



RHODE ISLAND
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

235 Promenade Street, Providence, RI 02908-5767 TDD 401-222-4462

October 4, 2010

Dianne Williams
c/o Richard Cesaro
305 Mountaindale Road
Smithfield, RI 02917

Re: Application No. 06-0063 in reference to the location below:

Approximately 400 feet northwest of Mountaindale Road and approximately 600 feet north of its intersection with Spragueville Road, Utility Pole No. 62, Assessor's Plat 46, Lot 171, Assessor's Plat 18, Lot 76, Smithfield, RI

Dear Ms. Williams & Mr. Cesaro:

Kindly be advised that the Department of Environmental Management's ("DEM") Freshwater Wetlands Program ("Program") has completed its review of your **Application for Renewal** received on May 19, 2009.

It is our understanding that you are requesting renewal of the permit issued for Application No. 06-0063. The original permit was issued on June 16, 2008 to you. for alterations to freshwater wetlands at the above-referenced location.

As you are aware, initial inspections indicated numerous instances of non-conformance with your permit, which we have been working to resolve. This Program has recently completed another inspection, following written notification that all items of non-conformance had been addressed. Based on this inspection, it now appears that the project is now in conformance with those conditions set forth in the original permit as well as the Rules and Regulations Governing the Administration and Enforcement of the Freshwater Wetlands Act (Rules). It is our determination, therefore, that the permit may be renewed. Due to the extended length of time it took you to address all items of concern, this will constitute your second renewal of the permit. This renewal is valid until **June 16, 2011** and expires on that date unless an additional renewal is allowed and authorized in accordance with Rules (See Rule 11.02 of the current Rules).

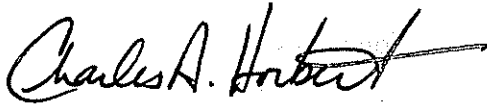
We would like to bring to your attention one item that will have to be addressed prior to resuming any further construction activity on site. Specifically, the permit and the approved site plans required seven (7) permanent markers to be placed along the limits of disturbance. Only two of these seven markers were observed to be present on the site during our most recent inspection. You must place the remaining five as depicted on the approved site plans prior to initiating any further construction activity.

Office of Water Resources/Tel.401-222-4700/Fax: 401-222-3564

It is your responsibility to maintain compliance with the all other conditions of the original permit (copy enclosed) and to carry out this project in compliance with the Rules at all times. This renewal does not relieve you of any obligations to obtain any local, state, or federal approvals or permits as required by ordinance or law. Any modifications to the project not illustrated on the approved site plans would require approval of, at least, an Application for Permit Modification prior to the expiration of the permit.

Please contact me directly (telephone: 401-222-6820, ext. 7402) should you have any questions.

Sincerely,



Charles A. Horbert, Permitting Supervisor
Office of Water Resources
Freshwater Wetlands Program
CAH/cah

Enclosure: Letter dated June 16, 2008



RHODE ISLAND
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
235 Promenade Street, Providence, RI 02908-5767 TDD 401-222-4462

CERTIFIED MAIL

June 16, 2008

Dianne Williams
c/o Richard Cesaro
305 Mountindale Road
Smithfield, RI 02917

PERMIT TO ALTER FRESHWATER WETLANDS

Re: Application No. 06-0063 in reference to the location below:

Approximately 400 feet northwest of Mountindale Road and approximately 600 feet north of its intersection with Spragueville Road, Utility Pole No. 62, Assessor's Plat 46, Lots 76 and 171, Smithfield, RI

Dear Ms. Williams:

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 driveway to access a proposed single family dwelling with associated well, sewer, utilities, and landscaping as described and detailed in the material and information submitted in support of your application and on site plans received by the DEM on December 21, 2006. 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 Governing the Administration and Enforcement of the Freshwater Wetlands Act (Rules).

This Program received one (1) 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. This Program reviewed this letter together with any supporting documents and evaluated the potential impacts from the project upon the values mentioned in the letter. The Program has determined that the comments contained within this letter do not constitute an objection of a substantive nature as defined in Rule 5.53. 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. 06-0063:

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 December 21, 2006. A copy of the site plans stamped approved by the DEM is enclosed. Changes or revisions to the project that 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 again 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 or Town 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 Rules.
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 and the DEM issues a Notice of Completion of Work for the project.
10. Also prior to commencement of any site alterations, permanent buffer zone markers must be installed along the limit of disturbance at the locations indicated in red ink on the approved site plans, in order to provide permanent reference points on site that are clear to present and future property owners. Acceptable permanent type markers include 4" x 4" pressure treated timber posts, galvanized fence posts with cap, or granite or concrete bounds. Markers must extend a minimum 24" above grade. A permanent-type tag or sign labeled "RIDEM Buffer Zone" must be placed on each marker. A permanent-type fence at least 24" tall placed along the limits of disturbance and similarly labeled may be substituted where desired. **No alterations of any kind are permitted beyond these markers without first obtaining the necessary permit from this Program.**
11. 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.
12. Upon permanent stabilization of all disturbed soils, temporary erosion and/or sediment controls consisting of silt fence, if used, must be removed.

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. All plantings of shrubs, trees or other forms of vegetation 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. You must notify this Program in writing upon completion of the required plantings for a compliance inspection by a Program representative.
15. All northern white cedars proposed along the south side of the proposed driveway may be substituted with evergreen shrubs such as rhododendron, mountain laurel or inkberry, since additional trees may compromise the integrity of the existing retaining wall
16. You may dispense with planting any shrubs where planting the shrubs would result in the clearing of any existing shrubs or trees that would otherwise not have to be cleared for driveway construction.
17. No trees are to be cleared between the river and the proposed driveway.
18. Buffer zone plantings of trees and/or shrubs proposed between the project and any adjacent freshwater wetland areas, except for necessary replacement, must be allowed to develop naturally without being subjected to mowing or manicuring.
19. Artificial lighting along the driveway/roadway where it crosses freshwater wetlands is not authorized in this permit.
20. Particular care must be taken to adhere strictly to the grade changes as depicted on the approved site plans, especially along the proposed driveway, in order to ensure that runoff flows to the north side of the driveway away from the river.

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

This Permit also constitutes your authorization from the U.S. Army Corps of Engineers ("Corps") under Section 404 of the Clean Water Act for the work proposed. Your project qualifies as a Category I activity under the Rhode Island Programmatic General Permit (General Permit No. NAE-2006-2711). You are, therefore, not required to file a separate application with the Corps.

Please note that the General Conditions within the enclosed RI Programmatic General Permit 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.

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 by this Department 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."

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 that may be held in this matter.

If you have any questions regarding this matter, you may contact me or Kate McPherson of my staff at this office (telephone: 401-222-6820 x7732).

Sincerely,



Charles A. Horbert, Permitting Supervisor
Office of Water Resources
Freshwater Wetlands Program
CAH/KHM/khm

Enclosure: Approved Site Plans
 RI Programmatic General Permit

- xc: David Kerins, Esq., Act'g Chief, Administrative Adjudication Division
Russell Chateaufneuf, Chief of Groundwater & Wetlands Protection
Mary Kay, Esq., Acting Chief Legal Counsel, DEM Office of Legal Services
Neal Personeus, Water Quality Certification Program
Michael Elliott, U.S. Army Corps of Engineers, New England Division
Peter Scorpio, Smithfield Building Official
Ronald Kershaw, P.E., RGK Consultants
Scott P. Rabideau, Natural Resource Services, Inc.
John Andrews, Douglas Design Group