

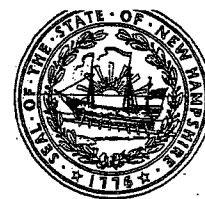
EXHIBIT T



DEPARTMENT OF ENVIRONMENTAL SERVICES

6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095

(603) 271-2457 FAX (603) 271-7894



Endicott General Partnership
Attn: Joseph Falzone, Trustee
123 Water Street, Unit 4SE
Exeter, NH 03833

WATER QUALITY CERTIFICATE

In Fulfillment of

NHDES 401 Water Quality Certification Regulations (Env-Ws 451 – 455)

and

Section 401 of the United States Clean Water Act (33 U.S.C 1341)

401 Certificate # 2003-001

Project Name: Falls Way Subdivision: September Drive and Breakfast Hill Road
Project Location: Greenland, New Hampshire
Affected Waterbody: Norton Brook, Winnicut River, Unnamed wetlands
Owner/Applicant: Endicott General Partnership
Joseph Falzone, Trustee
123 Water Street, Unit 4SE
Exeter, NH 03833

Appurtenant Permit(s): NHDES Wetlands Permit No. 2002-01268
NHDES Site Specific Permit No. WPS-6429
USACE Dredge and Fill File No. 200202434

DATE OF APPROVAL: July 17, 2003
(subject to Conditions below)

A. INTRODUCTION

Endicott General Partnership proposes the development of a residential subdivision in Greenland, NH. The project includes new construction of access roads to support the development of 79 residential lots.

This 401 Water Quality Certificate (Certificate) documents laws and regulations, determinations, and certification conditions relative to the application materials submitted under letter dated April 29, 2003.

B. STATEMENT OF FACTS AND LAW

- B-1. Section 401 of the United States Clean Water Act (Title 33 U.S. Code, Chapter 26, Subchapter IV) provides that "any applicant for a federal license or permit to conduct any activity including, but not limited to, the construction or operation of facilities, which may result in any discharge into the navigable waters, shall provide the licensing or permitting agency a certification from the State in which the discharge originates or will originate...that any such discharge will comply with the applicable provisions of sections 301, 302, 303, 306, and 307 of this title".

- B-2. Env-Ws 451-455, *401 Water Quality Certification Regulations*, effective March 6, 1995, adopted by NHDES under the authority of RSA 485-A:6, VII, provides for the implementation of Section 401 in the State of New Hampshire.
- B-3. Env-Ws 1700, *Surface Water Quality Regulations*, effective December 3, 1999, fulfills the requirements of Section 401 that the State of New Hampshire adopt water quality standards consistent with the provisions of the Clean Water Act.
- B-4. Env-Ws 452.02 defines a discharge as any addition of pollutants to the surface waters of the state, or release of water which alters the physical, chemical or biological condition of surface waters of the state.
- B-5. Env-Ws 1702.18 defines a discharge as:
- (1) The addition, introduction, leaking, spilling, or emitting of a pollutant to surface waters, either directly or indirectly through the groundwater, whether done intentionally, unintentionally, negligently, or otherwise; or
 - (2) The placing of a pollutant in a location where the pollutant is likely to enter surface waters.
- B-6. Env-Ws 1702.39 defines pollutant as dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, (except those regulated under the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 et seq.)), heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste discharged into water.
- B-7. Env-Ws 1702.46 defines surface waters as "perennial and seasonal streams, lakes, ponds and tidal waters within the jurisdiction of the state, including all streams, lakes, or ponds bordering on the state, marshes, water courses and other bodies of water, natural or artificial," and waters of the United States as defined in 40 CFR 122.2.
- B-8. Env-Ws 1701.02 provides that the surface water quality regulations shall apply to all surface waters and to any person who causes point or nonpoint source discharge(s) of pollutants to surface waters, or who undertakes hydrologic modifications, such as dam construction or water withdrawals, or who undertakes any other activity that affects the beneficial uses or the level of water quality of surface waters.
- B-9. Env-Ws 1703.01 (c) states that all surface waters shall provide, wherever attainable, for the protection and propagation of fish, shellfish and wildlife, and for recreation in and on the surface waters.
- B-10. Env-Ws 1703.19 (a) states that the surface waters shall support and maintain a balanced, integrated and adaptive community of organisms having a species composition, diversity, and functional organization comparable to that of similar natural habitats of a region.
- B-11. Env-Ws 455.02 (Approval Criteria) states that before a water quality certificate can be issued, the following conditions must be met:
1. All requirements of Env-Ws 454 and Env-Ws 455 have been met;
 2. All state and/or federal permits necessary for construction and operation of the project have been obtained or shall be issued upon approval of the application by the division; and
 3. Construction or operation of the project will not violate state surface water quality standards.

C. FINDINGS

- C-1. Construction and operation of the project requires Water Quality Certification under Section 401 of the Clean Water Act and Env-Ws 451.02. The U.S. Army Corps of Engineers provided public notice of this project on April 17, 2003, which satisfies the requirements of Env-Ws 454.03.

- C-2. The wetlands, perennial and/or intermittent streams, and river in the project area are surface waters of the state under Env-Ws 1702.46.
- C-3. Drainage from the project area to surface waters constitutes a discharge under the definitions of Env-Ws 1702.18 and Env-Ws 452.02.
- C-4. The requirements of Env-Ws 455.02 (b) have been satisfied in that the Applicant has applied for and received a State wetlands permit from the NH Department of Environmental Services. The U.S. Army Corps of Engineers Wetlands Permit cannot be issued until the State issues a 401 Water Quality Certificate.
- C-5. The installation of culverts on Norton Brook may temporarily increase turbidity levels downstream from the project area, particularly during wet weather events, and may contribute to long-term sediment retention in and/or transport through the downstream reaches of these waterways. The implementation of best management practices (BMP) for controlling soil erosion is included as mitigation during construction of the project.
- C-6. The use of the completed access roads by vehicular traffic necessitates anti-icing/deicing and/or snow removal during the winter months. This may cause elevated chloride concentrations in surface waters during winter months as a result of melt water runoff.
- C-7. The use of the completed access road by vehicular traffic typically causes deposition of indeterminate amounts of trace metals, such as copper, lead, and zinc on paved surfaces. Copper, lead, and zinc are predominant constituents of roadway runoff.
- C-8. The establishment of roadside vegetation after completion of the project is augmented by the use of nitrogen and phosphorus-based fertilizers. Nutrient enrichment of surface water may occur through runoff, specifically if fertilizers are applied immediately prior to rain or thaw events. Nutrient enrichment may contribute to changes in dissolved oxygen dynamics of surface waters. The implementation of best management practices (BMP) for fertilizer application is included as mitigation during construction of the project.
- C-9. Norton Brook is a Class B waterway. Therefore, Class B New Hampshire surface water quality standards apply to this project. Class B waterways are considered suitable for fishing, swimming, and, after adequate treatment, as a water supply, and may be affected by turbidity levels, nutrient levels, or aqueous metals concentrations that exceed New Hampshire Class B surface water quality standards.
- C-10. Mitigation measures for the protection of surface water resources are referenced in the application materials submitted for this Certificate. These measures include the construction of catch basins, grassed swales, and vegetated treatment swales for the treatment of storm water runoff, which are not considered surface waters of the state, pursuant to 40 CFR 122.2.
- C-11. The mitigation measures proposed for this project are intended to protect surface water resources. Therefore, proper installation and maintenance throughout the duration of the project is required to ensure maximum functionality and effectiveness.
- C-12. Water quality monitoring is appropriate during and after construction activities, pursuant to Section 401 of the United States Clean Water Act (Title 33 U.S. Code, Chapter 26, Subchapter IV, Section 1341(d)), which provides that "any certification provided under this section shall set forth any effluent limitations and other limitations, and monitoring requirements necessary to assure that any applicant for a Federal license or permit will comply with any applicable effluent limitations and other limitations...and shall become a condition on any Federal license or permit subject to the provisions of this section".

D. WATER QUALITY CERTIFICATION CONDITIONS

- D-1. At no time shall the construction and/or operation of this project cause the violation of Class B surface water quality standards. If it is determined that Class B surface water quality standards are being violated, additional conditions may be imposed or conditions amended by NHDES in accordance with Env-Ws 455.

- D-2. The conditions in NH Wetlands Bureau Permit No. 2002-01268, as issued for this project, including any amendments, are considered conditions of this Certificate and must be strictly followed.
- D-3. The applicant shall submit a schedule and plan for long-term maintenance of stormwater BMPs. The applicant shall maintain all components of the roadway stormwater management system until it is formally accepted by the municipality or is placed in the jurisdiction of a legally created association that will be responsible for the maintenance of the system. After acceptance, the municipality or legally created association shall maintain all components of the roadway stormwater management system in accordance with the stormwater maintenance plan.
- D-4. Water samples shall be collected from Norton Brook, upstream of Interstate 95, prior to and after construction of the access road. Samples shall be analyzed for dissolved oxygen, temperature, specific conductance, chloride, nutrients, biochemical oxygen demand, metals (total copper, total lead, total zinc), hardness, and pesticides in Norton Brook. The applicant shall submit a sampling and analysis plan to the NHDES Watershed Management Bureau for review and approval at least 180 days prior to the anticipated date of full operation of the access road. The plan shall include sampling during wet weather and dry weather.
- D-5. Roadside fertilizers used for the reestablishment of vegetation shall be applied in such a way as to minimize losses during runoff events. This includes proper timing of application and amounts of material.
- D-6. The terms and conditions of this Water Quality Certificate may be amended and additional terms and conditions added as necessary to ensure compliance with New Hampshire water quality standards, when authorized by law, and after notice and opportunity for hearing.

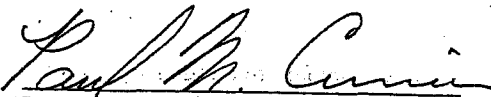
E. WATER QUALITY CERTIFICATION APPROVAL

Based on the determinations and conditions noted above, NHDES hereby issues this Water Quality Certificate in accordance with NHDES 401 Water Quality Certification Regulations (Env-Ws 451-455) and Section 401 of the United States Clean Water Act (33 U.S.C. 1341).

F. APPEAL

If you are aggrieved by this decision, you may appeal the decision to the Water Council. Any appeal must be filed within 30 days of the date of this decision, and must conform to the requirements of Env-Wc 200. Inquires regarding appeal procedures should be directed to Jim Ballentine, NHDES Council Appeals Clerk, 6 Hazen Drive, PO Box 95, Concord, NH 03302-0095; telephone 603-271-6072.

If you have questions regarding this certification, please contact Paul Piszczek of this office at 271-2457.



Paul M. Currier
Administrator, NHDES Watershed Management Bureau

cc: Laurie Suda, ACOE
Greenland Conservation Commission
Greenland Planning Board
Adair Fiorillo, NH Soil Consultants, Inc.