

# Wetlands Bureau Decision Report

Decisions Taken  
06/02/2008 to 06/08/2008

## **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**

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**2005-00817                      500 NORTH ROAD REALTY TRUST LLC**  
**EPSOM   Unnamed Wetland**

**Requested Action:**

Amend permit to change the impact areas as the profile of the road has changed and approve the stream water diversion plan.

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**Conservation Commission/Staff Comments:**

Conservation Commission comments have been incorporated into design; is willing to hold mitigation conservation easement.

Inspection Date: 09/13/2005 by Dori A Wiggin

**APPROVE AMENDMENT:**

Dredge and fill a total of 35,257 square feet of palustrine forested wetlands over a total of 11 locations to construct roadway crossings for a 37-lot subdivision on 122 acres, including the following: wetlands impact #1: 1,400 sq. ft. crossing and installation of a 36" x 45' culvert; wetland impact #2: 1,580 sq. ft. crossing fill; wetland impact #3: 4,480 sq. ft. and installation of a 36" x 45' culvert; wetland impact #4: 7,620 sq. ft. and installation of a 10' x 4' x 50' spanning structure; wetland impact #5: 8,460 sq. ft. and installation of a 36" x 64' culvert, and installation of a second 36" x 80' culvert; wetland impact #6: 4,950 sq. ft. and installation of a 15" x 46' culvert; wetland impact #7: 175 sq. ft. shoulder fill; wetland #8: 542 sq. ft. bridge abutments; wetland impact #9: 1,650 sq. ft. crossing fill; wetland impact #10: 1,550 sq. ft. and installation of a 15" 54' culvert; wetland impact #11: 2,850 sq. ft. and installation of a 48" x 95' culvert.

Approve as mitigation a conservation easement on 15.56 acres (5.03 upland and 10.53 wetland) associated with the Little Bear Brook on the property to be held by the Town of Epsom Conservation Commission.

**With Conditions:**

1. All work shall be in accordance with plans by Eric C Mitchell and Associates dated May27, 2008, as received by the Department on May 28, 2008.
2. This permit is contingent on approval by the DES Site Specific Program.
3. This permit is contingent on approval by the DES Subsurface Systems Bureau.
4. This permit shall not be effective until it has been recorded with the Registry of Deeds Office by the Permittee. A copy of the registered permit shall be submitted to the DES Wetlands Bureau.
5. Record conservation easement plan by Eric Mitchell and Associates Inc., entitled "Conservation Easement Plat, Tax Map R-15, Lots 4, 4-12, & 4-34, North Road, Epsom, NH for Graystone Builders" dated 7/29/2005, for each appropriate lot within 10 days from receipt of this decision and submit a certified receipt from the Merrimack County Registry of Deeds to the DES Wetlands Bureau.
6. There shall be no further alteration of wetlands for lot development, driveways, culverts, or for septic setback.
7. The deed which accompanies the sales transaction for each of the lots in this subdivision shall contain condition #6 of this approval.
8. At least 48 hours prior to the start of construction, a pre-construction meeting shall be held with NHDES Land Resources Management Program staff at the project site or at the DES Office in Concord, N.H. to review the conditions of this wetlands permit and the NHDES Site Specific Permit. It shall be the responsibility of the permittee to schedule the pre-construction meeting, and the meeting shall be attended by the permittee, his/her professional engineer(s), wetlands scientist(s), and the contractor(s) responsible for performing the work.
9. 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).
10. Orange construction fencing shall be placed at the limits of construction to prevent accidental encroachment on wetlands.
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. Silt fencing must be removed once the area is stabilized.

13. 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.
14. Unconfined work within the river, exclusive of work associated with installation of a cofferdam, shall be done during periods of low flow.
15. Cofferdams shall not be installed during periods of high flow, whether due to seasonal runoff or precipitation. Once a cofferdam is fully effective, confined work can proceed without restriction.
16. 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.
17. Temporary cofferdams shall be entirely removed immediately following construction.
18. 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.
19. 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.
20. 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.
21. 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.
22. Proper headwalls shall be constructed within seven days of culvert installation.
23. 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).
24. Dredged material shall be placed outside of the jurisdiction of the DES Wetlands Bureau.
25. Work shall be done during low flow.

Wetland preservation:

1. This permit is contingent upon the execution of a conservation easement on 15.53 acres as depicted on plans by Eric Mitchell and Associates Inc., entitled "Conservation Easement Plat, Tax Map R-15, Lots 4, 4-12, & 4-34, North Road, Epsom, NH for Graystone Builders" dated 7/29/2005, received 8/3/2005, to be held by the Town of Epsom, with stewardship by the Epsom Conservation Commission.
2. 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.
3. The plan noting the conservation easement 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.
4. The applicant shall prepare a report summarizing existing conditions within the conservation area. Said report shall contain photographic documentation of the easement area, and shall be submitted to the DES and the grantee prior to construction to serve as a baseline for future monitoring of the easement area.
5. The conservation easement area shall be surveyed by a licensed surveyor, and marked by monuments [stakes] prior to construction.
6. The Wetlands Bureau shall be notified of the placement of the easement monuments to coordinate on-site review of their location prior to construction.
7. 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.
8. 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).

With Findings:

Reaffirm findings 1 through 8 of the original permit decision:

1. This is a major impact project per Administrative Rule Wt 303.02(c), alteration of non-tidal wetlands, surface waters and adjacent banks in excess of 20,000 square feet; and per Rule Wt 303.02(i), projects that alter or disturb more than 200 linear feet of an intermittent or perennial stream or its banks.

2. The need for the proposed impacts has been demonstrated by the applicant per Wt 302.01. It is necessary to cross wetlands to reach buildable uplands throughout this 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 Wt 302.03. The project has confined the wetland crossings to the narrowest locations practicable given the steep nature and extreme variations of the topography of the site. The impacts are limited to road crossings, with no further impact proposed for driveways or lot development.
4. The applicant has further examined alternatives by providing comparative plan of designs for certain crossings with respect to necessity of culvert installation and the associated increase in impact.
5. The applicant has mitigated for unavoidable impacts in accordance with Chapter Wt 800, and has provided a 15.53 acre (5.03 acres of upland and 10.53 acres of wetlands) conservation easement associated with the Little Bear Brook on the property that exceeds the ratio requirements stated in Wt 803.05 for 38,125 square feet of forested wetlands impact. The Town of Epsom has submitted written verification dated 10/24/2005 as received by DES on 11/03/2005 stating that they are willing to accept the easement and provide stewardship.
6. 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. The project received a DES Site-Specific permit on 9/16/2005. There were no NHI hits for this project. Concerns expressed by the Epsom Conservation Commission regarding enlarging culverts for wildlife passage have been addressed by the applicant by installing a large, natural bottom box culvert, and a bridge at the more significant crossing locations. Hydrologic connectivity of the wetlands will be maintained by installing culverts in certain locations identified in the culvert analysis where none were previously proposed, and the road was re-aligned to provide protection to a vernal pool identified on-site.
7. DES Staff conducted a field inspection of the proposed project on 9/13/2005. Field inspection observations verified that the crossings could not be further minimized by reasonable engineering practices due to the nature of the site's steep and varied topography, and that the applicant's use of large pipes, box culverts, and a bridge represent positive response to the more significant crossings.
8. The public hearing is waived with the finding that the project impacts will not significantly impair the resources of this wetland ecosystem.

And makes the following additional findings:

9. The impacts for the overall project decreased as the profile of the road was lowered.
10. The applicant has provided an adequate dewatering plan and therefore condition number 8 has been removed from the permit.

**2008-00037                      MILES, MICHAEL & KAREN**  
**NEW LONDON   Lake Sunapee**

**Requested Action:**

Construct a 6 ft x 29 ft piling pier and a 6 ft x 30 ft piling pier connected by a 6 ft x 10 ft walkway in a "U" configuration and drive two 3 piling ice clusters for protection all at a location to the south of an existing 8 ft x 30 ft crib pier with a 10 ft x 18 ft 6 in seasonal canopy on an average of 498 ft of frontage on Lake Sunapee, in New London.

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**DENY PERMIT:**

Construct a 6 ft x 29 ft piling pier and a 6 ft x 30 ft piling pier connected by a 6 ft x 10 ft walkway in a "U" configuration and drive two 3 piling ice clusters for protection all at a location to the south of an existing 8 ft x 30 ft crib pier with a 10 ft x 18 ft 6 in seasonal canopy on an average of 498 ft of frontage on Lake Sunapee, in New London.

**With Findings:**

**Standards for Approval**

1. Rule Env-Wt 401.02 states that, in addition to the requirements of Chapter Env-Wt 400, applications for shoreline structures shall be subject to the applicable requirements of Chapter Env-Wt 300.
2. In accordance with Rule Env-Wt 302.03, Avoidance, Minimization, and Mitigation, applicants are required to avoid impacts to the maximum extent possible and utilize the least impacting alternative for those impacts that cannot be avoided.
3. In accordance with Rule Env-Wt 302.04, Requirements for Application Evaluation (a), applicants shall provide documentation

that the proposed project is necessary and is the least impacting alternative.

4. Rule Env-Wt 302.04, Requirements for Application Evaluation (d), states that the Department shall not grant a permit if there is a practicable, less impacting alternative.

5. Rule Env-Wt 402.20, Modification of Existing Structures, requires that any modification of an existing non-conforming structure result in a reduction of environmental impact or in a reduction in the construction surface area over public submerged lands and number of slips provided.

6. In accordance with RSA 482-A:3, XIV (b), "Any request for additional information shall specify that the applicant submit such information as soon as practicable and shall notify the applicant that if the requested information is not received within 120 days of the request, the Department shall deny the application."

#### Findings of Fact

1. On January 22, 2008 the application to construct permanent docking facilities providing 3 slips on property identified as New London tax map 90, lot 3 (the Property) was determined to be administratively complete.

2. The property is comprised of a peninsula and has an average of 498 ft of frontage along Lake Sunapee in New London. There is a pre-existing, non-conforming 8 ft x 30 ft crib pier and 10 ft x 18 ft 6 in seasonal canopy on the north-facing side of the peninsula.

3. The proposed permanent 3-slip docking facility would be located on the southwest-facing side of the peninsula.

4. On March 24, 2008, the Department issued a Request for More Information Letter to the Applicant which clearly specified that if the information requested was not received, then the application would be denied.

5. In the March 24, 2008 Request for More Information the Department explained that it had not received documentation that the disturbance of new areas of the shoreline and lakebed for the construction of a second docking facility was the least impacting alternative docking solution. The Department requested that the Applicant either provide evidence that the proposal with the least impacting alternative solution or provide revised plans for the replacement of the existing, non-conforming 2 -slip structure with a conforming 5-slip structure.

6. In the March 24, 2008 Request for More Information the Department noted that the orientation of the peninsula was such the north-facing side was sheltered enough to allow the utilization of seasonal docking facilities. The Department informed the applicant that any request for permanent piers on the southwest-facing shore would require documentation explaining how constructing permanent docking facilities in one location when a second, disturbed, location that would allow the use of seasonal structures was available, would be the least impacting alternative.

7. On May 14, 2008, the Department received a response to the Request for More Information Letter.

8. In the response the Applicant offered no documentation supporting the proposal as the least impacting alternative other than the opinion that the need to remove the existing non-conforming structure in order to build a conforming structure would be a "destructive alternative" and "a much greater impact than simply constructing a new piling dockage".

#### Rulings in Support of the Decision

1. The Applicant failed to submit documentation that impacts have been avoided to the maximum extent possible and that the proposal is the least impacting alternative solution as required per Rule Env-Wt 302.03.

2. In accordance with Rule Env-Wt 302.04, the Department shall not grant a permit for this project, because the Applicant failed to provide evidence that the proposed project was the least impacting alternative.

3. The Applicant failed to provide either the documentation required per Rules Env-Wt 302.03 and Env-Wt 302.04 or a revised plan for a single, conforming, 5-slip seasonal structure as requested on March 24, 2008 and, therefore, the application is denied as required per RSA 482-A:3, XIV,(b).

### **2008-00252                      LOVERUD-WOLFEBORO REALTY TRUST WOLFEBORO Lake Winnepesaukee**

#### Requested Action:

Replace an existing 2 slip, 40 ft 2 in x 40 ft 6 in boathouse and associated crib supported docking structures with a 38 ft x 38 ft boathouse with 2 interior slips supported by a "W" shaped, crib supported docking facility consisting of a 16 ft x 66 ft pier, a 6 ft x 34 ft pier an a 12 ft x 52 ft pier connected by a 55 ft walkway measuring 18 ft in width at its widest point accessed by a 6 ft x 17 ft walkway on an average of 350 ft of frontage in Winter Harbor on Lake Winnepesaukee, Wolfeboro.

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**APPROVE PERMIT:**

Replace an existing 2 slip, 40 ft 2 in x 40 ft 6 in boathouse and associated crib supported docking structures with a 38 ft x 38 ft boathouse with 2 interior slips supported by a "W" shaped, crib supported docking facility consisting of a 16 ft x 66 ft pier, a 6 ft x 34 ft pier and a 12 ft x 52 ft pier connected by a 55 ft walkway measuring 18 ft in width at its widest point accessed by a 6 ft x 17 ft walkway on an average of 350 ft of frontage in Winter Harbor on Lake Winnepesaukee, Wolfeboro.

**With Conditions:**

1. All work shall be in accordance with overview plans by Watermark Marine Construction dated January 3, 2008, as received by DES on February 19, 2008, architectural plans by Don Hammerburg Associates revised December 3, 2007, as received by DES on May 15, 2008, and the construction sequence outlined in correspondence from Watermark Marine Construction dated May 12, 2008 received by DES on May 15, 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. 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.
4. All construction related debris shall be placed outside of the jurisdiction of the DES Wetlands Bureau.
5. Only rocks from the existing cribs shall be used for in the reconstruction / replacement of the facility. No additional rocks shall be brought on site.
6. This permit does not allow for maintenance dredging.
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. Future repairs shall maintain the approved size, location, and configuration of the structures.
9. 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.
10. 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.
11. These shall be the only structures on this water frontage and all portions of the docking structures shall be at least 20 ft from the abutting property lines or the imaginary extension of those lines into the water.
12. 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.
13. There shall be no changing rooms within the new facilities.
14. All activity shall be in accordance with the Comprehensive Shoreland Protection Act, RSA 483-B (see attached fact sheet).

**With Findings:**

1. This project is classified as a major docking facility per Rule Env-Wt 303.02 (d), construction of a docking facility providing 5 or more slips.
2. The proposed modifications to the docking facilities will not increase the number of slips provided and will decrease the square footage of construction surface area over public submerged lands and, therefore, meets the requirements of Rule Env-Wt 402.20, Modification of Existing Structures.
3. The applicant has an average of 350 feet of shoreline frontage along Lake Winnepesaukee.
4. A maximum of 5 slips may be permitted on this frontage per Rule Env-Wt 402.12, Frontage Over 75'.
5. The pre-existing docking facility provides 6 boat slips.
6. The proposed docking facility will provide the same number of slips as the pre-existing structures.
7. The public hearing is waived with the finding that the project impacts will not significantly impair the resources of Lake Winnepesaukee.

-Send to Governor and Executive Council-

**MINOR IMPACT PROJECT**

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**2007-02126 SISTERS OF HOLY CROSS  
MANCHESTER Unnamed Wetland**

Requested Action:

Dredge and fill 5,800 sq. ft. of wetlands for access and storm water drainage structures for a 12-lot residential subdivision ("Phase 1").

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APPROVE PERMIT:

Dredge and fill 4,015 sq. ft. of wetlands for access to a 12-lot residential subdivision ("Phase 1"). Work in wetlands includes two crossings for the construction of "Dove Lane", which includes a 18 in. x 70 ft. RCP culvert with associated headwalls, grading and filling and installation of 24 in. x 123 ft. RCP culvert with associated headwalls, grading and filling. The project also includes a 1,000 sq. ft. of temporary wetlands impact to provide access for the creation of 15,550 sq. ft. of wetlands adjacent to the proposed development areas.

With Conditions:

1. All work shall be in accordance with plans by CLD Consulting Engineering Inc. ("CLD"), plan sheet D7 ("Civil Details") dated July 2007, as received by DES on September 7, 2007 and plan sheet C2-1 and C3-1, revision dated May 8, 2008, plan sheet WI, dated May 8, 2008, and narratives by Gove Environmental Services, Inc. ("GES"), dated May 8, 2008, as received by DES on May 9, 2008 and plan by CLD, plan sheet C2 ("Overall Site Plan"), as received by DES on June 6, 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. Work shall be done during low flow.
5. There shall be no further alteration of wetlands for lot development, driveways, culverts, or for septic setback.
6. The deed which accompanies the sales transaction for each of the lots in this subdivision shall contain condition #5 of this approval.
7. This permit shall not be effective until it has been recorded with the Hillsborough 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.
8. Proper headwalls shall be constructed within seven days of culvert installation.
9. Dredged material shall be placed outside of the jurisdiction of the DES Wetlands Bureau.
10. 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.
11. Within three days of final grading in an area that is in or adjacent to wetlands or surface waters, all exposed soil areas shall be stabilized by seeding and mulching during the growing season, or if not within the growing season, by mulching with tack or netting and pinning on slopes steeper than 3:1.
12. Where construction activities have been temporarily suspended within the growing season, all exposed soil areas shall be stabilized within 14 days by seeding and mulching.
13. Where construction activities have been temporarily suspended outside the growing season, all exposed areas shall be stabilized within 14 days by mulching and tack. Slopes steeper than 3:1 shall be stabilized by matting and pinning.
14. 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. Construction equipment shall be inspected daily for leaking fuel, oil and hydraulic fluid. Faulty equipment shall be repaired immediately.
16. 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.

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

**Wetland Creation:**

18. This permit is subject to the submission and approval by DES of a planting plan for the wetland creation areas. The planting plan shall include woody plant species, size, spacing, and wetland indicator status.

19. Wetland creation areas 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.

20. The wetland creation areas shall be completed prior to the completion of the permitted wetlands impacts.

21. The wetland creation areas shall be completed no later than October 1, 2009.

22. The wetland creation areas shall be created in accordance with the plan entitled "Wetland Restoration Plan", submitted by GES, and dated May 8, 2008.

23. A pre-construction meeting with DES shall be held at the site prior to the start of the wetland creation work to ensure that the contractor is aware of the desired result and the actions necessary to achieve successful wetland creation.

24. A site inspection report shall be prepared by the environmental consultant within 30 days of the completion of the wetland creation areas. The report shall be submitted to DES and include photographs and a narrative describing the work. 25. Subsequent inspection reports shall be submitted to DES every 6 months thereafter for a period of two years after completion of the wetland creation areas to document the success of the wetland creation areas.

**With Findings:**

1. This is a minor impact project per Administrative Rule Env-Wt 303.03(h) Projects involving less than 20,000 square feet of alteration in the aggregate in nontidal wetlands, nontidal surface waters, or banks adjacent to nontidal surface waters which exceed the criteria of Env-Wt 303.04(f).

2. The need for the proposed impacts has been demonstrated by the applicant per Env-Wt 302.01. 3. The applicant has provided evidence which demonstrates that this proposal is the alternative with the least adverse impact to areas and environments under the department's jurisdiction per Env-Wt 302.03.

4. The applicant has demonstrated by plan and example that each factor listed in Env-Wt 302.04(a) Requirements for Application Evaluation, has been considered in the design of the project.

5. DES requested that the proposed wetland impacts be reduced by moving the cul-de-sac further south out of wetlands and by using more conventional wetland culvert crossings.

6. The applicant provided the requested changes and wetlands impacts have been further reduced from 5,800 sq. ft. to 4,015 sq. ft. of impacts.

7. The applicant provided plans which include the "Phase 2" development consisting of two additional lots created by the subdivision. The Phase 2 development includes a multiple unit lot (15 units) and a redevelopment lot containing an assisted living and elderly housing center. There are no wetlands impacts proposed for the Phase 2 development.

8. DES did not received any comments from the NH Fish and Game Department regarding the proposed project.

9. DES received a complaint on November 7, 2007 alleging that wetlands had been filled on the Property without a permit.

11. On February 11, 2008, DES received a soil report and "Aerial Photo and Soil Report" prepared by Gove Environmental Services, Inc., ("GES"). GES determined that wetlands had been filled on the site from 1952 to 1962 prior to jurisdiction with additional fill over previous filled over the next 30 years.

12. DES has determined, through analysis of aerial photographs dating back to 1952, that wetlands on the Property had been gradually and pervasively filled over a 50 year period.

13. The applicant proposes to mitigate for the above-referenced historical wetland loss by creating approximately 15,500 sq. ft. of wetlands in two restoration areas ("wetland creation areas").

14. The wetland creation areas will connect existing wetlands on the site.

15. The US Environmental Protection Agency (EPA) requested information regarding the presence of a vernal pools on the site. DES requested this information in the Request for More Information ("RFMI") dated November 19, 2007.

16. The applicant responded that no vernal pools are located on the site.

17. DES has not received any further comments from EPA regarding vernal pools on the site.

Requested Action:

Requested reconsideration

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DENY RECONSIDERATION:

Reconsideration denied

With Findings:

A. Grounds for Reconsideration

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

1. The permit approval is not for a boathouse approval. The project is a reconfiguration. Env Wt 402.08 does not prohibit boathouses, but rather prohibits approval of a boathouse. The application is concerning an existing grandfathered structure, it already exists and shall be subject to modification under Env Wt 402.20.
2. This proposal meets the plain meaning of Env Wt 402.20.
3. Their proposal is a lesser impacting alternative and meets the plain reading of Env Wt 402.20. This is a reconfiguration, not a new structure.
4. This is not new construction and is similar to numerous other approvals. This project has been carefully designed to meet Env Wt 402.20.
5. This is not a new boathouse.
6. Based on the website database, this file was shown as administratively incomplete on January 7, 8, and 9, 2008 and shown as "under technical review" as of January 10, 2008.
7. The applicant submitted the appropriate filing fee in response to the DES Notice of Administrative Completeness on December 20, 2007.
8. On January 3, 2008 the application was deemed administratively complete by DES.

B. Standards and Process for Review

1. RSA 482-A:10, II requires a request for reconsideration to describe in detail each ground for complaint. No ground not set forth in the request for reconsideration can be considered by the Wetlands Council or the Superior Court (if further appeal is taken), except as provided in paragraph VIII of that section.
2. RSA 482-A:10, III provides that on reconsideration, DES will receive and consider any new and additional evidence presented, and make findings of fact and rulings of law in support of its decision after reconsideration.
3. RSA 482-A:10, V provides that the burden of proof is on the party seeking to set aside DES's decision to show that the decision is unlawful or unreasonable.
4. If DES is persuaded that a request for reconsideration of a permit denial was erroneous, the result is that the permit originally requested would be granted.
5. Pursuant to Env Wt 101.71 "repair" means the restoring of an existing legal structure by partial replacement of worn, broken, or unsound parts.
6. "Replacement" means the substitution of a new structure for an existing legal structure with no change in size, dimensions, location, configuration, construction, or which conforms in all material aspects to the original structure.
7. Env Wt 402.08 provides that (a) "Boathouses located over the waters shall not be approved".
8. Env Wt 402.07 provides that "Canopies shall be constructed so as not to obstruct views from adjacent property or interfere with boating or swimming safety. The fabric covering of a canopy shall be removed from locations over surface waters during seasons of non-use."

9. Env Wt 101.08 provides that a "Boathouse" means a docking facility which has a permanent roof with or without sides covering the boat slip or slips.
10. Env Wt 401.01 provides that "(a) The purpose of this chapter is to protect the public trust and other interest of the state of New Hampshire, by establishing requirements for the design and construction of structures in order to prevent unreasonable encroachment on the surface waters of the State."
11. Env Wt 402.20 provides that "The department shall not approve any change in size, location, or configuration of an existing structure unless the applicant demonstrates, and the department finds, that the modification is less environmentally-impacting or provides for fewer boat slips and less construction surface area over public submerged lands than the current configuration."
12. RSA 482-A:3, XIV establishes the process that DES must follow when processing applications and establishes deadlines by which decisions must be made.

### C. Findings of Fact and Rulings of Law

1. The subject application was received on October 10, 2007 and was determined to be administratively complete on January 3, 2008.
2. On October 10, 2007 DES received a "Certification of Grandfathered Shoreline Structures" signed and dated by Michelle Walker certifying that the shoreline structure she is requesting to repair or replace was either previously permitted or grandfathered. Below the certification are two questions requesting the date of the installation and any previous permit information. These two questions were left blank.
3. Enclosed with the application were photographs of the frontage showing existing permanent canopy and its associated permanent docks, walkway and stairs.
4. A fee of \$207.20 was enclosed with the application.
5. Notification to the abutter stating that "we are proposing to reconfigure the existing dockage resulting in a reduction in surface area impacts and to "perch" the existing beach by adding a low wall and granite steps across the front of the beach area (all work above Full Lake)".
6. By letter dated October 15, 2007 DES issued a Notice of Administrative Incompleteness and requested an additional application fee. The Administrative Completeness letter was issued by DES Wetlands Bureau Staff Vanessa Burnes.
7. RSA 482-A:3, XIV (a) provides that in processing an application for permits under this chapter, except for a permit by notification, the department shall: (a) Within 14 days of receipt by the department, issue a notice of administrative completeness or send notice to the applicant, the address provided on the application, identifying any additional information required to make the application administratively complete and providing the applicant with the name and telephone number of the department employee who may be contacted regarding the application. Each receipt of additional information in response to any notice shall re-commence the 14-day period until the department issues a notice of administrative completeness.
8. The cover letter and check that DES received on December 20, 2007 was not sent to the attention of the DES-Wetlands Bureau contact employee, Vanessa Burnes.
9. There are two state holidays between December 20 and January 3; Christmas and New Year's Day.
10. By letter dated December 3, 2007 Commissioner Burack wrote a letter to agent Watermark Marine Construction, Paul Goodwin explaining the legal basis for DES request for additional fees and detailed analysis of the method of calculating the fee.
11. On December 20, 2007 DES submitted a check to DES with a copy of Commissioner Burack's letter attached.
12. On January 3, 2008 DES issued a Notice of Completeness to the applicant.
13. DES processed the application in a timely manner.
14. On January 17, 2008 Watermark submitted a more detailed analysis of the proposed project and included detailed overlay showing the proposed new location of the docking and permanent canopy/boathouse facility.
15. Under the applicant's request the existing facility would have be completely removed and there are substantial changes to the proposed location and design of the boathouse over all.
16. The new design provides the same number of boatslips.
17. The existing boathouse as constructed could not be approved pursuant to Env Wt 401.01 or Env Wt 402.08.
18. The proposed removal, relocation and reconstruction constitutes new construction.
19. If Env Wt 402.20 did apply, the applicant has not demonstrated that the proposed new design and relocation is less environmentally impacting. The applicant has not demonstrated how removing of the cribs under the permanent docks would be less environmentally impacting.
20. The proposed project is inconsistent with Env Wt 401.01, Env 402.08.
21. The applicant has not met his/her burden of proving that the DES's decision was unlawful or unreasonable.

**2007-02476                      KINGSBURY, WENDY**  
**MOULTONBOROUGH   Lake Winnepesaukee**

Requested Action:

Install 2 ice clusters and retain and repair 2 tie off pilings, a 6 ft x 35 ft piling pier and a 6 ft x 34 ft piling pier connected by a 7 ft x 12 ft walkway in a "U" configuration, 20 linear ft of timber retaining wall, 34 linear ft of stone retaining wall, along the normal high water line, and 70 linear ft of stone retaining wall forming the landward perimeter of a 47 ft x 12 ft beach on 200 ft of frontage on lake Winnepesaukee, in Moultonborough.

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APPROVE PERMIT:

Install 2 ice clusters and retain and repair 2 tie off pilings, a 6 ft x 35 ft piling pier and a 6 ft x 34 ft piling pier connected by a 7 ft x 12 ft walkway in a "U" configuration, 20 linear ft of timber retaining wall, 34 linear ft of stone retaining wall, along the normal high water line, and 70 linear ft of stone retaining wall forming the landward perimeter of a 47 ft x 12 ft beach on 200 ft of frontage on lake Winnepesaukee, in Moultonborough.

With Conditions:

1. All work shall be in accordance with plans by Watermark Marine Construction as revised May 9, 2008 and received by DES on May 15, 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. 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.
4. The repairs shall maintain the size, location, and configuration of structures as shown on the plan noted in Condition #1.
5. Appropriate siltation, erosion, and turbidity controls shall be in place prior to construction, maintained during construction, and shall remain until the area is stabilized.
6. 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.
7. Work shall be carried out in a time and manner such that disturbance to migratory waterfowl breeding areas and spawning areas shall be avoided.
8. Existing rocks which have fallen from the retaining walls shall be used for repair. No additional rocks shall be brought on site.
9. These shall be the only structures on this water frontage and all portions of the docking structures shall be at least 20 ft from the abutting property lines or the imaginary extension of those lines into the water.
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 minor impact project per Administrative Rule Env-Wt 303.03(d), modification of a 3 slip permanent docking facility.
2. The existing structures were constructed in excess of, or without permits, over 12 years ago by the previous owner of the property.
3. At this time, given the vegetation that has taken hold above the walls, the impacts associated with the removal of the walls and restoration of the shoreline outweigh the potential environmental gains.

**2007-02950                      BURBANK, MURIEL**  
**HOOKSETT   Unnamed Stream Wetland**

Requested Action:

Approve name change to: Muriel Burbank, PO Box 2042, Hampton NH 03843 per request received 5/30/2008. Previous owner: D & D Property Management.

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APPROVE NAME CHANGE:

Dredge and fill a total of 9315 square feet of isolated and man made wetland for access and lot development in the construction of a

medical office building on 16.95 acres.

With Conditions:

1. All work shall be in accordance with plans by Jones and Beach Engineers Inc. dated October 25, 2007, and revised through February 26, 2008, as received by the Department on March 24, 2008
2. This permit is contingent on approval by the DES Alteration of Terrain Program.
3. There shall be no further alteration of wetlands for lot development, driveways, culverts, or for septic setback.
4. At least 48 hours prior to the start of construction, a pre-construction meeting shall be held with NHDES Water Division permitting staff at the project site or at the DES Office in Concord, N.H. to review the conditions of this wetlands permit and the NHDES Site Specific Permit. It shall be the responsibility of the permitted to schedule the pre-construction meeting, and the meeting shall be attended by the permitted, 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.
6. Orange construction fencing shall be placed at the limits of construction to prevent accidental encroachment on wetlands.
7. Appropriate siltation/erosion controls shall be in place prior to construction, shall be maintained during construction, and remain until the area is stabilized. Silt fence(s) must be removed once the area is stabilized.
8. Discharge from dewatering of work areas shall be to sediment basins that are: a) located in uplands; b) lined with hay bales or other acceptable sediment trapping liners; c) set back as far as possible from wetlands and surface waters, in all cases with a minimum of 20 feet of undisturbed vegetated buffer.
9. Dredged material shall be placed outside of the jurisdiction of the DES Wetlands Bureau.
10. Area of impacts within the detention basin shall be regraded to original contours following completion of work, unless otherwise permitted by Alteration of Terrain.
11. Mulch within the detention basin area shall be straw.
12. Seed mix within the detention basin area shall be a wetland seed mix appropriate to the area and shall be applied in accordance with manufacturers specifications.
13. 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.
14. 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.
15. 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.
16. Silt fencing must be removed once the area is stabilized.

With Findings:

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

**2008-00312                      WATSON SHORES NOMINEE TRUST**  
**MOULTONBOROUGH Lake Winnepesaukee**

Requested Action:

Retain a "U-shaped" docking facility consisting of two 6 ft x 40 ft seasonal docks connected by an existing 6 ft x 12 ft seasonal walkway, and construct two 4 ft x 6 ft concrete anchoring pads, construct a 28 ft x 24 ft perched beach with 4 ft wide lake access stairs on an average of 154 ft of frontage in Moultonborough on Lake Winnepesaukee.

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APPROVE PERMIT:

Retain a "U-shaped" docking facility consisting of two 6 ft x 40 ft seasonal docks connected by an existing 6 ft x 12 ft seasonal walkway, and construct two 4 ft x 6 ft concrete anchoring pads, construct a 28 ft x 24 ft perched beach with 4 ft wide lake access stairs on an average of 154 ft of frontage in Moultonborough on Lake Winnepesaukee.

With Conditions:

1. All work shall be in accordance with revised plans by Folsom Design and Construction Management, as received by DES on May 22, 2008.
2. This permit is contingent upon the approval and completion of a wetland restoration plan as needed to address the compliance issues outlined in File 2007-2222.
3. This permit shall not be effective until it has been recorded with the appropriate 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.
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. This permit does not authorize maintenance dredging.
6. The steps installed for access to the water shall be located completely landward of the normal high water line.
7. No more than 1 cubic yard of rock/lakebed material may be removed lakeward of the normal high water mark for beach stair lake access
8. No more than 20 cubic yards of sand may be used and all sand shall be located above the normal high water line.
9. This permit shall be used only once, and does not allow for annual beach replenishment.
10. The permittee shall provide appropriate diversion of surface water runoff to prevent erosion of beach area.
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. 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.
13. Unnecessary removal of vegetation is strictly prohibited.
14. Seasonal docks shall be removed from the lakebed annually for 5 months during the non-boating season.
15. Concrete anchoring pads shall be completely landward of the normal high water mark elevation.
16. All activity shall be in accordance with the Comprehensive Shoreland Protection Act, RSA 483-B (see attached fact sheet).

With Findings:

1. This is a minor impact project per Administrative Rule Env-Wt 303.03(f) construction of a beach that exceeds 10 cubic yards of sand.
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.

**2008-00381                      COMMONS DEVELOPMENT**  
**THORNTON   Unnamed Wetland**

Requested Action:

Dredge and fill approximately 9,181 sq. ft. (includes 1,734 sq. ft. of temporary impacts) of wetlands and associated intermittent streams for construction of access roads to a proposed 42-lot subdivision ("Phase 1") on approximately 90 acres of a 342 acre parcel comprised of 4 existing lots. Work in wetlands consists of 7 impacts areas, which include 2 impact areas for re-grading, re-directing and re-vegetation of created wetland drainages, 2 impact areas for roadway grading, 2 impact areas for removal of an existing culvert within an intermittent stream and replacement with an open bottom box culvert and a temporary impact area for restoration of the associated intermittent stream channel.

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APPROVE PERMIT:

Dredge and fill approximately 9,181 sq. ft. (includes 1,734 sq. ft. of temporary impacts) of wetlands and associated intermittent

streams for construction of access roads to a proposed 42-lot subdivision ("Phase 1") on approximately 90 acres of a 342 acre parcel comprised of 4 existing lots. Work in wetlands consists of 7 impacts areas, which include 2 impact areas for re-grading, re-directing and re-vegetation of created wetland drainages, 2 impact areas for roadway grading, 2 impact areas for removal of an existing culvert within an intermittent stream and replacement with an open bottom box culvert and a temporary impact area for restoration of the associated intermittent stream channel.

With Conditions:

1. All work shall be in accordance with plans by SFC Engineering Partnership Inc., dated March 3, 2008, and narratives by Stoney Ridge Environmental, dated March 7, 2008, as received by DES on March 13, 2008.
2. This permit is contingent on approval by the DES Alteration of Terrain Program.
3. This permit is contingent on approval by the DES Subsurface Systems Bureau.
4. The permit is contingent on approval by the Town for work on Town property or work within Town rights-of-way.
5. Work shall be done during low flow.
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. 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.
8. There shall be no further alteration of wetlands for lot development, driveways, culverts, or for septic setback for the proposed building lots contained in "Phase 1" of the subdivision.
9. The deed which accompanies the sales transaction for each of the lots in Phase 1 of the subdivision shall contain condition #8 of this approval.
10. This permit shall not be effective until it has been recorded with the Grafton 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.
11. Any new materials used within the bed and banks of the stream channel of the proposed open bottom box culvert and stream restoration areas shall be similar to the natural stream substrate and shall not include angular rip-rap.
12. A post-construction report shall be prepared by a Certified Wetlands Scientist ("CWS"). The report shall document the status of box culvert installation and stream channel restoration areas with photographs and narratives and be submitted to the Wetlands Bureau within 60 days of the completion of construction.
13. Plantings used within the restoration areas shall have at least 75% successful establishment of vegetation after one full growing seasons, or the areas shall be replanted and re-established in a manner satisfactory to the DES Wetlands Bureau.
14. There shall be no excavation or operation of construction equipment in flowing water.
15. 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.
16. Dredged material shall be placed outside of the jurisdiction of the DES Wetlands Bureau.
17. Proper headwalls shall be constructed within seven days of culvert installation.
18. 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.
19. 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.
20. 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.
21. 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).
22. Construction equipment shall be inspected daily for leaking fuel, oil and hydraulic fluid. Faulty equipment shall be repaired immediately.
23. 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.
24. All refueling of equipment shall occur outside of surface waters or wetlands during construction.

With Findings:

1. This is a minor impact project per Administrative Rule Env-Wt 303.03(h) Projects involving less than 20,000 square feet of alteration in the aggregate in nontidal wetlands, nontidal surface waters, or banks adjacent to nontidal surface waters which exceed the criteria of Env-Wt 303.04(f).
2. The need for the proposed impacts has been demonstrated by the applicant per Env-Wt 302.01.
3. The applicant has provided evidence which demonstrates that this proposal is the alternative with the least adverse impact to areas and environments under the department's jurisdiction per Env-Wt 302.03.
4. The applicant has demonstrated by plan and example that each factor listed in Env-Wt 302.04(a) Requirements for Application Evaluation, has been considered in the design of the project.
5. The applicant has provided the requirements of Administrative Rule Env-Wt 304.09 for Phase 1 and "conceptual" Phase 2. Supplemental topography information and wetland information was submitted for the remaining lands that will not be developed. The areas outside of Phase 1 and Phase 2 have very steep topography and would likely not be further developed. Additionally, the town has required that only 67 lots could be developed on the site. The detailed wetland delineation and topography information submitted with the application covers the entire 67-lot area for Phase 1 and Phase 2.
6. The applicant provided additional site plans that include proposed topography outside of the wetland impact areas.
7. A waiver has been submitted in accordance with Administrative Rule Part Env-Wt 204 to address work in wetlands that is within 20 feet of an abutting property per Administrative Rule Env-Wt 304.04.
8. The applicant attempted to obtain an agreement from the affected abutter but was unable to receive a response.
9. DES has not received any objections regarding the proposed project from the affected abutter or others.
10. The proposed wetland impact is within an existing non-maintained town road.
11. The proposed work in wetlands is down slope of the affected property owner.
12. The proposed upgrade will address ongoing erosion located at the impact site.
13. The permit is conditioned that it does not convey a property right, nor authorize any injury to property of other, nor invasion of rights of others.
14. Based on findings #8 through #13 the waiver request was approved.
15. DES received a copy of a letter from the Army Corps of Engineers (ACOE), dated April 21, 2008. The letter was to inform the applicant that the project was ineligible for authorization under the Federal Programmatic General Permit (PGP) because the US Environmental Protection Agency (EPA) and US Fish and Wildlife Service (USFWS) expressed concerns regarding the need for a vernal pool survey on the 90 acre parcel and additional impacts that may be needed for different phases of the project.
16. DES received a copy of the applicant's responses to the ACOE. It was stated in the response that a vernal pool study had been completed on the 90 acre parcel and no vernal pools were found, a plan was included that depicted the conceptual Phase 2 development for an additional 25 lots and depicted conceptual wetland impact areas and acknowledged that the future phase if built would require further permitting and compensatory mitigation.
17. DES has not received any further communication from the ACOE.

**2008-00455                      SALEM, TOWN OF**  
**SALEM    Arlington Pond**

Requested Action:

Dredge and fill a total of 4,377 sq. ft. of palustrine forested and/or scrub-shrub wetlands for work associated with the reconstruction of and drainage improvements to the Shore Drive and Wheeler Dam Road from East Broadway to North Main Street.

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Conservation Commission/Staff Comments:

"The Salem Conservation Commission wishes to advise that it has completed its review of ... the application, including a site visit, and has voted to recommend approval of the application and plans as submitted."

APPROVE PERMIT:

Dredge and fill a total of 4,377 sq. ft. of palustrine forested and/or scrub-shrub wetlands for work associated with the reconstruction of and drainage improvements to the Shore Drive and Wheeler Dam Road from East Broadway to North Main Street.

With Conditions:

1. All work shall be in accordance with plans by The Louis Berger Group, Inc. dated March 2008, as received by DES on March 26, 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/or further permitting by the Bureau.
3. NH DES Wetlands Bureau Southeast Region staff shall be notified in writing prior to commencement of work and upon its completion.
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. Dredged material shall be placed outside of the jurisdiction of the DES Wetlands Bureau.
6. 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).
7. Proper headwalls shall be constructed within seven days of culvert installation.
8. Culvert outlets shall be properly rip rapped.
9. Work shall be done during low flow.
10. 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.
11. Construction equipment shall be inspected daily for leaking fuel, oil and hydraulic fluid prior to entering surface waters or wetlands.
12. Faulty equipment shall be repaired prior to entering jurisdictional areas.
13. The contractor shall have appropriate oil spill kits on site and readily accessible at all times during construction and each operator shall be trained in its use.
14. All refueling of equipment shall occur outside of surface waters or wetlands during construction.

With Findings:

1. This is a minor impact project per Administrative Rule Env-Wt 303.03(a)&(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.

**MINIMUM IMPACT PROJECT**

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**2004-02736                      STAPLES, SHAYNE**  
**NEW DURHAM   Unnamed Wetland**

Requested Action:

Reconsideration requested

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**DENY RECONSIDERATION:**

Deny permit request to dredge and fill 6600 square feet for the construction of a pond, and removal of vegetation and regrade wetlands.

With Findings:

A. Grounds for Reconsideration

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

1. The applicant believes there was an error made, Donald Littlefield of Farmington filed for a pond permit which has more than 3 times the wetland impact and with no particular reason other than he wanted a pond.
2. The pond on the property was constructed so that it would be a natural habitat for wildlife as the pictures show its workign well, therefore filling the pond in and making these duck/geese nest elsewhere would be a shame.
3. The applicant has been involved in the excavation business for 28 years and has been involved in lots of these type of projects such as the 25 acre pond in east Alton, the "Chamberland property" which was a huge impact on wetlands but yet still was approved by the State.
4. The town of New Durham installed a 18' culvert across tenrod road to divert water from the uplands on his property and they have done their best to filter that water through rip rap stone and filter fabric before it returns back to the wetland.
5. The applicant wishes to comply with the State's request for a plan that provides for trees and plants to be placed in areas around the pond although they think the rules should apply to everyone doing the same type of project.
6. The applicant could move the stones back about two feet to meet the State's requirements "and or" obtain a written statement from their abutter.
7. The applicant has spent literally tens of thousands of dollars on this project and hopes the State will give this permit careful review for reconsideration.

#### B. Standards and Process for Review

1. RSA 482-A:10, II requires a request for reconsideration to describe in detail each ground for complaint. No ground not set forth in the request for reconsideration can be considered by the Wetlands Council or the Superior Court (if further appeal is taken), except as provided in paragraph VIII of that section.
2. RSA 482-A:10, III provides that on reconsideration, DES will receive and consider any new and additional evidence presented, and make findings of fact and rulings of law in support of its decision after reconsideration.
3. RSA 482-A:10, V provides that the burden of proof is on the party seeking to set aside DES's decision to show that the decision is unlawful or unreasonable.
4. If DES is persuaded by a request for reconsideration of a permit denial was erroneous, the result is that the permit originally requested would be granted.

#### C. Findings of Fact and Rulings of Law

1. RSA 482-A:3, XIV establishes the process that DES must follow when processing applications and establishes deadlines by which decisions must be made.
2. By letter dated April 18, 2008 DES denied the application pursuant to RSA 482-A:3, XIV(b).
3. The request for reconsideration does not address the findings that serve the basis for the Department's decision.
4. On December 13, 2004 DES staff inspected the property and found that two ponds had been created on the property without a permit.
5. On March 24, 2005 DES sent a letter as a follow up to a recent meeting and research on permitting of the constructed ponds. In the 3-24-2005 letter DES states that the application will be reviewed for the least impacting alternative. The applicant must show a need for the pond being placed in its proposed location and the reason why the pond cannot be placed in an areas where it may have less impacts to jurisdictional wetlands or surface waters. Keep in mind that hydrology and topography may be considered

legitimate reasons for placing the the pond in the proposed location.

6. The March 24, 2005 letter also indicated that an important factor taken into consideration during the review process will be the impact of the project on surrounding areas and adjacent properties.

7. On March 24, 2006 DES reinspected the property as a follow up to assess the status of the site and determine what action DES needed to take to achieve compliance. Previous requests made by DES, including the submittal of a wetland delineation were over due by a year.

8. On July 12, 2006 DES sent a letter to Shayne Staples requesting submission of a restoration plan within 30 days.

9. On January 3, 2008 DES sent a follow up letter requesting submission of an after the fact application.

10. The subject application (after-the-fact) was received on February 4, 2008 and was determined to be administratively complete on February 4, 2008.

11. The Littlefield pond was for public fire-fighting purposes, proposed in an old agricultural field, and adjacent to an existing roadway.

12. The applicant has not addressed the required 20 foot setback from abutting property lines pursuant to Env Wt 304.04.

13. The applicant has not addressed Env Wt 302.03; Env Wt 302.04(a) or (b) or (c), Env Wt 302.05.

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

**2007-02524 DOCKHAM SHORE ESTATES, KEITH KARNAN  
GILFORD Lake Winnepesaukee**

Requested Action:

Repair 149 linear ft of timber retaining wall and an 8 ft x 25 ft boat launch in-kind on an average of 180 ft of frontage on Lake Winnepesaukee in Gilford.

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APPROVE PERMIT:

Repair 149 linear ft of timber retaining wall and an 8 ft x 25 ft boat launch in-kind on an average of 180 ft of frontage on Lake Winnepesaukee in Gilford.

With Conditions:

1. All work shall be in accordance with plans by Watermark Marine Construction as revised May 8, 2008, and received by DES on May 12, 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. No work is authorized to the existing 6 ft x 64 ft seasonal pier.
5. The repairs shall maintain the existing size, location, and configuration of oall structures.
6. This permit to replace or repair existing structures shall not preclude the DES from taking any enforcement action or revocation action if the DES later determines that any structures shown as "existing" was not previously permitted or grandfathered.
7. Appropriate siltation, erosion, and turbidity controls shall be in place prior to construction, maintained during construction, and shall remain until the area is stabilized.
8. Work authorized shall be carried out such that discharges in spawning or nursery areas during spawning seasons shall be avoided, and impacts to such areas shall be avoided or minimized to the maximum extent practicable during all times of the year.
9. Work shall be carried out in a time and manner such that disturbance to migratory waterfowl breeding areas and spawning areas shall be avoided.

10. Retaining wall repairs shall not result in any encroachment lakeward of the current shoreline so as not to create land in public water.
11. The seasonal pier shall be removed for the non-boating season.
12. All activity shall be in accordance with the Comprehensive Shoreland Protection Act, RSA 483-B (see attached fact sheet).

With Findings:

1. This project is classified as a minimum impact project per Rule Env-Wt 303.04 (v), repair of existing structures in-kind.

**2007-02868                      BREMNER, JOSEPH & LINDA**  
**JAFFREY Gilmore Pond**

Requested Action:

Install a 4 ft x 20 ft seasonal docking structure on 118 ft of frontage in Jaffrey on Gilmore Pond.

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DENY PERMIT:

Install a 4 ft x 20 ft seasonal docking structure on 118 ft of frontage in Jaffrey on Gilmore Pond.

With Findings:

Standards for Approval

1. In accordance with RSA 482-A:3, "No person shall excavate, remove, fill, dredge or construct any structures in or on any bank, flat, marsh, or swamp in and adjacent to any waters of the state without a permit from the department."
2. Pursuant to Rule Env-Wt 404.12, Frontage Over 75', a maximum of 2 boat slips may be permitted on property having between 75 and 150 feet of shoreline frontage.
3. As per Rule Env-Wt 501.02(a)(2) a drawing or drawings must show all existing and proposed structures and all other relevant features necessary to clearly define the project.
4. 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... No permit to dredge or fill shall be granted if it shall infringe on the property rights or unreasonably affect the value or enjoyment of property of abutting owners."
5. In accordance with RSA 482-A:3 XIV,(b) Any request for additional information shall specify that ...if the requested information is not received within 120 days of the request, the Department shall deny the application.

Findings of Fact

1. On December 7, 2007, the Wetlands Bureau received an application to install a 4 ft x 20 ft seasonal dock within an easement on a property identified as Jaffrey Tax Map 227, Lot 34 (the Property).
2. The tax map submitted with the application indicates that the property has 118 ft of frontage on Gilmore Pond. It is not clear if this frontage length is the actual frontage length or a straight-line distance.
3. On December 14, 2007 the Department received correspondence including a copy of the deed from the actual property owners stating the Applicant owned easement rights but not the property in question. The Owners objected to the Applicant's request to construct a pier on the frontage.
4. On April 17, 2008 the Bureau sent a Request for More Information Letter to the Applicant informing them that the Owner had filed correspondence objecting to the application and contesting the Applicant's right to install a pier on the frontage. The Bureau requested a mutual agreement from the rightful property owner allowing the use of this frontage specifically for the installation of a proposed docking facility or documentation that this civil matter has been heard and settled in the Applicant's favor by the appropriate legal authority. The April 17, 2008 also requested the average shoreline frontage of the property, and a plan showing complete dimensions for all existing and proposed structures on the frontage that were either drawn to scale or completely dimensioned.
5. On May 28, 2008, the Bureau received an incomplete response to the April 17, 2008 Request for More Information letter. The response did not include the requested plans and indicated that the Applicant would not be providing the requested documentation pertaining to docking rights.

Ruling in Support of the Decision

1. Pursuant to Rule Env-Wt 402.12 the Department shall only permit 1 pier providing 2 boat slips on this frontage. If the Department were to approve the Applicant's requested pier it would adversely affect the Owner's ability to obtain a permit for a pier in the future and, therefore, RSA 482-A:11, II prohibits the approval of this application.
2. The Applicant failed to provide the items requested on April 17, 2008, and, therefore, this application is denied per RSA 482-A:3 XIV (b).

**2008-00474                      GILBERT, JANE**  
**RYE Atlantic Ocean**

Requested Action:

Perform permanent construction work and temporary disturbance totaling 4,000 sq. ft. in the previously developed upland tidal buffer zone to raze the existing structure and build a new dwelling within the same footprint with all portions of the new dwelling being at least 50 feet landward of the highest observable tide line.

\*\*\*\*\*

Conservation Commission/Staff Comments:

"The [Rye Conservation] Commission does not object to the application ..."

APPROVE PERMIT:

Perform permanent construction work and temporary disturbance totaling 4,000 sq. ft. in the previously developed upland tidal buffer zone to raze the existing structure and build a new dwelling within the same footprint with all portions of the new dwelling being at least 50 feet landward of the highest observable tide line.

With Conditions:

1. All work shall be in accordance with plans by MSC Civil Engineers and Land Surveyors, Inc. dated March 17, 2008, as received by DES on March 27, 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/or further permitting by the Bureau.
3. NH DES Wetlands Bureau Southeast Region staff shall be notified in writing prior to commencement of work and upon its completion.
4. All activity shall be in accordance with the Comprehensive Shoreland Protection Act, RSA 483-B (see attached fact sheet).
5. Orange construction fencing shall be placed at the limits of construction to prevent accidental encroachment on the American Beach Grass growing between the existing dwelling and the seawall. **NO DISTURBANCE WILL OCCUR IN THIS AREA.**
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.

**FORESTRY NOTIFICATION**

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**2008-00848                      CONNECTICUT LAKES REALTY TRUST, C/O LYME TIMBER**  
**PITTSBURG Unnamed Stream**

COMPLETE NOTIFICATION:

Pittsburg Tax Map 1, Lot# 26

**2008-00849                   CONNECTICUT LAKES REALTY TRUST, C/O LYME TIMBER  
CLARKSVILLE   Unnamed Stream**

COMPLETE NOTIFICATION:  
Clarksville R6, Lot# 2

**2008-00851                   CHARLTON, GEORGE & JILLEEN  
PEMBROKE    Unnamed Stream**

COMPLETE NOTIFICATION:  
Pembroke Tax Map 260, Lot# 6

**2008-00853                   H & H INVESTMENTS LLC  
RICHMOND    Unnamed Stream**

COMPLETE NOTIFICATION:  
Richmond Tax Map 403, Lot# 27

**2008-00862                   HARBOR STREET LIMITED PARTNERSHIP  
NOTTINGHAM   Unnamed Stream**

Conservation Commission/Staff Comments:  
05/30/08 - Spoke with Marge, Town Office, Town does not have plans before thier board for development. They are expecting some in future. 06/04/08 Hiedi Serverance from the planning Board called to say that there is no concepuale plans

COMPLETE NOTIFICATION:  
Nottingham Tax Map 8 & 10, Lot# 9 & 9

**2008-00864                   SEELY, JOHN  
BETHLEHEM   Unnamed Stream**

COMPLETE NOTIFICATION:  
Bethlehem Tax MAp 208, Lot# 16

**2008-00882                   CONDE, JOHN  
NORTHFIELD   Unnamed Stream**

COMPLETE NOTIFICATION:  
Northfield Tax Map R11, Lot# 2

**2008-00883                   GOFFSTOWN VILLAGE WATER PRECINCT  
GOFFSTOWN    Unnamed Stream**

COMPLETE NOTIFICATION:  
Goffstown Tax Map 1, Lot# 38

**2008-00885**                      **BEDROCK REALTY TRUST, SAM BOURNE TRUSTEE**  
**MADISON**   **Unnamed Stream**

Conservation Commission/Staff Comments:

06/05/08 - Call from Wendy Huff, Town of Madison, there are no conceptual plans before the planning board.

COMPLETE NOTIFICATION:

Madison Tax Map 247, Lot# 22

**2008-00886**                      **CUDDING, THOMAS & NANCY**  
**BETHLEHEM**   **Unnamed Stream**

COMPLETE NOTIFICATION:

Bethlehem Tax Map 415, Lot# 48, 49, 51 & 52

**2008-00887**                      **FREEDOM, TOWN OF**  
**FREEDOM**   **Unnamed Stream**

COMPLETE NOTIFICATION:

Freedom Tax Map # 6 & 11, Lot# 1,2,4 & 3,6

**2008-00888**                      **FREEDOM, TOWN OF**  
**FREEDOM**   **Unnamed Stream**

COMPLETE NOTIFICATION:

Freedom Tax Map 11, Lot# 3, 6

**2008-00889**                      **KELLIHER, CHRISTOPHER & SUZANNE**  
**BARRINGTON**   **Unnamed Stream**

COMPLETE NOTIFICATION:

Barrington Tax Map 8, Lot# 1, 141, 142A,B,C & 143

**2008-00890**                      **MONT VERNON, TOWN OF**  
**MONT VERNON**   **Unnamed Stream**

COMPLETE NOTIFICATION:

Mont Vernon Tax Map 6, Lot# 17

**2008-00891**                      **NELSON, RICHARD**  
**NORTHUMBERLAND**   **Unnamed Stream**

COMPLETE NOTIFICATION:

Northumberland Tax Map 248, Lot# 2

**2008-00894**                    **CROSBY, THOMAS**  
**CHESTERFIELD** Unnamed Stream

COMPLETE NOTIFICATION:  
Chesterfield Tax Map 15, Lot# A-12

**2008-00895**                    **SHIERE, PHILIP**  
**STRAFFORD** Unnamed Stream

COMPLETE NOTIFICATION:  
Strafford Tax Map 8, Lot# 32

**2008-00896**                    **PATTERSON, DOUG & MARIANNE**  
**BELMONT** Unnamed Stream

COMPLETE NOTIFICATION:  
Belmont Tax Map 231, Lot# 2

**2008-00897**                    **PARTRIDGE, KENNETH**  
**NORTHFIELD** Unnamed Stream

COMPLETE NOTIFICATION:  
Northfield Tax Map R9, Lot# 30B

**2008-00898**                    **NUTE, STEPHANIE**  
**MILTON** Unnamed Stream

COMPLETE NOTIFICATION:  
Milton Tax Map 39, Lot# 4

**2008-00899**                    **PULLEN, CRAIG & CORINNE**  
**CANTERBURY** Unnamed Stream

COMPLETE NOTIFICATION:  
Canterbury Tax Map 9, Lot# 15-16

**2008-00900**                    **DA MOORE HOLDINGS, DAVID MOORE**  
**CONCORD** Unnamed Stream

COMPLETE NOTIFICATION:  
Concord Tax Map 112, Lot# 2-11

**EXPEDITED MINIMUM**

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**2005-02598                      MOREL, MARK  
LANCASTER   Unnamed Stream**

Requested Action:

Deny amendment request to retain approximately 1,411 square feet of intermittent stream and associated palustrine forested wetlands for road access to the second phase of a proposed subdivision.

\*\*\*\*\*

Conservation Commission/Staff Comments:

AOT permit was amended to include gravel drive and Ext., additional amendment may be required if culverts change?

DENY AMENDMENT:

Deny amendment request to retain approximately 1,411 square feet of intermittent stream and associated palustrine forested wetlands for road access to the second phase of a proposed subdivision.

With Findings:

1. A request for additional information dated January 16, 2008, 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.
4. Related DES Wetlands Bureau File No.'s 2006-02324 (enforcement), 2007-00010 and 2007-00011.
5. The amendment request sought to retain after-the-fact impacts; this matter has been referred to the DES Wetlands Bureau, Enforcement Section.

**2007-02887                      NEWPORT, TOWN OF  
NEWPORT   Unnamed Wetland**

Requested Action:

Dredge and fill 2,280 square feet of palustrine emergent wetlands to install catch basins/pipes and reconstruct (riprap) existing ditches along driveway access to Newport Middle High School.

\*\*\*\*\*

APPROVE PERMIT:

Dredge and fill 2,280 square feet of palustrine emergent wetlands to install catch basins/pipes and reconstruct (riprap) existing ditches along driveway access to Newport Middle High School.

With Conditions:

1. All work shall be in accordance with plans by SVE Associates dated April 08, 2008, as received by the Department on May 08, 2008.
2. The Department has determined that this project is in the vicinity of an impaired waterbody. Therefore stormwater runoff treatment for this project shall be designed and constructed so that the stormwater pollutant loads from the completed project are no greater than the stormwater pollutant loads that existed prior to the project for all pollutants causing impairment which are likely to be in stormwater discharged from the completed project.
3. Work shall be done during low flow conditions.
4. Work shall be conducted in a manner so as to minimize turbidity and sedimentation to surface waters and wetlands.
5. Appropriate siltation/erosion/turbidity controls shall be in place prior to construction, shall be maintained during construction, and remain until the area is stabilized. Silt fence(s) must be removed once the area is

stabilized.

6. Dredged material shall be placed outside of the jurisdiction of the DES Wetlands Bureau.
7. Proper headwalls shall be constructed within seven days of culvert installation.
8. Culverts shall be properly ripped.
9. 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).
10. Within three days of final grading or temporary suspension of work in an area that is in or adjacent to wetlands or surface waters, all exposed soil areas shall be stabilized by seeding and mulching during the growing season, or if not within the growing season, by mulching with tack or netting and pinning on slopes steeper than 3:1.

With Findings:

1. This is a minimum impact project per Administrative Rule Env-Wt 303.04(f), projects involving alteration of less than 3,000 square feet in swamps or wet meadows.
2. The applicant has received written consent from the owners of lot 1553-1 (tax map 29), abutters to the property on which project activities will take place, for work within 20 feet of their property lines, in accordance with Env-Wt 304.04(a).
3. Additional impacts within 20 feet of abutting property lines will occur in a right-of-way for access and utilities, which are but not limited to water, sewer, electric, cable and drainage.
4. The need for the proposed impacts has been demonstrated by the applicant per Env-Wt 302.01.
5. 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.
6. The applicant has demonstrated by plan and example that each factor listed in Env-Wt 302.04(b) Requirements for Application Evaluation, has been considered in the design of the project.

**2008-00417                      GV INC**  
**WOODSTOCK   Unnamed Wetland**

Requested Action:

Dredge and fill 310 sq. ft. of wetlands to upgrade an existing access road for a proposed 6-lot residential subdivision. Work in wetlands consists of replacement of an existing 15 in. x 25 ft. CMP culvert with a 15 in. x 35 ft. HDPE culvert and associated headwalls.

\*\*\*\*\*

Conservation Commission/Staff Comments:

1. The Conservation Commission signed the Minimum Impact Expedited application waiving their right to intervene.

APPROVE PERMIT:

Dredge and fill 310 sq. ft. of wetlands to upgrade an existing access road for a proposed 6-lot residential subdivision. Work in wetlands consists of replacement of an existing 15 in. x 25 ft. CMP culvert with a 15 in. x 35 ft. HDPE culvert and associated headwalls.

With Conditions:

1. All work shall be in accordance with plans by Horizons Engineering PLLC, sheet 2 and 6 of 6 revision dated April 14, 2008 and sheets 3 and 4 of 6 revision dated April 29, 2008, and subdivision and boundary line adjustment plan by Sabourn Surveying Inc., as received by DES on May 6, 2008.
2. This permit is contingent on approval by the DES Subsurface Systems 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.
5. Any work conducted for the proposed road access starting on or after July 1, 2008 will require a Shoreland Permit per RSA 483-B:5-a of the Comprehensive Shoreland Protection Act.
6. At the time of construction of the building lots the individual lot owners shall obtain a Shoreland Permit as required per the Comprehensive Shoreland Protection Act RSA 483-B.

7. There shall be no further alteration of wetlands for lot development, driveways, culverts, or for septic setback on the 6 building lots in the proposed subdivision.
8. The deed which accompanies the sales transaction for each of the lots in this subdivision shall contain condition #6 and #7 of this approval.
9. This permit shall not be effective until it has been recorded with the Grafton 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.
10. Any further alteration of areas on this property or the remaining lands that are within the jurisdiction of the DES Wetlands Bureau will require further permitting by the Bureau.
11. 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.
12. Dredged material shall be placed outside of the jurisdiction of the DES Wetlands Bureau.
13. Proper headwalls shall be constructed within seven days of culvert installation.
14. 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.
15. 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.
16. 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.
17. Construction equipment shall be inspected daily for leaking fuel, oil and hydraulic fluid. Faulty equipment shall be repaired immediately.
18. 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.
19. 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).

With Findings:

1. This is a minimum impact project per Administrative Rule Env-Wt 303.04(n) projects that disturb less than 50 linear feet of intermittent stream.
2. The need for the proposed impacts has been demonstrated by the applicant per Env-Wt 302.01. 3. The applicant has provided evidence which demonstrates that this proposal is the alternative with the least adverse impact to areas and environments under the department's jurisdiction per Env-Wt 302.03.
4. The applicant has demonstrated by plan and example that each factor listed in Env-Wt 302.04(b) Requirements for Application Evaluation, has been considered in the design of the project.
5. The proposed project is to upgrade an existing access road and culvert for a proposed 6-lot subdivision. The roadway currently provides access to an existing subdivision and the remaining lands.

**2008-00704                      HART, CHARLES**  
**DURHAM Little Bay / Upper Tidal Buffer**

Requested Action:

Impact 580 sq. ft. of developed upland tidal buffer zone for construction of a replacement septic system associated with an existing dwelling.

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APPROVE PERMIT:

Impact 580 sq. ft. of developed upland tidal buffer zone for construction of a replacement septic system associated with an existing dwelling.

With Conditions:

1. All work shall be in accordance with plans by Eckman Engineering dated 3/14/2008, as received by DES on 5/5/2008.
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. This permit is contingent on approval by the DES Subsurface Systems Bureau.
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 minimum impact project per Administrative Rule Env-Wt 303.04(b), projects in the previously-developed upland tidal buffer zone greater than 50' from any salt marsh.
2. The need for the proposed impacts has been demonstrated by the applicant per Env-Wt 302.01. The project replaces a substandard septic system with a new system meeting today's standards.
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 leachfield is located as far as possible on the lot from the tidal resource.
4. The applicant has demonstrated by plan and example that each factor listed in Env-Wt 302.04(b) Requirements for Application Evaluation, has been considered in the design of the project. There were no NH Heritage Bureau species of concern reported for the project vicinity.
5. The Durham Conservation Commission signed the expedited application.

**2008-00784                      EPSOM, TOWN OF**  
**EPSOM Lockes Brook**

Requested Action:

Dredge and fill a total of 120 square feet within the bed and banks of Lockes brook to replace existing undersized crossing with a 10 foot wide x 5 foot high x 40 foot concrete box with an emulated natural channel.

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Conservation Commission/Staff Comments:

The Conservation Commission signed this minimum impact expedited application.

APPROVE PERMIT:

Dredge and fill a total of 120 square feet within the bed and banks of Lockes brook to replace existing undersized crossing with a 10 foot wide x 5 foot high x 40 foot concrete box with an emulated natural channel.

With Conditions:

1. All work shall be in accordance with plans received by the Department on May 14, 2008.
2. The permittee shall notify the NH Division of Historic Resources of the proposed project prior to the commencement of construction.
3. 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.
4. This permit is contingent on review and approval, by the DES Wetlands Bureau, of final stream diversion/erosion control plans. Those plans shall detail the timing and method of stream flow diversion during construction, and show temporary siltation/erosion/turbidity control measures to be implemented.

5. Work shall be conducted during low water conditions.
6. Appropriate siltation/erosion controls shall be in place prior to construction, shall be maintained during construction, and remain until the area is stabilized. Silt fence(s) must be removed once the area is stabilized.
7. Appropriate turbidity controls shall be installed prior to construction, shall be maintained during construction such that no turbidity escapes the immediate work area, and shall remain until suspended particles have settled and the water at the work site has returned to normal clarity.
8. No equipment shall enter the water.
9. All work shall be done from the top of the bank.
10. 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.
11. 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.
12. Work within the stream, inclusive of work associated with installation of a cofferdam, shall be done during periods of low flow., High flows can be caused by seasonal runoff or precipitation; the permittee shall monitor local forecasts to review weather conditions.
13. No work within the confined area shall proceed until the cofferdam is fully effective, and water flow is controlled.
14. A natural channel bottom shall be created within the culvert, any materials used must be similar to the natural stream substrate and shall not include angular rip-rap.
15. Temporary cofferdams shall be entirely removed immediately following construction.
16. Dredged material shall be placed outside of the jurisdiction of the DES Wetlands Bureau.
17. Proper headwalls shall be constructed within seven days of culvert installation.
18. 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.
19. Silt fencing must be removed once the area is stabilized.

With Findings:

1. This is a minimum impact project per Administrative Rule Env-Wt 303.04(j); Projects located within the right-of-way of a public road that do not impact bogs, marshes, sand dunes, tidal wetlands, or undisturbed tidal buffer zone, prime wetlands or do not meet the requirements of Env-Wt 303.02(k) and do not exceed any of the following criteria:(1) Drainage structures shall not exceed 3,000 square feet of dredge or fill in area;(2) Culverts shall not cross streams 10 feet wide or greater, measured from base of bank slope to base of bank slope;(3) Wetlands crossed shall have no standing water for 10 months of the year and shall not exceed 50 feet across, measured along the roadway, and the fill width measured at the base of the roadway side slopes shall not exceed 50 feet; or(4) Shoulder widening shall not exceed 3 cubic yards of fill per linear foot in wetlands that have no standing water for 10 months of the year, and shall not exceed 10 feet of additional encroachment measured from base of slope;
2. The need for the proposed impacts has been demonstrated by the applicant per Env-Wt 302.01. 3. The applicant has provided evidence which demonstrates that this proposal is the alternative with the least adverse impact to areas and environments under the department's jurisdiction per Env-Wt 302.03.
4. The applicant has demonstrated by plan and example that each factor listed in Env-Wt 302.04(b) Requirements for Application Evaluation, has been considered in the design of the project.
5. The proposal to increase the existing 36-inch culvert with a 10-foot x 5 foot structure is a improvement over the existing situation.
6. The proposal is not increasing the length of the crossing in this location.

**2008-00785                      EPSOM, TOWN OF**  
**EPSOM Lockes Brook**

Requested Action:

Dredge and fill a total of 120 square feet within the bed and banks of Lockes brook to replace existing undersized crossing with a 10 foot wide x 5 foot high x 40 foot concrete box with an emulated natural channel.

\*\*\*\*\*

Conservation Commission/Staff Comments:

The Conservation Commission signed the minimum impact expedited application.

APPROVE PERMIT:

Dredge and fill a total of 120 square feet within the bed and banks of Lockes brook to replace existing undersized crossing with a 10 foot wide x 5 foot high x 40 foot concrete box with an emulated natural channel.

With Conditions:

1. All work shall be in accordance with plans received by the Department on May 14, 2008.
2. The permittee shall notify the NH Division of Historic Resources of the proposed project prior to the commencement of construction.
3. 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.
4. This permit is contingent on review and approval, by the DES Wetlands Bureau, of final stream diversion/erosion control plans. Those plans shall detail the timing and method of stream flow diversion during construction, and show temporary siltation/erosion/turbidity control measures to be implemented.
5. Work shall be conducted during low water conditions.
6. Appropriate siltation/erosion controls shall be in place prior to construction, shall be maintained during construction, and remain until the area is stabilized. Silt fence(s) must be removed once the area is stabilized.
7. Appropriate turbidity controls shall be installed prior to construction, shall be maintained during construction such that no turbidity escapes the immediate work area, and shall remain until suspended particles have settled and the water at the work site has returned to normal clarity.
8. No equipment shall enter the water.
9. All work shall be done from the top of the bank.
10. 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.
11. 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.
12. Work within the stream, inclusive of work associated with installation of a cofferdam, shall be done during periods of low flow., High flows can be caused by seasonal runoff or precipitation; the permittee shall monitor local forecasts to review weather conditions.
13. No work within the confined area shall proceed until the cofferdam is fully effective, and water flow is controlled.
14. A natural channel bottom shall be created within the culvert, any materials used must be similar to the natural stream substrate and shall not include angular rip-rap.
15. Temporary cofferdams shall be entirely removed immediately following construction.
16. Dredged material shall be placed outside of the jurisdiction of the DES Wetlands Bureau.
17. Proper headwalls shall be constructed within seven days of culvert installation.
18. 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.
19. Silt fencing must be removed once the area is stabilized.

With Findings:

1. This is a minimum impact project per Administrative Rule Env-Wt 303.04(j); Projects located within the right-of-way of a public road that do not impact bogs, marshes, sand dunes, tidal wetlands, or undisturbed tidal buffer zone, prime wetlands or do not meet the requirements of Env-Wt 303.02(k) and do not exceed any of the following criteria:(1) Drainage structures shall not exceed 3,000 square feet of dredge or fill in area;(2) Culverts shall not cross streams 10 feet wide or greater, measured from base of bank slope to base of bank slope;(3) Wetlands crossed shall have no standing water for 10 months of the year and shall not exceed 50 feet across, measured along the roadway, and the fill width measured at the base of the roadway side slopes shall not exceed 50 feet; or(4) Shoulder widening shall not exceed 3 cubic yards of fill per linear foot in wetlands that have no standing water for 10 months of the year, and shall not exceed 10 feet of additional encroachment measured from base of slope;
2. The need for the proposed impacts has been demonstrated by the applicant per Env-Wt 302.01. 3. The applicant has provided

evidence which demonstrates that this proposal is the alternative with the least adverse impact to areas and environments under the department's jurisdiction per Env-Wt 302.03.

4. The applicant has demonstrated by plan and example that each factor listed in Env-Wt 302.04(b) Requirements for Application Evaluation, has been considered in the design of the project.
5. The proposal to increase the existing twin 36-inch culverts with a 10-foot x 5 foot structure is a improvement over the existing situation.
6. The proposal is not increasing the length of the crossing in this location.

**GOLD DREDGE**

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**2008-00920                      CHARETTE, DAVID**  
**(ALL TOWNS) Unnamed Stream**

Conservation Commission/Staff Comments:  
cc: Bath Con Comm

**2008-00921                      SOLINSKY, DENNIS**  
**(ALL TOWNS) Unnamed Stream**

Conservation Commission/Staff Comments:  
cc: Bath Con Comm

**2008-00922                      FRALICK, WILLIAM**  
**(ALL TOWNS) Unnamed Stream**

Conservation Commission/Staff Comments:  
cc: Bath Con Comm

**2008-00936                      HEBERT, MICHAEL**  
**(ALL TOWNS) Unnamed Stream**

Conservation Commission/Staff Comments:  
cc: Bath Con Comm

**TRAILS NOTIFICATION**

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**2008-00893                      PEARSON III, FREDERICK**  
**DURHAM Crommett Creek**

COMPLETE NOTIFICATION:  
Durham TM/Lot# various - Crommet Creek Trail

**LAKES-SEASONAL DOCK NOTIF**

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**2008-00872                    WALSH, JEFF & PAM**  
**NEW HAMPTON   Waukewan Lake**

COMPLETE NOTIFICATION:  
New Hampton, NH Tax map U10 Lot 2  
Lake Waukewan

**2008-00905                    MATTHEWS, CHRISTOPHER**  
**EAST WAKEFIELD   Province Lake**

COMPLETE NOTIFICATION:  
East Wakefield, NH Tax Map 8 Lot 47  
Province Lake

**2008-00906                    BARDUSK, LYNN**  
**SANBORNTON   Hermit Lake**

COMPLETE NOTIFICATION:  
Sanbornton, NH Tax Map 3 Lot 132  
Hermit Lake

**2008-00907                    ERNST, RICHARD & CAROLYNN**  
**HARRISVILLE   Skatutakee Lake**

COMPLETE NOTIFICATION:  
Harrisville, NH Tax Map 21 Lot 6  
Lake Skatutakee

**2008-00908                    PYLE, HAZEL**  
**ENFIELD   Mascoma Lake**

COMPLETE NOTIFICATION:  
Enfield, NH Tax Map 22 Lot 22  
Mascoma Lake

**2008-00911                    RIVARD, KEVIN**  
**SPRINGFIELD   Kolelemook Lake**

COMPLETE NOTIFICATION:  
Springfield, NH Tax Map 23 Lot 459-332  
Kolelemook Lake

**2008-00912                    CASTLE/ ALBRING, DONALD/ ROBIN  
NEW LONDON   Little Sunapee Lake**

COMPLETE NOTIFICATION:  
New London, NH Tax Map 31 Lot 2  
Little Sunapee Lake

**2008-00913                    DIPPLE, EDWARD  
NEW HAMPTON   Winona Lake**

COMPLETE NOTIFICATION:  
New Hampton, NH Tax Map U14 Lot 26  
Lake Winona

**2008-00914                    MEADER, GARY  
MOULTONBOROUGH   Lake Winnepesaukee**

COMPLETE NOTIFICATION:  
Moultonboro, NH Tax Map 133 Lot 31  
Lake Winnepesaukee

**2008-00915                    REITH, HOWARD & ELIZABETH  
LEE   Wheelwright Pond**

COMPLETE NOTIFICATION:  
Lee, NH Tax Map 11 Lot 11  
Wheelwright Pond

**2008-00923                    RYNNE, JOHN  
WAKEFIELD   Pine River Pond**

PBN DISQUALIFIED:  
Wakefield NH  
Tax Map 82 Lot 41  
Pine River Pond

**PERMIT BY NOTIFICATION**

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**2008-00826                    EPPING, TOWN OF  
EPPING   Unnamed Wetland**

Requested Action:

Temporarily impact 124 sq. ft. of wetlands for extension of municipal sewer and water line.

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Conservation Commission/Staff Comments:

Epping Conservation Commission signed the PBN.

PBN IS COMPLETE:

Temporarily impact 124 sq. ft. of wetlands for extension of municipal sewer and water line.

**2008-00902                    PADFIELD, DONALD & LOUISE**  
**BEDFORD   Unnamed Stream**

Requested Action:

Dredge and fill 950 sq. ft. of wetlands and associated intermittent stream for access to a single family building lot. Work in wetlands consists of installation of a 15 in. x 30 ft. HDPE culvert with flared ends, outlet protection and associated grading and filling.

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PBN IS COMPLETE:

Dredge and fill 950 sq. ft. of wetlands and associated intermittent stream for access to a single family building lot. Work in wetlands consists of installation of a 15 in. x 30 ft. HDPE culvert with flared ends, outlet protection and associated grading and filling.

With Findings:

1. This is a minimum impact project per Administrative Rule Env-Wt 303.04(z) Installation of a culvert or bridge for access to a single family building lot or for noncommercial recreational uses.

**2008-00917                    JOYCE REVOC TRUST, DAVID**  
**MOULTONBOROUGH   Lake Winnepesaukee**

Requested Action:

Repair an existing 6 ft x 71 ft 7 inch dock supported by 12 piles, with no change in size or location on Lake Winnepesaukee, Moultonborough.

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Conservation Commission/Staff Comments:

Con Com signed PBN

PBN IS COMPLETE:

Repair an existing 6 ft x 71 ft 7 inch dock supported by 12 piles, with no change in size or location on Lake Winnepesaukee, Moultonborough.

**2008-00918                    FECTEAU, MARK**  
**ALTON   Lake Winnepesaukee**

Requested Action:

Install a 6 ft x 4 ft concrete pad with a 6 ft x 40 ft seasonal dock, install a seasonal boatlift in the northern slip and 2 PWC lifts along the northern shoreline on Lake Winnepesaukee, Alton.

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Conservation Commission/Staff Comments:

Con Com signed PBN

PBN IS COMPLETE:

Install a 6 ft x 4 ft concrete pad with a 6 ft x 40 ft seasonal dock, install a seasonal boatlift in the northern slip and 2 PWC lifts along the northern shoreline on Lake Winnepesaukee, Alton.

**2008-00925                      DUZ, EWA**  
**FITZWILLIAM   Unnamed Stream**

Requested Action:

Dredge and fill 200 sq. ft. of intermittent stream to install twin 15-inch CPE culverts for driveway access to a single family residence.

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PBN IS COMPLETE:

Dredge and fill 200 sq. ft. of intermittent stream to install twin 15-inch CPE culverts for driveway access to a single family residence.

With Findings:

1. The Conservation Commission signed the PBN waiving their right to intervene pursuant to RSA 482-A:3:11.
2. This project meets the criteria of NH Administrative Rule Env-Wt 506.01(a)(8), the installation of a culvert or bridge and associated fill to permit vehicular access to a piece of property for a single family building lot for noncommercial, recreational, uses that meets the criteria in Env-Wt 303.04(z).
3. No comments were submitted from the NHFG Nongame and Endangered Wildlife Program or the Natural Heritage Bureau.