



RHODE ISLAND

DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

235 Promenade Street, Providence, RI 02908-5767

TDD 401-222-4462

**CERTIFIED MAIL**

February 9, 2010

Cedar Forest Associates, LLC  
Attn.: Carmine J. D'Ellena,  
700 Main Street  
East Greenwich, RI 02818

**PERMIT TO ALTER FRESHWATER WETLANDS**

Re: Application No. 06-0058 in reference to the location below:

Approximately 500 feet north of Cedar Forest Road, approximately 900 feet north of the intersection of Latham Farm and Cedar Forest Roads, North Smithfield, Assessor's Plat 19, Lot 32, and Smithfield Assessor's Plat 49, Lot 24, North Smithfield and Smithfield, RI.

Dear Mr. D'Ellena

The Department of Environmental Management's ("DEM") Freshwater Wetlands Program ("Program") has completed its review of your **Application to Alter a Freshwater Wetland** regarding the proposed construction of a seven lot residential subdivision including extension of a road, drainage structures, retaining wall installation, and utility installations as described and detailed in the material and information submitted in support of your application and on site plans received by the DEM on August 25, 2009. These site plans describing the project were made available for public comment as part of the forty-five (45) day public notice period required in accordance with the Freshwater Wetlands Act (R.I. General Laws (R.I.G.L.) Section 2-1-18 et seq.) and the procedures set forth in Rule 9.05 of the Rules and Regulations in place at the time this application was submitted Governing the Administration and Enforcement of the Freshwater Wetlands Act (Rules).

This Program has received one letter relating to your application that was submitted during the public Notice period. This letter expressed concern regarding your project's impacts to freshwater wetland values. The Program reviewed this letter together with any supporting documents and evaluated the potential impacts from the project upon the values mentioned in the letter. This Program has determined that the comments contained within this letter does not constitute an objection of a substantive nature as defined in Rule 5.52. Therefore, a public hearing pursuant to R.I.G.L. Section 2-1-22 is not required.

Pursuant to the Program's review and evaluation of your application including all supporting information and material, as well as the record to date, the Program has determined that this project does not represent a random, unnecessary or undesirable alteration of freshwater wetlands. Therefore, this Program hereby issues this permit to alter freshwater wetlands **subject to all controlling Rules and the Terms and Conditions set forth herein.**

Permit Terms and Conditions for Application No. 06-0058:

1. This letter is the DEM's permit for this project under the R.I. Fresh Water Wetlands Act, Rhode Island General Laws (RIGL) Section 2-1-18 et seq.

2. This permit is specifically limited to the project, site alterations and limits of disturbance as detailed on the site plans submitted with your application and received by the DEM on August 25, 2009. A copy of the site plans stamped approved by the DEM is enclosed. Changes or revisions to the project which would alter freshwater wetlands are not authorized without a permit from the DEM.
3. Where the terms and conditions of the permit conflict with the approved site plans, these terms and conditions shall be deemed to supersede the site plans.
4. You must notify this Program in writing immediately prior to the commencement of site alterations and upon completion of the project.
5. A copy of the stamped approved site plans and a copy of this permit must be kept at the site at all times during site preparation, construction, and final stabilization. Copies of this permit and the stamped approved plans must be made available for review by any DEM representative upon request.
6. Within ten (10) days of the receipt of this permit, you must record this permit in the land evidence records of the Town of Smithfield and supply this Program with written documentation obtained from the Town showing this permit was recorded.
7. The effective date of this permit is the date this letter was issued. This permit expires one (1) year from the effective date unless renewed pursuant to the Rule 9.07.
8. Any material utilized in this project must be clean and free of matter that could pollute any freshwater wetland.
9. Prior to commencement of site alterations, you shall erect or post a sign resistant to the weather and at least twelve (12) inches wide and eighteen (18) inches long, which boldly identifies the initials "DEM" and the application number of this permit. This sign must be maintained at the site in a conspicuous location until such time that the project is complete or the DEM issues a Notice of Completion of Work for the project.
10. Temporary erosion and sediment controls detailed or described on the approved site plans shall be properly installed at the site prior to or commensurate with site alterations. Such controls shall be properly maintained, replaced, supplemented, or modified as necessary throughout the life of this project to minimize soil erosion and to prevent sediment from being deposited in any wetlands not subject to disturbance under this permit.
11. Upon permanent stabilization of all disturbed soils, temporary erosion and/or sediment controls consisting of hay bales and/or silt fence must be removed.
12. You are responsible for the proper operation, maintenance and stability of any mitigative features, facilities, and systems of treatment and control that are installed or used in compliance with this permit to prevent harm to adjacent wetlands.

13. You are obligated to install, utilize and follow all best management practices detailed or described on the approved site plans in the construction of the project to minimize or prevent adverse impacts to any adjacent freshwater wetlands and the functions and values provided by such wetlands.
14. This Program has made a specific revision to the approved site plans. This revision is clearly marked in red on the approved plans. This project must take place in compliance with this revision. Specifically, the width of the proposed arch culvert structure as depicted in the "centerline profile" on sheet 6 of 8 of the approved site plans has been corrected to illustrate a 24 foot wide structure instead of a two inch wide structure.
15. All forms of vegetation for ground stabilization as shown or detailed on the approved plans, or detailed in this permit, must be installed as soon as possible after completion of final grading; weather and season permitting.
16. All construction activities involving soil disturbances, grading, and culvert installation within the forested wetland depicted by the "D" series flags must be limited to the period from July 1 to February 28 of any calendar year.

Please note that the attached RI PGP conditions apply to all activities authorized under the RI PGP. Please review them carefully to thoroughly familiarize yourself with their contents. You may wish to discuss all permit conditions with your contractor to ensure that the work can be accomplished in a manner that conforms to all requirements.

Pursuant to the provisions of the current Rules in effect (dated June, 2009), specifically Rule 7.09 and Rule 11.04, as applicable, any properly recorded and valid permit is automatically transferred to the new owner upon sale of the property.

You are required to comply with the terms and conditions of this permit and to carry out this project in compliance with the Rules at all times. Failure to do so may result in an enforcement action against you by the DEM and/or subject you to the enforcement provisions of the Corps' regulations.

In permitting the proposed alterations, the Program assumes no responsibility for damages resulting from faulty design or construction. This permit does not remove your obligation to obtain any local, state, or federal approvals or permits required by ordinance or law and does not relieve you from any duties owed to adjacent landowners with specific reference to any changes in drainage.

If you are aggrieved by this decision, you may, within thirty (30) days of the receipt of this letter, request an adjudicatory hearing in writing. This request must be sent directly to the DEM Administrative Adjudication Division ("AAD"), 235 Promenade Street, Providence, RI 02908. A copy of the request should also be forwarded to this Program and to the Office of Legal Services, at the same address. Your written request for an adjudicatory hearing must be timely filed and should conform to the requirements of Rule 7.00(b) of the "Administrative Rules of Practice and Procedure for the Department of Environmental Management Administrative Adjudication Division for Environmental Matters", (AAD Rules). AAD Rule 7.00(b) provides:

"The request for hearing shall state clearly and concisely the specific issues which are in dispute and the facts in support thereof, the relief sought if any, the license or permit sought or involved and any additional information required by applicable statutes and regulations."

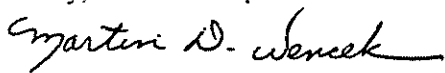
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The written request must be accompanied by an adjudicatory hearing fee of two thousand dollars (\$2,000.00); in the form of a certified bank check or money order made payable to the Rhode Island General Treasurer; however, in the event that the cost of the hearing exceeds the fee paid, the Program through the AAD will require an additional fee which the applicant must submit prior to the DEM's issuance of any final decision regarding this application. The adjudicatory hearing will be held before a Hearing Officer from the AAD. Such hearing will be held in compliance with the AAD Rules, Chapter 42-35-1 *et seq.* of the R.I.G.L., and other governing laws, rules, and regulations adopted by the DEM. Please note that you have the right to be represented by legal counsel in any proceeding which may be held in this matter.

If you have any questions regarding this matter, you may contact me at this office (telephone: 401-222-6820).

Sincerely,



Martin D. Wencek, Permitting Supervisor  
Office of Water Resources/Permitting Section  
Freshwater Wetlands Program

MDW/mdw

Enclosure: Approved Site Plans  
PGP Permit Conditions

xc: David Kerins, Esq., Chief, Administrative Adjudication Division  
Eugina Marks, Audubon Society of Rhode Island  
Michael Phillips, Smithfield Town Planner  
Alfred DeCorte, Smithfield Building Official  
Scott Rabideau, Natural Resource Services, Inc.  
Brian Thallman, Resource Control Associates, Inc.