuant to the plans.

19. The project meets the requirements and ratios for compensatory mitigation per Chapter Env-Wt 800.

20. The easement language for the three parcels has been drafted with input from the grantees and DES, and appear to be consistent with the current types of use conducted on the parcels.

21. The continued use of pre-existing trails on the Mt. Jasper/Dead River parcel will be monitored by the Department of Resources and Economic Development (DRED) so that no violations of the easement will occur.

22. The need for the proposed impacts has been demonstrated by the applicant per Rule Env-Wt 302.01.

23. 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 Rule Env-Wt 302.03.

24. 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.

25. Public hearing is not required with the finding that the project will not impact wetland areas that are considered to be of special value from a local, regional, or state perspective pursuant to Env-Wt 101.87.

**2007-02703 CHESHIRE COUNTY HOUSE OF CORRECTIONS, JACK WOZMACK
KEENE Unnamed Wetland**

Requested Action:

Dredge and fill 36,990 square feet of palustrine emergent, scrub-shrub and forested wetlands and relocate 810 linear feet of intermittent stream to construct the ± 90,000 square foot Cheshire County House of Corrections facility and associated access ways, parking facilities and stormwater management structures. Create 16,100 square feet of wetlands, including 810 linear feet of intermittent stream. The project has been deemed eligible for payment into the Aquatic Resource Mitigation fund as the form of compensatory mitigation.

APPROVE PERMIT:

Dredge and fill 36,990 square feet of palustrine emergent, scrub-shrub and forested wetlands and relocate 810 linear feet of intermittent stream to construct the ± 90,000 square foot Cheshire County House of Corrections facility and associated access ways, parking facilities and stormwater management structures. Create 16,100 square feet of wetlands, including 810 linear feet of intermittent stream. The project has been deemed eligible for payment into the Aquatic Resource Mitigation fund as the form of compensatory mitigation.

With Conditions:

1. All work shall be in accordance with plans by SMRT dated October 19, 2007, and November 05, 2007, as received by the DES Wetlands Bureau on November 15, 2007 and plans dated April 24, 2008, and revised through March 24, 2008, as received by the DES Wetlands Bureau on April 17, 2008.

2. This approval is contingent on receipt by DES of a one time payment of \$113,033.10 to the DES Aquatic Resource Mitigation (ARM) Fund. The payment shall be received by DES within 120 days of the date of the approval letter or the application will be denied.
3. This permit is contingent on approval by the DES Alteration of Terrain Program.
4. At least 72 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, N.H. to review the conditions of this wetlands permit and the DES Alteration of Terrain Permit. It shall be the responsibility of the permittee to schedule the pre-construction meeting, and the meeting shall be attended by the permittee, his/her professional engineer(s), wetlands scientist(s), and the contractor(s) responsible for performing the work.
5. Work shall be done during low flow conditions.
6. Work shall be conducted in a manner so as to minimize turbidity and sedimentation to surface waters and wetlands.
7. 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.
8. 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.
9. Dredged material shall be placed outside of the jurisdiction of the DES Wetlands Bureau.
10. Proper headwalls shall be constructed within seven days of culvert installation.
11. Culverts shall be laid at original grade.
12. Discharge from dewatering of work areas shall be to sediment basins that are: a) located in uplands; b) lined with hay bales or other acceptable sediment trapping liners; c) set back as far as possible from wetlands and surface waters, in all cases with a minimum of twenty (20) feet of undisturbed vegetated buffer.
13. Dewatering of work areas or of dredge materials, if required, shall be conducted in a manner so as to prevent turbidity.
14. The contractor responsible for completion of the work shall utilize techniques described in the DES Best Management Practices for Urban Stormwater Runoff Manual (January, 1996) and the Stormwater Management and Erosion and Sediment Control Handbook for Urban and Developing Areas in New Hampshire (August, 1992).
15. 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.
16. 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.
17. Where construction activities have been temporarily suspended outside the growing season, all exposed areas shall be stabilized within 14 days by mulching and tack. Matting and pinning shall stabilize slopes steeper than 3:1.
18. This permit is contingent upon the creation 16,100 square feet of wetlands, including 810 liner feet of intermittent stream channel in accordance with the stream relocation plan, sheet W03 and stream relocation details, sheet W04, dated November 05, 2007, and received November 15, 2007.
19. The schedule for construction of the intermittent stream/wetland creation area shall coincide with site construction unless otherwise considered and authorized by the DES Wetlands Bureau.
20. The permittee shall notify DES and the local conservation commission in writing of their intention to commence construction no less than five (5) business days prior to construction.
21. The permittee shall designate a qualified professional who will be responsible for monitoring and ensuring that the creation area is constructed in accordance with the stream relocation plan and details. 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.
22. Wetland soils from areas vegetated with purple loosestrife (*Lythrum salicaria*) shall not be used in the creation site. The potential for the establishment of the invasive species should be considered in other areas where spoils may be spread to limit its further establishment.
23. Only native plant species appropriate to the area shall be planted.
24. 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 and shall contain no reed canary grass (*Phalaris arundinacea*).
25. Mulch used within the wetland creation area shall be natural straw or equivalent.
26. Materials used to emulate a natural channel bottom must be rounded and smooth stones similar to the natural stream substrate and shall not include angular rip-rap or gravel.
27. 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 creation areas during

construction and during the early stages of vegetative establishment.

28. 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.

29. Wetland creation areas shall be properly constructed, landscaped, monitored and remedial actions taken that may be necessary to create functioning wetland areas similar to those of the wetlands destroyed by the project. Remedial measures may include replanting, relocating plantings, removal of invasive species, changing soil composition and depth, changing the elevation of the wetland surface, and changing the hydrologic regime.

29. Wetland creation areas shall have at least 75% successful establishment of wetlands vegetation after two (2) growing seasons, or shall be replanted and re-established until a functional wetland is replicated in a manner satisfactory to the DES Wetlands Bureau.

30. A post-construction report documenting the status of the completed project with photographs shall be submitted to the DES Wetlands Bureau within sixty (60) days of the completion of construction.

31. The permittee or a designee shall conduct a follow-up inspection after the first growing season, to review the success of the stream/wetland creation area and schedule remedial actions if necessary. A report outlining these follow-up measures and a schedule for completing the remedial work shall be submitted by December 1 of that year. Similar inspections, reports and remedial actions shall be undertaken in at least the second year following the completion of each mitigation site.

With Findings:

1. This is a major impact project per Administrative Rule Env-Wt 303.02(c), projects that involve alteration of nontidal wetlands, nontidal surface waters, and banks adjacent to nontidal surface waters in excess of 20,000 square feet in the aggregate.
2. The need for the proposed impacts has been demonstrated by the applicant per Env-Wt 302.01.
3. The applicant has provided evidence which demonstrates that this proposal is the alternative with the least adverse impact to areas and environments under the department's jurisdiction per Env-Wt 302.03.
4. The applicant has demonstrated by plan and example that each factor listed in Env-Wt 302.04(a), Requirements for Application Evaluation, has been considered in the design of the project.
5. Forty-one alternative sites were considered for the Cheshire County Correctional facility.
6. The project site is a result of the subdivision and consolidation of tax map/block/lot 901/23/7, 901/23/29, and 901/23/30, depicted on plans by Chas. h. Shells, Inc. dated May 29, 2007, and revised through August 07, 2007.
7. The project site has been disturbed over a period of 50 years with sand and gravel mining and logging operations.
8. The applicant has received written consent from the NHDOT and owners of lots 1, 3 and 27 (tax map 901, block 23), owners of the properties on which project activities will take place and abutters to the properties on which project activities will take place, for work within 20 feet of their property lines, in accordance with Env-Wt 304.04(a).
9. No comments were submitted from the NHFG Nongame and Endangered Wildlife Program or the Natural Heritage Bureau.
10. In correspondence dated April 04, 2008, the NH Division of Historical Resources determined no historic properties will be impacted by the project.
11. On November 26, 2007 the DES Wetlands Bureau received the Keene Conservation Commission's intent to intervene.
12. The U.S. Environmental Protection Agency requested additional information for the development of lots 2 and 3 including timing, likely impacts and any low-impact development (LID) options. The EPA also requested a vernal pool survey and noted the absence of a mitigation plan.
13. In the April 17, 2008 submittal the Agent discussed LID techniques included in the site-design such as infiltration basins and wet basins. A pervious pavement alternative was also considered, but the groundwater was too high in the parking areas for its use.
14. The April 17, 2008 submittal included a vernal pool survey, which confirmed none of the wetlands on-site meet the definition of a vernal pool.
15. The April 17, 2008 submittal also included revised wetland delineation plans by SMRT dated April 24, 2008, that include an additional wetland, B2. Wetland B2 will not be impacted by the project.
16. In accordance with RSA 428-A:8, DES finds that the requirements for a public hearing do not apply as the permitted project is not of substantial public interest, and will not have a significant impact on or adversely affect the values of the palustrine resource, as identified under RSA 482-A:1.
17. The original mitigation proposal included preservation of a 54.5 acre parcel of County-owned property located in Chesterfield.
18. On March 19, 2008, the DES Wetlands Bureau received comments of concern from the Keene Conservation Commission for

the originally proposed compensatory mitigation preservation parcel.

19. The proposed compensatory mitigation preservation parcel was determined unacceptable because the parcel was not located in the project's watershed.

20. The applicant has reviewed on-site options for mitigation and the department has determined that this project is acceptable for payment to the Aquatic Resource Mitigation (ARM) Fund.

21. The payment calculated for the proposed wetland loss equals \$ 113,033.10.

22. The Department decision is issued in letter form and upon receipt of the ARM fund payment, the Department shall issue a posting permit in accordance with Env-Wt 803.08(f).

23. The payment into the ARM fund shall be deposited in the DES fund for the Connecticut Ashuelot River Vernon Dam to Millers River watershed per RSA 482-A:29.

2007-02945 SIX HIGH STREET LLC
DOVER Cocheco River

Requested Action:

Construct a tidal docking structure consisting of a 6' x 30' permanent pier connecting to a 3' x 46' ramp connecting to a 6' x 20' float, connecting in a T configuration to seven 20' float sections totaling 140', overall structure length 101', providing 9 slips (as defined by RSA 482-A:2, VIII (a)), on 1,045' of frontage on the Cocheco River.

Inspection Date: 04/10/2008 by Dori A Wiggin

APPROVE PERMIT:

Construct a tidal docking structure consisting of a 6' x 30' permanent pier connecting to a 3' x 46' ramp connecting to a 6' x 20' float, connecting in a T configuration to seven 20' float sections totaling 140', overall structure length 101', providing 9 slips (as defined by RSA 482-A:2, VIII (a)), on 1,045' of frontage on the Cocheco River.

With Conditions:

1. All work shall be in accordance with plans by Pickering Marine, dated 11/20/2007, as received by the Department on 12/17/2007.
2. Any future work in jurisdiction as specified in RSA 482-A on this property will require a new application and approval by the Department of Environmental Services ("DES") Wetlands Bureau.
3. This permit shall not be effective until recorded at the Strafford County Registry of Deeds Office by the permittee. A copy of the recorded permit shall be submitted to the DES Wetlands Bureau prior to construction.
4. Appropriate siltation/erosion/turbidity controls shall be in place prior to construction, shall be maintained during construction, and shall remain in until the area is stabilized.
5. 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.
6. Construction of this tidal docking structure consisting of a 6' x 30' permanent pier connecting to a 3' x 46' ramp connecting to a 6' x 20' float, connecting in a T configuration to seven 20' float sections totaling 140', overall structure length 101', providing 9 slips (as defined by RSA 482-A:2, VIII (a)), on 1,045' of frontage on the Cocheco River on Dover Tax Map M Lot 98, shall be the only dock structure on this water frontage and 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.
7. Work shall be done during low tide.
8. Work shall be conducted in a manner so as to minimize turbidity and sedimentation to surface waters and wetlands.
9. Work shall be conducted in a manner that avoids excessive discharges of sediments to fish spawning areas.

With Findings:

1. This is a major impact project per Administrative Rule Wt 303.02(a), projects in sand dunes, tidal wetlands, or bogs, except for the repair of existing structures pursuant to Wt 303.04(v).
2. The need for the proposed impacts has been demonstrated by the applicant per Wt 302.01. There is currently no docking

structure on the property to provide access to the water. The dock will be located on a separate Open Space lot, which contains all the river frontage, and will the dock will be utilized by the 9 interior lot owners.

3. The applicant has provided evidence which demonstrates that this proposal is the alternative with the least adverse impact to areas and environments under the department's jurisdiction per Wt 302.03. The permanent pier is constructed to cross the vegetated tidal resource. The ramp and floats are seasonal, and the structure is the minimum length necessary to reach usable water on the Cocheco River, and is consistent or shorter than docks recently approved in the immediate vicinity. Frontage of 1,045' would support 15 slips pursuant to Env-Wt 402.12; the proposal is limited to 9 slips.
4. The applicant has demonstrated by plan and example that each factor listed in Wt 302.04(a) and (c), Requirements for Application Evaluation, has been considered in the design of the project. The species of concern reported by the NH Natural Heritage Bureau for the project vicinity are either 1/2 mile upstream (low brackish tidal riverbank marsh) or 1 mile +/- downstream (bald eagle), and will be unaffected by the construction of this dock. This project has been reviewed by the Pease Development Authority Division of Ports and Harbors which determined that the project would have no negative effect on navigation, per letter dated 12/28/2007; and the dock is located greater than 20 feet off the abutting property lines.
5. The Dover Conservation Commission intervened on the application, but did not report further.
6. This application has received review of the federal PGP Joint Processing Meeting on 1/17/2008 and was deemed "eligible as proposed" by the National Marine Fisheries ("NMFS"), with the comment that the shared dock system for 9 homes minimizes impacts. The applicant has also submitted Appendix B as requested by NMFS.
7. This dock is consistent with other tidal dock approvals in the seacoast.
8. DES staff field inspection on 2/19/2008 found that the site is accurately represented in the application.

-Send to Governor and Executive Council-

MINOR IMPACT PROJECT

**2007-01630 MERRILL, FRANK & BRANDON GIUDA
CHICHESTER Unnamed Wetland**

**2007-01647 BOYD, IAN & FROLLY
HILLSBOROUGH Gould Pond**

Requested Action:

Remove approximately 336 sq ft of rip rap along 49 linear ft of shoreline and add loam and plant to vegetate the disturbed area and retain approximately 200 sq ft of additional rip rap, 75 ft of frontage on Gould Pond, Hillsborough.

Conservation Commission/Staff Comments:

No Con Com comments by 12/18/07

APPROVE PERMIT:

Remove approximately 336 sq ft of rip rap along 49 linear ft of shoreline and add loam and plant to vegetate the disturbed area and retain approximately 200 sq ft of additional rip rap, 75 ft of frontage on Gould Pond, Hillsborough.

With Conditions:

1. All work shall be in accordance with plans by Meridian Land Services dated April 15, 2008, as received by DES on April 16, 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. 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. Work shall be done during drawdown.
5. Work shall be conducted in a manner so as to minimize turbidity and sedimentation to surface waters and wetlands.
6. Work shall be conducted in a manner that avoids excessive discharges of sediments to fish spawning areas.
7. Rip-rap shall be located landward of the shoreline at the normal high water, where practical, and shall not extend more than 2 feet lakeward of that line at any point.
8. All activity shall be in accordance with the Comprehensive Shoreland Protection Act, RSA 483-B (see attached fact sheet).

With Findings:

1. This is a minor impact project per Administrative Rule Env-Wt 303.03(k), projects that disturb between 50 and 200 linear ft of shoreline on a lake or pond.

**2007-02784 SANDWICH, TOWN OF
SANDWICH Squam Lake**

Requested Action:

Extend an existing public boat ramp 6.5 ft by adding two 3 ft wide concrete logs located at the town beach on Squam Lake, in Sandwich.

Conservation Commission/Staff Comments:

Con Com submitted comments in favor of placing 2 concrete logs, the application states placing 4 concrete logs

APPROVE PERMIT:

Extend an existing public boat ramp 6.5 ft by adding two 3 ft wide concrete logs located at the town beach on Squam Lake, in Sandwich.

With Conditions:

1. All work shall be in accordance with plans as received by DES on March 25, 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 recorded permit shall be submitted to the DES Wetlands Bureau by certified mail, return receipt requested, prior to construction.
3. 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.
4. 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.
5. Appropriate siltation and erosion 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 draw down.
8. There shall be no cutting of trees or removal of any stumps from the bank.
9. Dredged material shall be placed outside of the jurisdiction of the DES Wetlands Bureau.
10. Area shall be regraded to original contours following completion of work.
11. 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(a), projects in or adjacent to any waters of the state that do not meet any of the criteria of Env-Wt 303.02, Env-Wt 303.04 or Env-Wt 303.05.

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 proposed plan is extending an existing boat ramp in an attempt to eliminate future lake bed erosion from boats loading and unloading.

2008-00055 OAK MEADOW LLC
MILFORD Unnamed Wetland

Requested Action:

Dredge and fill 7,514 sq. ft. of a previously disturbed/ excavated palustrine scrub-shrub isolated finger wetland for commercial lot development with appurtenant parking and stormwater treatment facilities.

A conservation easement will be placed on 2.8 acres of this 6.0 acre site, to be held by the Town of Milford in perpetuity.

Conservation Commission/Staff Comments:

"The Milford Conservation Commission reviewed this application at their meeting of February 14, 2008 ... [and] voted to recommend approval of this application as presented."

APPROVE PERMIT:

Dredge and fill 7,514 sq. ft. of a previously disturbed/ excavated palustrine scrub-shrub isolated finger wetland for commercial lot development with appurtenant parking and stormwater treatment facilities.

A conservation easement will be placed on 2.8 acres of this 6.0 acre site, to be held by the Town of Milford in perpetuity.

With Conditions:

1. All work shall be in accordance with plans by Sandford Surveying and Engineering, Inc. dated 11/09/07, as received by DES on January 14, 2008.
2. There shall be no further alteration of wetlands for lot development, driveways, culverts, or for other construction activities.
3. Appropriate siltation/erosion/turbidity controls shall be in place prior to construction, shall be maintained during construction, and remain in place until the area is stabilized. Silt fence(s) must be removed once the area is stabilized.
4. Dredged material shall be placed outside of the jurisdiction of the DES Wetlands Bureau.
5. Culvert outlets shall be protected in accordance with the DES Best Management Practices for Urban Stormwater Runoff Manual (January 1996) and the Stormwater Management and Erosion and Sediment Control Handbook for Urban and Developing Areas in New Hampshire (August 1992).
6. NH DES Wetlands Bureau Southeast Region staff shall be notified in writing prior to commencement of work and upon its completion.

With Findings:

1. This is a minor impact project per Administrative Rule Env-Wt 303.03(h).
2. The need for the proposed impacts has been demonstrated by the applicant per Env-Wt 302.01.
3. The applicant has provided evidence which demonstrates that this proposal is the alternative with the least adverse impact to areas and environments under the department's jurisdiction per Env-Wt 302.03.
4. The applicant has demonstrated by plan and example that each factor listed in Env-Wt 302.04(a) Requirements for Application Evaluation, has been considered in the design of the project.

2008-00202 ROBERTS, DEBORAH
GRANTHAM Stoney Brook

Requested Action:

Dredge and fill approximately 148 sq. ft. of wetlands adjacent to Stoney Brook for after-the-fact approval to retain an 18 ft. span x 12 ft. wide x 4 ft. high open span bridge and associated headwalls and conduct additional stabilization along the new bridge headwalls, removal of the previous bridge and new plantings along the old bridge headers.

APPROVE PERMIT:

Dredge and fill approximately 148 sq. ft. of wetlands adjacent to Stoney Brook for after-the-fact approval to retain an 18 ft. span x 12 ft. wide x 4 ft. high open span bridge and associated headwalls and conduct additional stabilization along the new bridge headwalls, removal of the previous bridge and new plantings along the old bridge headers.

With Conditions:

1. All work shall be in accordance with plans and narratives by A&D Klumb Environmental, LLC plans dated January 21, 2008, and narratives, as received by DES on February 11, 2008.
2. A follow-up monitoring report with photographs and narrative of the completed project shall be prepared by a New Hampshire Certified Wetland Scientist and submitted to the DES Wetlands Bureau, Compliance Section, File #2006-02172. The monitoring report shall be submitted to DES by October 15, 2008.
3. Work shall be done during low flow.
4. Appropriate siltation/erosion/turbidity controls shall be in place prior to construction, shall be maintained during construction, and remain in place until the area is stabilized. Silt fence(s) must be removed once the area is stabilized.
5. Appropriate turbidity controls shall be installed prior to construction, shall be maintained during construction such that no turbidity escapes the immediate dredge area, and shall remain until suspended particles have settled and the water at the work site has returned to normal clarity.
6. Discharge from dewatering of work areas shall be to sediment basins that are: a) located in uplands; b) lined with hay bales or other acceptable sediment trapping liners; c) set back as far as possible from wetlands and surface waters, in all cases with a minimum of 20 feet of undisturbed vegetated buffer.
7. Dredged material shall be placed outside of the jurisdiction of the DES Wetlands Bureau.
8. 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.
9. Construction equipment shall be inspected daily for leaking fuel, oil and hydraulic fluid. Faulty equipment shall be repaired immediately.
10. The contractor shall have appropriate oil spill kits on site and readily accessible at all times during construction and each operator shall be trained in its use.
11. 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 minor impact project per Administrative Rule Env-Wt 303.03(l) Projects that alter the course of or disturb less than 200 linear feet of an intermittent or perennial nontidal stream or river channel or its banks and do not meet the criteria for minimum impact under Env-Wt 303.04(n).
2. The need for the proposed impacts has been demonstrated by the applicant per Env-Wt 302.01. 3. The applicant has provided evidence which demonstrates that this proposal is the alternative with the least adverse impact to areas and environments under the department's jurisdiction per Env-Wt 302.03.
4. The applicant has demonstrated by plan and example that each factor listed in Env-Wt 302.04(a) Requirements for Application Evaluation, has been considered in the design of the project.
5. DES Staff conducted a field inspection of the proposed project on October 16, 2007. A complete inspection report can be found in Wetlands Bureau File #2006-2172.
6. The applicant was required to stabilize the new bridge headwalls, remove the old bridge and add plantings to the banks along the old bridge headwalls.
7. A follow-up monitoring report is required to be completed and submitted to DES by October 15, 2008.

2008-00204 OYSTER RIVER INVESTORS INC
LEE Oyster River & Dube Brook

Requested Action:

Temporarily impact a total of 17,789 sq. ft. of wetlands over 7 locations for installation of lines for a community water system.

APPROVE PERMIT:

Temporarily impact a total of 17,789 sq. ft. of wetlands over 7 locations for installation of lines for a community water system.

With Conditions:

1. All work shall be in accordance with plans by HTE Northeast Inc. dated December 2007, as received by DES on February 8, 2008.
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. Area shall be regraded to original contours following completion of work.
4. 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.
5. Orange construction fencing shall be placed at the limits of construction to prevent accidental encroachment on wetlands.
6. Appropriate siltation/erosion/turbidity controls shall be in place prior to construction, shall be maintained during construction, and remain in place until the area is stabilized. Silt fence(s) must be removed once the area is stabilized.
7. 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.
9. 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 minor impact project per Administrative Rule Env-Wt 303.03(h), projects involving less than 20,000 sq. ft. of alteration in the aggregate in non-tidal wetlands that exceed minimum impact criteria.
2. The need for the proposed impacts has been demonstrated by the applicant per Env-Wt 302.01. The small community water system was developed to provide water to property owners who have lost the ability to have individual wells due to contamination of the area with MTBE.
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 impacts are temporary and confined to wetland edges as much as possible.
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. None of the species of concern reported by the NH Heritage Bureau are located on any of the five permitted properties, and are located outside the greater radius of the project area.
5. The impacts are temporary in nature and therefore do not require mitigation, pursuant to Env-Wt 302.03.
6. The Lee Conservation Commission did not intervene or report on the project.
7. The project is in the vicinity of an impaired water and the permit has been conditioned accordingly.

**2008-00253 FITZPATRIC, RICHARD
MOULTONBOROUGH Lake Winnepesaukee**

Requested Action:

Retain an existing 6 ft x 50 ft seasonal dock and connect it to a 6 ft x 50 ft seasonal dock with a 6 ft x 12 ft seasonal walkway in a "U-shaped" configuration, retain a 6 ft wide ramp accessway, install a 9 ft x 29 ft seasonal canopy and a boat lift within the center boat slip on 200 ft of frontage in Moultonborough on Lake Winnepesaukee.

APPROVE PERMIT:

Retain an existing 6 ft x 50 ft seasonal dock and connect it to a 6 ft x 50 ft seasonal dock with a 6 ft x 12 ft seasonal walkway in a "U-shaped" configuration, retain a 6 ft wide ramp accessway, install a 9 ft x 29 ft seasonal canopy and a boat lift within the center boat slip on 200 ft of frontage in Moultonborough on Lake Winnepesaukee.

With Conditions:

1. All work shall be in accordance with revised plans by Don Carey as received by the Department on February 19, 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. 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. This permit does not authorize maintenance dredging.
6. This permit does not authorize sand deposition.
7. This permit does not authorize retaining wall or rip-rap construction within Wetlands jurisdiction.
8. No portion of the dock shall extend more than 50 feet from the shoreline at the normal high water mark.
9. All portions of the docking facility (docks, seasonal canopy, boatlift, etc) must be removed from the lakebed for 5 months during the non-boating season.
10. The unnecessary removal of vegetation is prohibited.
11. 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.
12. 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 minor 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(a) Requirements for Application Evaluation, has been considered in the design of the project.
5. The proposed dock length of 50 ft was justified to adequately provide three boatslips meeting the definition found in RSA 482-A:2, VIII, on 200 ft of frontage.

2008-00286 NOSSIFF, ALEXANDER
DOVER Tidal Buffer

Requested Action:

Impact 998 sq. ft. of developed upland tidal buffer zone to fill sink holes in yard and provide vegetative stabilization.

APPROVE PERMIT:

Impact 998 sq. ft. of developed upland tidal buffer zone to fill sink holes in yard and provide vegetative stabilization.

With Conditions:

1. All work shall be in accordance with revised plans by NHSC Inc. dated 3/3/2008, as received by DES on 4/24/2008.
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. Area shall be regraded to original contours following completion of work.
4. Orange construction fencing shall be placed at the limits of construction to prevent accidental encroachment on wetlands.
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 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 minor impact project per Administrative Rule Env-Wt 303.03(b), projects in the developed upland tidal buffer zone within 50' of the salt marsh.
- 2. The need for the proposed impacts has been demonstrated by the applicant per Env-Wt 302.01. The property's yard has demonstrated a continuing subsidence the affects the stability of the property.
- 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 proposal represents restoration of the integrity of the buffer zone at this location through natural, vegetative stabilization means.
- 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. No species of concern were reported for the project location by the NH Heritage Bureau.
- 5. This project is within the one mile impaired water buffer, and the permit has been conditioned accordingly.
- 6. The Dover Conservation Commission did not intervene or report on this application.

MINIMUM IMPACT PROJECT

2004-00509 ASHFORD, WILLIAM
ALTON Lake Winnepesaukee

Requested Action:

Amend permit to replace existing timber walls with concrete block.

APPROVE AMENDMENT:

Amend permit to read: Repair/replace one 4 ft x 103 ft 5 in piling pier, five 2 ft x 20 ft 2 in finger piers, five 2 ft X 18 ft 2 in finger piers, one 2 ft x 30 ft 8 in piling pier connected by a 2 ft by 19 ft 10 in walkway to a 2 ft by 30 ft 8 in pier, replace a 47 ft timber retaining wall with 4 pilings with concrete block wall, a 28 ft 9 in timber retaining wall with 2 pilings with concrete block wall, and a 4 ft x 14 ft 6 in wharf in kind on 249 ft of frontage in Glidden Cove, Lake Winnepesaukee.

With Conditions:

- 1. All work shall be in accordance with plans by Folsom Design Group dated March 15, 2004, as received by the Department on March 29, 2004, and amendment plans dated February 22, 2008, as received by the Department on February 27, 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. This permit does not allow for maintenance dredging.
- 5. 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.
- 6. Work shall be carried out in a time and manner such that there will be no disturbance to migratory waterfowl breeding areas or fish spawning areas.
- 7. Repairs to these structures may be conducted, as necessary, throughout the duration of this permit provided that the permittee

notifies the Wetlands Bureau and Conservation Commission, in writing, of the proposed start and completion date prior to performing any repair.

8. This permit to replace or repair existing structures shall not preclude the DES from taking any enforcement action or revocation action if it later determines that any "existing structures" were not previously permitted or grandfathered in their current configuration.
9. Repairs shall maintain existing size, location and configuration.
10. All construction related material and debris shall be placed outside of the jurisdiction of the DES Wetlands Bureau.
11. 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 Wt 303.03(v), repair/replacement of existing docking structures.
2. The need for the proposed impacts has been demonstrated by the applicant per Wt 302.01.
3. The applicant has provided evidence which demonstrates that this proposal is the alternative with the least adverse impact to areas and environments under the department's jurisdiction per Wt 302.03.
4. The applicant has demonstrated by plan and example that each factor listed in Wt 302.04(a) Requirements for Application Evaluation, has been considered in the design of the project.

2007-00880 POTHIER, WILLIAM
NEWMARKET Lamprey River

Requested Action:

Retain repair of 150 linear ft. of non-tidal drainage way bank in the developed upland tidal buffer zone, and repair, regrading, and stabilization of 2,090 sq. ft. of the developed upland tidal buffer zone following April 2007 flood events.

Inspection Date: 05/02/2007 by Dori A Wiggin

APPROVE AFTER THE FACT:

Retain repair of 150 linear ft. of non-tidal drainage way bank in the developed upland tidal buffer zone, and repair, regrading, and stabilization of 2,090 sq. ft. of the developed upland tidal buffer zone following April 2007 flood events.

With Conditions:

1. All work shall be in accordance with plans by Alexandra Braun, Architect dated 1/18/2008, as received by DES on 2/11/2008.
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.

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' of the highest observable tide line that are not minor or major as defined by Env-Wt 303.03 or 303.02 respectively.
2. The need for the proposed impacts has been demonstrated by the applicant per Env-Wt 302.01. The upland driveway was severely damaged by washout during the April 2007 flood events.
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 work represents in-kind repair and stabilization.
4. The applicant has demonstrated by plan and example that each factor listed in Env-Wt 302.04(b) Requirements for Application Evaluation, has been considered in the design of the project. There were no species of concern reported by the NH Natural Heritage Bureau for the property.
5. The Newmarket Conservation Commission did not report.

Requested Action:

Replace in-kind two existing barn buildings, one 875 sq. ft., and one 500 sq. ft., in the developed upland tidal buffer zone, including replacement of deteriorated substandard piling foundation with concrete foundation footings within the same footprint.

APPROVE PERMIT:

Replace in-kind two existing barn buildings, one 875 sq. ft., and one 500 sq. ft., in the developed upland tidal buffer zone, including replacement of deteriorated substandard piling foundation with concrete foundation footings within the same footprint.

With Conditions:

1. All work shall be in accordance with revised plans by Alexandra Braun, Architect dated 3/18/2008, as received by DES on 3/24/2008.
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. 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.

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' of the highest observable tide line that are not minor or major as defined by Env-Wt 303.03 or 303.02 respectively.
2. The need for the proposed impacts has been demonstrated by the applicant per Env-Wt 302.01. The foundation piling-type footings were damaged by the April 2007 floods and have been unstable since. The buildings are deteriorated (but not abandoned), and the applicant wishes to replace them in-kind.
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. All work will be in the same footprint.
4. The applicant has demonstrated by plan and example that each factor listed in Env-Wt 302.04(b) Requirements for Application Evaluation, has been considered in the design of the project. No species of concern were reported by the NH Heritage Bureau for the property.
5. The Newmarket Conservation Commission did not report.
6. The proposed replacement is compliant with the Comprehensive Shoreland Protection Act.

**2007-01622 ROCHESTER, CITY OF
BARRINGTON Round Pond**

Requested Action:

Amend permit conditions 4 and 5 with regard to work timing requirements, specifically, to extend completion date from October 1st, with water level restored by October 15, to work finished by November 15th, and water level restored by November 31st.

APPROVE AMENDMENT:

Temporarily impact 2,500 sq. ft. to install temporary support mats in the dry if needed on existing fill area of pond bottom for access, and replace in-kind an existing water intake structure.

With Conditions:

1. All work shall be in accordance with revised plans by Wright-Pierce Engineers dated 1/30/2008, as received by DES on 2/4/2008.
2. Any further alteration of areas on this property that are within the jurisdiction of the DES Wetlands Bureau will require a new application and further permitting by the Bureau.
3. Work shall be done during drawdown.
4. AMENDED: Work shall be completed no later than November 15th.
5. AMENDED: Water shall be returned to normal level no later than November 31st to ensure protection to Blandings turtles.
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.

With Findings:

1. The change in water level timing and work dates has been reviewed and accepted by the NH Fish & Game Department.

2008-00128 W/S STATELINE LLC
SALEM Unnamed Wetland

Requested Action:

Dredge and fill a 2,770 sq. ft. isolated, previously disturbed wetland, containing invasive species, for work associated with the redevelopment of an existing shopping center.

Conservation Commission/Staff Comments:

The Salem Conservation Commission, reviewed the application, visited the site and recommends approval of the application.

APPROVE PERMIT:

Dredge and fill a 2,770 sq. ft. isolated, previously disturbed wetland, containing invasive species, for work associated with the redevelopment of an existing shopping center.

With Conditions:

1. All work shall be in accordance with plans by RJ O'Connell & Associates, Inc. dated February 2, 2007 (last revised 01/23/08), as received by DES on January 28, 2008.
2. This permit is contingent on approval by the DES Alteration of Terrain Program.
3. Appropriate siltation/erosion/turbidity controls shall be in place prior to construction, shall be maintained during construction, and remain in place until the area is stabilized. Silt fence(s) must be removed once the area is stabilized.
4. Dredged material shall be placed outside of the jurisdiction of the DES Wetlands Bureau.
5. Culvert outlets shall be protected in accordance with the DES Best Management Practices for Urban Stormwater Runoff Manual (January 1996) and the Stormwater Management and Erosion and Sediment Control Handbook for Urban and Developing Areas in New Hampshire (August 1992).

2008-00189 JACOBS, MARK & ALISSA
NEW CASTLE Atlantic Ocean

Requested Action:

Perform construction work and landscaping in 680 sq. ft. of the previously developed upland tidal buffer zone to replace a bituminous paved driveway with "pervious pavers".

Conservation Commission/Staff Comments:

"At its February 5, 2008 meeting, the [New Castle] Conservation Commission reviewed the Jacobs' Standard Dredge & Fill Application and voted to recommend approval of the application."

APPROVE PERMIT:

Perform construction work and landscaping in 680 sq. ft. of the previously developed upland tidal buffer zone to replace a bituminous paved driveway with "pervious pavers".

With Conditions:

1. All work shall be in accordance with plans by Jones & Beach Engineers, Inc. dated 10/29/07 (last revised 1/18/08), as received by DES on February 07, 2008.

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. 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. NH DES Wetlands Bureau Southeast Region staff shall be notified in writing prior to commencement of work and upon its completion.

2008-00427 FRIDAY, PAUL
MONT VERNON Unnamed Wetland

Requested Action:

Dredge and fill 2,100 sq. ft. of palustrine forested/ scrub-shrub wetlands to construct a driveway/ culvert crossing to access a single family dwelling on a 42 acre parcel of land.

Conservation Commission/Staff Comments:

The Mont Vernon Conservation Commission did not sign the Minimum Impact Expedited application nor did they submit any comments.

APPROVE PERMIT:

Dredge and fill 2,100 sq. ft. of palustrine forested/ scrub-shrub wetlands to construct a driveway/ culvert crossing to access a single family dwelling on a 42 acre parcel of land.

With Conditions:

1. All work shall be in accordance with plans by Meridian Land Services, Inc. dated March 11, 2008, as received by DES on March 24, 2008.
2. This permit is contingent on approval by the DES Subsurface Systems Bureau.
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. 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. Culvert outlets shall be protected in accordance with the DES Best Management Practices for Urban Stormwater Runoff Manual (January 1996) and the Stormwater Management and Erosion and Sediment Control Handbook for Urban and Developing Areas in New Hampshire (August 1992).
6. NH DES Wetlands Bureau Southeast Region staff shall be notified in writing prior to commencement of work and upon its completion.

EXPEDITED MINIMUM

2007-02587 MCQUISTON, BETSY
NEW DURHAM Merrymeeting Lake

Requested Action:

Repair an existing stone retaining wall.

DENY PERMIT-INSUFFICIENT & UNTIMELY RESP:

Repair an existing stone retaining wall.

With Findings:

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

2008-00002 KONING, ROBERT & MARY LOU
GILFORD Lake Winnepesaukee

Requested Action:

Amend permit to add a 5 ft by 4 ft concrete anchor pad.

Conservation Commission/Staff Comments:

Con Com signed Exp Application

APPROVE AMENDMENT:

Repair an existing 125 linear feet of retaining wall in kind and install a 5 ft x 4 ft concrete anchor pad for the existing 5 ft x 30 ft seasonal dock, 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, and amendment request plans amended April 2008, as received by the Department on April 04, 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.

2008-00117 ANGELOPOULOS, JOHN
ALTON Lake Winnepesaukee

Requested Action:

Stabilize an existing eroding area by constructing 13 linear ft of stone retaining wall, planting native vegetation and constructing a 80 sq ft perched beach with a 5 ft access way to the waterbody on Lake Winnepesaukee, Alton.

Conservation Commission/Staff Comments:

Con Com signed Exp Application

APPROVE PERMIT:

Stabilize an existing eroding area by constructing 13 linear ft of stone retaining wall, planting native vegetation and constructing a 80 sq ft perched beach with a 5 ft access way to the waterbody on Lake Winnepesaukee, Alton.

With Conditions:

1. All work shall be in accordance with plans as received by DES on April 08, 2008, and email as received on April 25, 2008.
2. Appropriate siltation/erosion/turbidity controls shall be in place prior to construction, shall be maintained during construction, and remain in place until the area is stabilized. Silt fence(s) must be removed once the area is stabilized.
3. Dredged or excavated material shall be placed outside of the DES Wetlands Bureau jurisdiction.
4. 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 (Elevation 504.32). Those rocks existing at the normal high water line shall remain otherwise undisturbed such that the natural shoreline remains identifiable.
5. The steps installed for access to the water shall be located completely landward of the normal high water line.
6. No more than 8 cu. yds. of sand may be used and all sand shall be located above the normal high water line.
7. This permit shall be used only once, and does not allow for annual beach replenishment.
8. The permittee shall provide appropriate diversion of surface water runoff to prevent erosion of beach area.
9. 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.
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(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 proposed wall and beach construction will stabilize an area previously disturbed on the frontage and is less impacting than constructing a beach in the entire disturbed area.

**2008-00419 NEWINGTON ENERGY LLC, ALAN DOUGLASS
NEWINGTON Piscataqua River**

Requested Action:

Construct 660 linear ft. of security fence in the developed upland tidal buffer zone to prevent unauthorized access to power facility.

APPROVE PERMIT:

Construct 660 linear ft. of security fence in the developed upland tidal buffer zone to prevent unauthorized access to power facility.

With Conditions:

1. All work shall be in accordance with plans by TRC Environmental dated March 2008, as received by DES on March 21, 2008.
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. Only enough vegetation to allow installation of fence shall be removed.

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' of the highest observable tide line that are not minor or major as defined by Env-Wt 303.03 or 303.02 respectively.
2. The need for the proposed impacts has been demonstrated by the applicant per Env-Wt 302.01. The fence is necessary to provide security to the power facility.
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 fence is confined to its own minimal footprint with minimal vegetation to be removed to allow installation of the fence.

- 4. The applicant has demonstrated by plan and example that each factor listed in Env-Wt 302.04(b) Requirements for Application Evaluation, has been considered in the design of the project. No species of concern were reported by the NH Heritage Bureau for this site.
- 5. The Newington Conservation Commission signed the expedited application.

GOLD DREDGE

2008-00604 DEARBORN, VIRGINIA
(ALL TOWNS) Unnamed Stream

Conservation Commission/Staff Comments:
cc: Bath Con Comm

2008-00605 DEARBORN, DENNIS
(ALL TOWNS) Unnamed Stream

Conservation Commission/Staff Comments:
cc: Bath Con Comm

2008-00633 SICELY, JOSEPH
(ALL TOWNS) Unnamed Stream

Conservation Commission/Staff Comments:
cc: Bath Con Comm

LAKES-SEASONAL DOCK NOTIF

2008-00602 LAROSE, DONNA
BARRINGTON Ayer's Pond

COMPLETE NOTIFICATION:
Barrington, NH Tax map 108 Lot 7
Ayers Pond

2008-00603 PALMER / TODD, FRANKLIN / SUSAN
BARRINGTON Swains Lake

COMPLETE NOTIFICATION:
Barrington, NH Tax map 115 Lot 29
Swain's Lake

ROADWAY MAINTENANCE NOTIF

**2008-00601 NH DEPT OF TRANSPORTATION
GREENVILLE Unnamed Stream**

COMPLETE NOTIFICATION:
Replace existing 36" CMP 45 feet in length

**2008-00629 PELHAM, TOWN OF
PELHAM Unnamed Stream**

COMPLETE NOTIFICATION:
Replace existing 24" culvert with a 36" culvert & headwall

**2008-00630 PELHAM, TOWN OF
PELHAM Unnamed Stream**

COMPLETE NOTIFICATION:
Replace existing 12" culvert with 18" culvert

**2008-00631 PELHAM, TOWN OF
PELHAM Unnamed Stream**

COMPLETE NOTIFICATION:
Replace existing 24" culvert with 36" culvert and headwall

PERMIT BY NOTIFICATION

**2008-00139 BISSON, JANET
WALPOLE Unnamed Pond**

Requested Action:
Deny reconsideration

With Findings:

1. On January 30, 2008, DES received a Permit By Notification (PBN) from Janet Bisson requesting to excate accumulated sediment in man-made farm pond. Project Number # 3: Maintenance dredging of nontidal drainage ditches, man-made ponds and nontidal spillways.
2. On January 31, 2008 DES issued a Notice of Incomplete Permit By Notification Form to Ms. Bisson and provided a courtesy copy to agent, Hal Wilkins.
3. DES requested the applicant address the wetlands requirements for the PBN process as follows:

- a. The work must be done within the original bounds of a legally-constructed project;
 - b. The project must not be located adjacent to prime wetlands;
 - c. The work does not exceed 20,000 sq.ft.; and
 - d. For man-made ponds, the pond must not have been "abandoned" as defined in Env Wt 101.01.
4. Additionally, DES requested evidence that the pond as legally constructed had been maintained in the last five years and the following information:
- a. Photographs that clearly illustrate the resource at the inlet and the outlet,
 - b. Existing and proposed topography on the overview plan;
 - c. Wetland delineation in accordance with Env Wt 301.01;
 - d. Plans that include reference points visible in photographs;
 - e. Clarification of any required dewatering methods;
 - f. Clarification of the area where dredge materials will be deposited is not wetlands.
5. In the January 31, 2008 letter it provided that if the requested information is not received within 20 days from the date of the letter, the application will be disqualified from the notification process and a new application will be required.
6. Env Wt 303.04(k) established minimum impact projects where: "Maintenance dredging, when necessary to provide continued usefulness of nontidal drainage ditches, man-made ponds, and spillways, provided that:
- (1) The work is done within the original bounds of a legally-constructed project;
 - (2) The project is not located in or adjacent to prime wetlands;
 - (3) The work does not exceed 20,000 square feet; and;
 - (4) For man-made ponds, the pond has not been abandoned as defined in Env-Wt 101.01;
7. Env-Wt 506.02 set out the Permit by Notification Procedures for Qualifying Projects. "A project qualifying for permit by notification under Env-Wt 506.01 shall be processed in the following manner: (a) The applicant shall file 5 copies of signed permit by notification forms with the town clerk in the town where the project is to occur;
- (b) The town clerk shall sign all copies, distribute them in accordance with RSA 482-A:3, I, and forward one copy by certified mail to the department;
 - (c) After filing the completed permit by notification forms with the town clerk, the applicant may proceed with the project:
 - (1) After 10 days, provided the application contains a waiver of intervention from the conservation commission, or if none, the local governing body; or
 - (2) After 25 days, unless disqualified from the permit by notification process;
 - (d) Once the applicant complies with (c)(1) or (2) above, the applicant shall post the completed and signed permit by notification form at the site prior to commencing the project;
 - (e) If the department determines that a permit by notification form is incomplete, the department shall send a notice of incompleteness to the applicant and the local governing body identifying any deficiencies and notifying the applicant that the applicant shall not proceed with the project;
 - (f) If the applicant provides the department and local governing body with the information necessary to correct all deficiencies cited pursuant to (e), above, within 20 days following issuance of the written notice of incompleteness, the applicant may proceed with the project as follows:
 - (1) After 10 days following receipt of the information by the department, provided the application contains a waiver of intervention from the conservation commission, or if none, the local governing body; or
 - (2) After 25 days following receipt of the information by the department, unless the project is disqualified from the permit by notification process;
 - (g) If the applicant fails to provide the department and local governing body with the information necessary to correct all deficiencies cited pursuant to (e), above, within 20 days following issuance of the written notice of incompleteness, the notice of incompleteness shall disqualify the project from the permit by notification process provided the notice states in full the reasons why the project does not qualify for permit by notification review;
 - (h) Upon disqualification of the project from the permit by notification process, the applicant may refile a completed permit by notification form in accordance with this section, or file a standard or expedited application pursuant to Env-Wt 501 or Env-Wt 505 respectively.
 - (i) Within 10 days following completion of the project, the applicant shall submit to the department confirmation of completion of the project, by either paper copy or electronically, with dated, labeled, photograph(s), mounted on 8½" x 11" sheets if paper copy, or digital photo(s) if electronic, depicting the areas where the impact occurred.
8. On February 16, 2008 DES did receive an email from Hal Wilkins "accepting conditions" from requests for 3 a, b, and c above.
9. Under the PBN process the PBN form and submissions serve as the permit. DES does not issue a paper permit with permit

conditions. DES posts electronic approval for PBNs on the internet.

10. The February 16, 2008 email did state that new plans will be provided.

11. On February 27, 2008 DES did receive new plans showing where the wetlands were in relation to the pond. It is still not where the dredge spoils will be placed from the plan. Photo locations are not shown either.

12. DES has still not received photos clearly depicting the pond in question. The photos submitted are under heavy snow cover.

13. The submissions, eventhough incomplete, were not timely.

14. To continue with the project, the application is required to submit a new PBN form, fee and required plans and attachments.

**2008-00506 BANCROFT, CHRISTOPHER
WAKEFIELD Great East Lake**

Requested Action:

Repair/replace existing grandfathered boathouse in-kind.

PBN IS COMPLETE:

Repair/replace existing grandfathered boathouse in-kind.

With Findings:

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

**2008-00577 MEYER, ROBERT & JANE
LYME Unnamed Pond**

Requested Action:

Dredge and fill approximately 110 sq. ft. of wetlands (farm pond) for installation of a dry hydrant for fire protection.

Conservation Commission/Staff Comments:

1. The Conservation Commission signed the PBN application waiving its right to intervene on the proposed project pursuant to RSA 482-A:11.

PBN IS COMPLETE:

Dredge and fill approximately 110 sq. ft. of wetlands (farm pond) for installation of a dry hydrant for fire protection.

With Findings:

1. This is a minimum impact project per Administrative Rule Env-Wt 303.04(w) Excavation of less than 10 linear feet within the bank and bed of a surface water that does not exceed 200 square feet in total jurisdictional impact to the bed, for installation of a dry hydrant and Administrative Rule Env-Wt 506.01 Projects Qualifying for Permit by Notification.

(a)(6) The excavation of less than 10 linear feet within the bank and bed of a surface water that does not exceed 200 square feet in total jurisdictional impact to the bed, that meets the criteria in Env-Wt 303.04(w).

**2008-00606 BITTNER, KURT & CARMEN
TUFTONBORO Lake Winnepesaukee**

Requested Action:

Replace/repair existing crib supported docking facility.

APPROVE PERMIT:

Replace/repair existing crib supported docking facility.

With Findings:

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