



The State of New Hampshire
Department of Environmental Services



Robert R. Scott, Commissioner

February 8, 2024

JON SWAN, CHAIRMAN
TOWN OF DALTON CONSERVATION COMMISSION
756 DALTON RD
DALTON NH 03598

**Re: Administrative Completeness Notice – Standard Dredge and Fill Wetlands Permit Application (RSA 482-A)
NHDES File Number: 2023-03259; Subject Property: Douglas Drive, Dalton, Tax Map #406/1, Lot #406/2**

Dear Mr. Swan:

On December 18, 2023, the New Hampshire Department of Environmental Services (NHDES) Wetlands Bureau received the above-referenced Standard Dredge and Fill Wetlands Permit Application (Application). On December 21, 2023, NHDES determined that the application was administratively incomplete. On February 6, 2024, NHDES received information in response to this letter. On February 8, 2024, NHDES determined the Application was administratively complete in accordance with RSA 482-A:3, XIV.

On January 16, 2024, the New Hampshire Department of Environmental Services, NHDES, received a written request (enclosed) from the Dalton Conservation Commission to extend the conservation commission's investigation an additional forty days (40) from the date of the town clerk signature, December 14, 2023, in accordance with RSA 482-A:11, III (a) for the subject NHDES Wetlands Permit Application, File Number 2023-03259 (Application). After review of the written request, it was found to be justified per RSA 482-A:11, III. The NHDES will not make a decision on the Application until receipt of the Dalton Conservation Commission's report or until after March 3, 2024.

Please provide a copy of this letter to all local level departments, boards, and commissions. Pursuant to current state laws and regulations, NHDES is not authorized to consider local zoning and regulatory issues pertaining to a project. These issues must be addressed at the local level.

Please note this letter is **not** a permit or authorization to begin work. If you have any questions, please contact the Wetlands Bureau at (603) 271-2147.

Sincerely,

Application Receipt Center, Wetlands Bureau
Land Resources Management, Water Division

cc: Douglas Ingerson, Jr., J.W. Chipping
Barry Keith, B.H. Keith Associates Bethlehem
Municipal Clerk/Conservation Commission
Ammonoosuc River Local Advisory Committee

ec: NHDES Rivers Program

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RSA 482-A:3, XIV

- (a) In processing an application for permits under this chapter, except for a permit by notification, the department shall:
- (1) Within 10 days of receipt by the department, issue a notice of administrative completeness or send notice to the applicant, at 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 to whom all correspondence shall be directed by the designated department employee regarding incompleteness of the application. Each receipt of additional information in response to any notice shall re-commence the 10-day period until the department issues a notice of administrative completeness. Any notice of incompleteness sent under this subparagraph shall specify that the applicant or authorized agent shall submit such information as soon as practicable and shall notify the applicant or authorized agent that if the requested information is not received within 60 days of the notice, the department shall deny the application.
 - (2) Within 50 days of the issuance of a notice of administrative completeness for projects where the applicant proposes under one acre of jurisdictional impact and 75 days for all other projects, request any additional information that the department is permitted by law to require to complete its evaluation of the application, together with any written technical comments the department deems necessary. Such request and technical comments may be sent by electronic means if the applicant or authorized agent has indicated an agreement to accept communications by electronic means, either by so indicating on the application or by a signed statement from the applicant or authorized agent that communicating by electronic means is acceptable. Any request for additional information under this subparagraph 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 60 days of the request, the department shall deny the application. The department shall grant an extension of this 60-day time period upon request of the applicant.
 - (3) Where the department requests additional information pursuant to subparagraph (a)(2), within 30 days of the department's receipt of a complete response to the department's information request:
 - (A) Approve the application, in whole or in part, and issue a permit; or
 - (B) Deny the application and issue written findings in support of the denial; or
 - (C) Schedule a public hearing within 30 days in accordance with this chapter and rules adopted by the commissioner; or
 - (D) Extend the time for rendering a decision on the application for good cause and with the written agreement of the applicant; or
 - (4) Where no request for additional information is made pursuant to subparagraph (a)(2), within 50 days from the issuance of the notice of administrative completeness for proposed projects under one acre of jurisdictional impact, or 75 days for all others:
 - (A) Approve the application, in whole or in part, and issue a permit; or
 - (B) Deny the application and issue written findings in support of the denial; or
 - (C) Schedule a public hearing within 30 days in accordance with this chapter and rules adopted by the commissioner; or
 - (D) Extend the time for rendering a decision on the application for good cause and with the written agreement of the applicant.
 - (5) Where the department has held a public hearing on an application filed under this chapter, within 45 days following the closure of the hearing record, approve the application in whole or in part, and issue a permit or deny the application and issue written findings in support of the denial.
- (b) (1) The time limits prescribed by this paragraph shall supersede any time limits provided in any other provision of law. The time limits prescribed by this paragraph shall not apply to applications submitted by the department of transportation, for which time limits shall be set by a memorandum of agreement between the commissioner of the department of environmental services and the commissioner of the department of transportation. If the department fails to act within the applicable time frame established in subparagraphs (a)(3), (a)(4), and (a)(5), the applicant may ask the department to issue the permit by submitting a written request. If the applicant has previously agreed to accept communications from the department by electronic means, a request submitted electronically by the applicant shall constitute a written request.
- (2) Within 14 days of the date of receipt of a written request from the applicant to issue the permit, the department shall:
 - (A) Approve the application, in whole or in part, and issue a permit; or
 - (B) Deny the application and issue written findings in support of the denial.
 - (3) If the department does not issue either a permit or a written denial within the 14-day period, the applicant shall be deemed to have a permit by default and may proceed with the project as presented in the application. The authorization provided by this subparagraph shall not relieve the applicant of complying with all requirements applicable to the project, including

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but not limited to requirements established in or under this chapter, RSA 485-A relating to water quality, and federal requirements.

- (4) Upon receipt of a written request from an applicant, the department shall issue written confirmation that the applicant has a permit by default pursuant to subparagraph (b)(3), which authorizes the applicant to proceed with the project as presented in the application and requires the work to comply with all requirements applicable to the project, including but not limited to requirements established in or under this chapter, and RSA 485-A relating to water quality, and federal requirements.
- (c) If extraordinary circumstances prevent the department from conducting its normal function, time frames prescribed by this paragraph shall be suspended until such condition has ended, as determined by the commissioner.
- (d) The time limits prescribed by this paragraph shall not apply to an application filed after the applicant has already undertaken some or all of the work covered by the application, or where the applicant has been adjudicated after final appeal, or otherwise does not contest, the department's designation as a chronic non-complier in accordance with rules adopted pursuant to this chapter.
- (e) Any request for an amendment to an application or permit shall be submitted to the department on the appropriate amendment form. Any request for a significant amendment to a pending application or an existing permit which changes the footprint of the permitted fill or dredge area shall be deemed a new application subject to the provisions of RSA 482-A:3, I and the time limits prescribed by this paragraph. "Significant amendment" means an amendment which changes the proposed or previously approved acreage of the permitted fill or dredge area by 20 percent or more, includes a prime wetland, or elevates the project's impact classification. This meaning of "significant amendment" shall not apply to an application amendment that is in response to a request from the department.
- (f) The department may extend the time for rendering a decision under subparagraphs (a)(3)(D) and (a)(4)(D), without the applicant's agreement, on an application from an applicant who, within the 5 years preceding the application, has been determined, after the exhaustion of available appellate remedies, to have failed to comply with this chapter or any rule adopted or permit or approval issued under this chapter, or to have misrepresented any material fact made in connection with any activity regulated or prohibited by this chapter, pursuant to an action initiated under RSA 482-A:13, RSA 482-A:14, or RSA 482-A:14-b. The length of such an extension shall be no longer than reasonably necessary to complete the review of the application, but shall not exceed 20 days unless the applicant agrees to a longer extension. The department shall notify the applicant of the length of the extension.
- (g) The department may suspend review of an application for a proposed project on a property with respect to which the department has commenced an enforcement action against the applicant for any violation of this chapter, RSA 483-B, RSA 485-A:17, or RSA 485-A:29-44, or of any rule adopted or permit or approval issued pursuant to this chapter, RSA 483-B, RSA 485-A:17, or RSA 485-A:29-44. Any such suspension shall expire upon conclusion of the enforcement action and completion of any remedial actions the department may require to address the violation; provided, however, that the department may resume its review of the application sooner if doing so will facilitate resolution of the violation. The department shall resume its review of the application at the point the review was suspended, except that the department may extend any of the time limits under this paragraph and its rules up to a total of 30 days for all such extensions. For purposes of this subparagraph, "enforcement action" means an action under RSA 482-A:13, RSA 482-A:14, RSA 482-A:14-b, RSA 483-B:18, RSA 485-A:22, RSA 485-A:42, or RSA 485-A:43.

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