



RHODE ISLAND DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
OFFICE OF WATER RESOURCE
235 Promenade Street
Providence, Rhode Island 02908

November 20, 2024

Albion Hydro, LLC
John Brand, Manager
470 W. 78th Street, Suite 250
Chanhassen, MN 55317

PERMIT RENEWAL and REVISED PERMIT

RE: Wetland Application No. **19-0181** and **RIPDES** No. **RIR101931** in reference to the location below:

Approximately 450 feet northwest of Albion Road, and approximately 350 feet east of its intersection with School Street, Assessor's Plat 33, Lot 431, Cumberland, RI.

Dear Mr. Brand:

The Department of Environmental Management's ("DEM") Freshwater Wetlands Program ("Program") has completed its review of your **Application for Permit Renewal** and **Application for Permit Modification** and has evaluated your proposed "After-the Fact" modifications to the permitted hydropower facility, stormwater treatment structures and associated landscaping as illustrated and detailed on revised site plans submitted with your application. The site plans were received by this Program on August 29, 2024.

This Program has completed an inspection of the site and has found that your project, at this time, is generally 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, 250-RICR-150-15-1. This site inspection also found that the nonconformance issues outlined in this Program's May 2, 2024 "Letter of Nonconformance" have been addressed to the satisfaction of this Program. It is our determination, therefore, that the permit may be renewed. This renewal is valid until August 26, 2025 and expires on that date.

Additionally, based upon the Program's evaluation of the revised project and pursuant to Rule 11.03 of the Rules and Regulations Governing the Administration and Enforcement of the Freshwater Wetlands Act (Rules), it is the Program's determination that a revised permit for the modified project may be issued under the following terms and conditions:

1. This letter is the DEM's revised 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 revised permit is specifically limited to the project as detailed on the site plan submitted with your application and received by the DEM on August 29, 2024. A copy of the site plan 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 revised permit conflict with the approved site plan, these terms and conditions shall be deemed to supersede the site plan.

4. Copies of this revised permit and the stamped approved plan must be made available for review by any DEM representative upon request.
5. **Within ten (10) days of receipt of this permit**, you must record this revised permit in the land evidence records of the Town of Cumberland and **supply this Program with written documentation obtained from the Town showing this revised permit was recorded.**

Except as authorized in this revised permit pursuant to revised and approved site plans (enclosed), all terms and conditions previously specified in the Program's permit dated August 26, 2020 (copy enclosed) remain in effect.

Pursuant to the provisions in 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 revised 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 the Program.

In permitting the proposed alterations, the DEM assumes no responsibility for damages resulting from faulty design or construction.

This revised 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.

Please contact Andrew Charpentier of this Program (telephone: 401-537-4209) should you have any questions regarding this letter.

Sincerely,



Andy Charpentier, Environmental Scientist III
Office of Water Resources/Permitting Section
Freshwater Wetlands Program
AC/ac

Enclosures: Approved revised site plan
Original Permit letter

cc: Neal Personeus, RI DEM Stormwater Program
Austin Cormier, Kleinschmidt Associates
Elizabeth Waterhouse, USACOE



RHODE ISLAND DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
OFFICE OF WATER RESOURCES
235 Promenade Street
Providence, Rhode Island 02908

CERTIFIED MAIL

August 26, 2020

New England Hydropower Company, LLC
Michael C. Kerr, CEO
P. O. Box 5524
Beverly Farms, MA 01915

PERMIT TO ALTER FRESHWATER WETLANDS

Re: Wetland Application No. 19-0181; RIPDES File Number RIR101931 in reference to the location below:

Approximately 450 feet northwest of Albion Road, and approximately 350 feet east of its intersection with School Street, Assessor's Plat 33, Lot 431, Cumberland, RI.

Dear Mr. Kerr:

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 hydropower facility utilizing two Archimedes Screws at the existing Albion Dam. Associated proposed structures include a crushed stone access road, intake channel & tailrace, powerhouse, transformer pad, two stormwater bioretention basins, a temporary access road, stockpile area, a crane pad, and dam reinforcement as described and detailed in the material and information submitted in support of your application and on site plans received by the DEM on April 15, 2020. 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. Gen. Laws § 2-1-18 et seq.) and the procedures set forth in the Rules and Regulations Governing the Administration and Enforcement of the Freshwater Wetlands Act, 250-RICR-150-15-1, specifically in 250-RICR-150-15-1.10.

This Program received two letters relating to your application which were submitted during the public notice period. These letters expressed concern regarding your project's impacts to freshwater wetland values. This Program reviewed these letters together with any supporting documents and evaluated the potential impacts from the project upon the values mentioned in the letters. The Program has determined that the comments contained within these letters do not constitute an objection of a substantive nature as defined in 250-RICR-150-15-1.10(D)(3)(c). Therefore, a public hearing pursuant to R.I. Gen. Laws § 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 Wetlands Application No. 19-0181 & RIPDES No. RIR101931:

1. This letter is the DEM's permit for this project under the R.I. Fresh Water Wetlands Act, R.I. Gen. Laws § 2-1-18 et seq.
2. This determination also includes your final authorization to discharge storm water associated with construction activity under the **2018 RIDPES General Permit for Stormwater Discharge During Construction Activity ("CGP")**. For future references and inquiry, your permit authorization number is **RIPDES No. RIR101931**.
3. 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 April 15, 2020. 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.
4. 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.
5. You must notify this Program in writing of the anticipated start date, and of your contractor's contact information, by submitting the Notice of Start of Construction Form prior to commencement of any permitted site alterations or construction activity. You must also notify this Program in writing upon completion of the project, including submittal of the Notice of Termination Form. The Start of Construction Form and the Notice of Termination can be found on the webpage: dem.ri.gov/stormwaterconstruction.
6. 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 city/town representative upon request.
7. Within ten (10) days of the receipt of this permit, you must record this permit in the land evidence records of the Town of Cumberland and supply this Program with written documentation obtained from the Town showing this permit was recorded.
8. The effective date of this permit is the date this letter was issued. This permit expires one (1) year from the date of this letter unless renewed pursuant to 250-RICR-150-15-1.10(G)(6).
9. Any material utilized in this project must be clean and free of matter that could pollute any freshwater wetland.
10. 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.

11. Both the owner and the contractor retained to undertake the construction activity are required to comply with all terms and conditions of the CGP. This includes maintaining the Soil Erosion and Sediment Control (SESC) Plan, performing the required inspections and maintenance of the selected Best Management Practices (BMPs), and retaining inspection records. Further information on the requirements of the CGP is available at:
<http://www.dem.ri.gov/programs/benviron/water/permits/swcoord/pdf/cpg092618.pdf>.
12. 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. The necessary placement of an erosion control blanket that Prior to the installation of the erosion control blanket, and where proposed slopes are 2:1 or steeper, you must have a double set of erosion and sediment controls installed parallel to one another with one set of controls no more than two feet upslope of the controls installed at the toe of slope. All Limits of Disturbance shall remain as illustrated on the approved site plans.
13. Upon permanent stabilization of all disturbed soils, temporary erosion and/or sediment controls must be removed.
14. You are responsible for the proper installation, operation, maintenance and stability of any mitigative features, stormwater treatment facilities, and systems of treatment and control that are installed or used in compliance with this permit to prevent harm to adjacent wetlands until such time that documentation is provided that this responsibility has been assigned to another entity. Operation and maintenance shall be as described in the plan entitled "Albion Stormwater BMP Operations & Maintenance Plan, Albion Hydroelectric Project, FERC No. 14633, Prepared for New England Hydropower Company Beverly Farms, Massachusetts", dated November, 2019 as prepared by Kleinschmidt, Group.
15. 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.
16. All construction activities involving soil disturbances within watercourses must be limited to the low flow period (i.e., the period from July 1 to October 31 of any calendar year). Soil disturbance in these watercourses must temporarily cease in the event of any abnormally high stormwater runoff event during the low flow period.
17. The site plan does not depict a culvert under the permanent access road to carry the Area Subject to Storm Flowage (ASSF) flow from the Forested Wetland (near flag WF#C6) to the Blackstone River. A properly sized culvert and outfall must be installed at this location to carry stormwater flow at existing flow rates and must not alter water elevations within the Forested Wetland.
18. You must provide written certification from a registered land surveyor or registered professional engineer that the stormwater drainage system including any and all basins, piping systems, catch basins, culverts, swales and any other stormwater management control features have been constructed/installed in accordance with the site plans approved by this permit. This written certification must be submitted to this Program within twenty (20) days of its request or upon completion of the project.

19. 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.
20. All proposed plantings of trees and/or shrubs, except for necessary replacement, must be allowed to develop naturally without being subjected to mowing or manicuring.
21. Any plantings which fail to survive one full growing season shall be replaced. Replacement plantings shall be similarly guaranteed for one full growing season.
22. Areas to be replanted must be monitored for the presence of non-native, invasive flora. Non-native flora which is negatively affecting the health and growth of required plantings must be removed by hand methods for a period of two years following project completion.
23. Artificial lighting authorized by this permit must be directed away from all vegetated wetland areas. Where this is not possible, the use of deflectors to concentrate lighting away from vegetated wetlands must be employed.
24. This permit is predicated on the premise that existing pedestrian access on the subject property situated immediately adjacent to the bank of the Blackstone River shall be maintained up to the proposed turbine outfall in perpetuity. Likewise, the existing foot path starting at School Street, situated on the subject property traversing northerly approximately 120 feet east of the edge of the River and parallel to the River, shall be restored as close to the original location as possible within the project area to allow continued, unfettered access from School Street to that area where the existing foot path continues northerly of the project Limits of Disturbance. Both these public access areas must be available for public use prior to any operation of the hydropower facility. Temporary pedestrian access must also be maintained in the close proximity of both locations prior to and concurrent with proposed project activities.
25. The new gate and fence as depicted on sheets 8 and 9 of 16 of the approved site plans shall not be of a nature to prevent public access to both the area immediately along the bank of the River, and the area along the existing path from School Street northerly to that portion of the existing path beyond the project Limits of Disturbance. A permanent sign must be posted at the site's School Street entrance to inform the public that pedestrian access is available at the two locations identified within Condition No. 24 above.
26. All concrete waste generated by activities on the subject property must be removed from the site and disposed of outside any wetland area.
27. The water quality certificate issued by the DEM's Water Quality Certification Program dated June 5, 2020 (copy enclosed), is incorporated herein as a condition of this permit. You are required to comply with this certificate as a term and condition of this permit. All correspondence required by the certificate must be jointly filed with this Program and the Office of Water Resources/Water Quality Certification Program.

Pursuant to the provisions in 250-RICR-150-15-1.7(A)(9) and 250-RICR-150-15-1.11(D) of the Rules, as applicable, any properly recorded and valid permit is automatically transferred to the new owner upon sale of the property. Pursuant to the provisions in 250-RICR-150-15-1.7(A)(9)(c), within ten (10) days of any property transfer, the subsequent transferee must notify the Department by forwarding a certified copy of the deed of transfer.

If you have not already done so, or in order to check on the status of their review, please contact the U.S. Army Corps of Engineers to determine federal permit requirements on your project. Write the Corps' New England District, Regulatory Branch, 696 Virginia Road, Concord, MA 01742-2751; website: <https://www.nae.usace.army.mil/Missions/Regulatory/or> email at cenaer@usace.army.mil. Please note that the Department of the Army authorization must be obtained before any work is initiated in areas subject to Corps jurisdiction.

Please be aware that the RIDEM's Rules and Regulations Governing the Establishment of Various Fees (250-RICR-30-00-1) require that RIPDES CGP permit holders to pay an Annual Fee of \$100.00. An invoice will be sent to the owner on record in May/June of each year if the construction was still active as of December 31st of the previous year. The owner will be responsible for the Annual Fee until the construction activity has been completed, the site has been properly stabilized, and a completed Notice of Termination (NOT) has been received by the RIPDES Program.

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.

In permitting the proposed alterations, the Department 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.

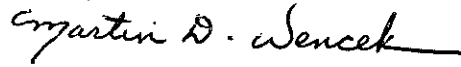
If you are aggrieved by this decision, you may, within thirty (30) days of the receipt of this letter, request an adjudicatory hearing in writing. This request must be sent directly to the DEM Administrative Adjudication Division ("AAD"), One Capitol Hill, Second Floor, Providence, RI 02903. A copy of 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 250-RICR-10-00-1.7(B) of the DEM Rules and Regulations for the Administrative Adjudication Division, 250-RICR-10-00-1. Section 250-RICR-10-00-1.7(B) provides:

"The request for a 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 250-RICR-10-00-1, R.I. Gen. Laws Chapter 42-35-1 *et seq.*, 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 or Andrew Charpentier at this Program (telephone: 401-222-4700 ext. 7414).

Sincerely,



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

MDW/mdw

Enclosure: Approved Site Plans
Water Quality Certificate dated June 5, 2020

cc: Mary Kay, DEM, Office of Legal Services
James McNamee, DEM, Bureau of Natural Resources
Philip Edwards, DEM, Fish and Wildlife
Chuck Horbert, DEM, Water Quality Certification Program
Melissa Grader, U.S. Fish and Wildlife Service
Mike Weirbonics, U. S. Army Corps of Engineers
Brad Ward, Town of Cumberland, Building Official
Jonathan Stevens, Town of Cumberland, Planning and Community Development
Kate McPherson, Save the Bay
John Marsland, Blackstone River Watershed Council
Scott P. Rabideau, Natural Resource Services, Inc.
Eric Turgeon, Kleinschmidt Group



RHODE ISLAND DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
OFFICE OF WATER RESOURCES
235 Promenade Street
Providence, Rhode Island 02908

May 2, 2024

Albion Hydro, LLC
John Brand, Manager
470 W 78th Street
Suite 250
Chanhassen, MN 55317

Permit Transfer and Renewal

RE: Application No. 19-0181- Letter of Nonconformance for the project site located:

Approximately 450 feet northwest of Albion Road, and approximately 350 feet east of its intersection with School Street, Assessor's Plat 33, Lot 431, Cumberland, RI.

Dear Mr. Brand:

The Department of Environmental Management's ("DEM") Freshwater Wetlands Program ("Program") has completed its review of your Application for Permit Transfer in accordance with Rule 250-RICR-150-15-1.11(D) of the Rules and Regulations Governing the Administration and Enforcement of the Freshwater Wetlands Act ("Rules").

Pursuant to the provisions in Rule 250-RICR-150-15-1.7(A)(9) and Rule 250-RICR-150-15-1.11(D) as applicable, any properly recorded and valid permit is automatically transferred to the new owner upon sale of the property. Since this permit was recorded in land evidence records and is still valid, you assumed responsibility of the permit upon purchase of the property. It is your responsibility to comply with the approved site plans and all conditions of the original permit issued on August 26, 2020, including any time limitations therein (copy enclosed). Our database has been updated to reflect that you are the current owner.

This Program has also completed the Application for Permit Renewal. Pursuant to Rule 1.9(D) this permit is renewed and valid until August 26, 2024.

Please feel free to call Andrew Charpentier at (401) 537-4209 if you have any questions about this letter.

Sincerely,

A handwritten signature in black ink that reads "Martin D. Wencek".

Martin D. Wencek, Environmental Scientist IV
Freshwater Wetlands Program
Office of Water Resources

Enclosures: Permit Letter dated August 26, 2020



RHODE ISLAND DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
OFFICE OF WATER RESOURCES
235 Promenade Street
Providence, Rhode Island 02908

January 9, 2022

New England Hydropower Company, LLC
P.O. Box 5524
Beverly Farms, MA 01915
Attn: Carol Wasserman

REVISED PERMIT

Re: Application No. 19-0181 in reference to the location below:
Approximately 450 feet northwest of Albion Road, approximately 350 feet east of the intersection of Albion Road and School Street, Assessors Plat 33, Lot 431, Cumberland, RI.

Dear Ms. Wasserman:

The Department of Environmental Management's ("DEM") Freshwater Wetlands Program ("Program") has completed its review of your Application for Permit Modification and has evaluated your proposed cofferdam reconfiguration to address a bedrock elevation discrepancy including installation of additional temporary sandbags as illustrated and detailed on revised site plans submitted with your application. The revised site plans were received by the DEM on January 27, 2022 (Figure 1), and February 1, 2022 (Figure 2).

Based upon the Program's evaluation of the revised project and pursuant to 250-RICR-150-15-1.11(C) of the Rules and Regulations Governing the Administration and Enforcement of the Freshwater Wetlands Act, 250-RICR-150-15-1, it is the Program's determination that a revised permit for the modified project may be issued under the following terms and conditions:

1. This letter is the DEM's revised permit for this project under the R.I. Fresh Water Wetlands Act, R.I. Gen Laws. § 2-1-18 *et seq.*
2. This revised 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 January 27, 2022, and February 1, 2022. 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 revised permit conflict with the approved site plans, these terms and conditions shall be deemed to supersede the site plans.
4. A copy of the stamped approved site plans and a copy of this revised permit must be kept at the site at all times during site preparation, construction, and final stabilization. Copies of this revised permit and the stamped approved plans must be made available for review by any DEM or city/town representative upon request.
5. Within ten (10) days of the receipt of this revised permit, you must record this permit in the land evidence records of the Town of Cumberland and supply this Program with written documentation obtained from the Town showing this revised permit was recorded.

6. For all work associated with this project, construction involving any soil/substrate disturbances within the Blackstone River must be limited to the previously modified low-flow period from June 1 to October 31 of any calendar year this permit is in effect. Cofferdam removal is allowed outside of this modified low-flow period once the turbines and the powerhouse are in place and the adjacent shoreline has been stabilized against erosion. Any work associated with this proposal that could result in any potential soil disturbance within the Blackstone River must temporarily cease in the event of an abnormally high stormwater runoff event including but not restricted to a one-year frequency storm (2.7 inches per day) or greater during this previously modified low-flow period.
7. This revised permit expires upon expiration of the original permit unless renewed pursuant to 250-RICR-150-15-1.9(D)(5).

Except as authorized or noted in this revised permit pursuant to revised and approved site plans (enclosed), all terms and conditions previously authorized in the Program's permit dated August 26, 2020 (copy enclosed), and the Revised Permit dated April 14, 2021 (copy enclosed) remain in effect.

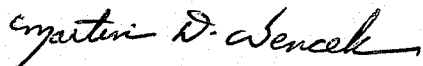
You are required to comply with the terms and conditions of this revised permit and to carry out this project in compliance with 250-RICR-150-15-1 at all times. Failure to do so may result in an enforcement action by the Program.

In permitting the proposed alterations, the DEM assumes no responsibility for damages resulting from faulty design or construction.

This revised 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.

Please contact me at this office at (telephone: 401-222-6820 ext. 2777403) should you have any questions regarding this letter.

Sincerely,



Martin D. Wencek, Program Supervisor
Freshwater Wetlands Program
Office of Water Resources
MDW/mdw

Enclosure: Approved revised site plans
 Permit Letter dated August 26, 2020
 Modified Permit dated April 14, 2021

cc: Terry Gray, DEM, Acting Director
 Eric Beck, DEM, Office of Water Resources
 Chuck Horbert, DEM, Stormwater Program
 Philip Edwards, DEM, Division of Fish and Wildlife
 Mary Kay, DEM, Office of Legal Services
 Mike Wierbonics, US Army Corps of Engineers, New England District
 Eric Turgeon, Federal Energy Regulatory Commission
 Austin Cormier, Kleinschmidt Group



RHODE ISLAND DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
OFFICE OF WATER RESOURCES
235 Promenade Street
Providence, Rhode Island 02908

April 14, 2021

New England Hydropower, LLC, Lessee
Attn: Carol Wasserman, Director
100 Cummings Center, Suite 451C
Beverly, MA 01915

Revised Permit

Re: Application No. 19-0181 in reference to the location below:

Approximately 450 feet northwest of Albion Road, and approximately 350 feet east of its intersection with School Street, Assessor's Plat 33, Lot 431, Cumberland, RI.

Dear Ms. Wasserman:

The Department of Environmental Management's ("DEM") Freshwater Wetlands Program ("Program") has completed its review of your Application for Permit Modification and has evaluated your proposed modifications to the permit issued for the above-referenced application as described in the narrative "Request to Incorporate Minor Modification to Originally Permitted Project" dated February 23, 2021 submitted with your application. The revised proposal, which specifically sought relief from Permit Condition No. 16 related to low-flow restrictions, was received by the DEM on March 3, 2021.

Based upon the Program's evaluation of the revised project, as discussed in detail with you over the course of our review, and pursuant to 250-RICR-150-15-1.11(C) of the Rules and Regulations Governing the Administration and Enforcement of the Freshwater Wetlands Act, 250-RICR-150-15-1 ("Rules"), it is the Program's determination that a revised permit for the modified project may be issued under the following terms and conditions:

1. This letter is the DEM's revised permit for this project under the R.I. Fresh Water Wetlands Act, R.I. Gen Laws. § 2-1-18 et seq.
2. This revised permit is specifically limited to relief of low-flow restrictions as described in the narrative description received by the DEM on February 23, 2021 and as further conditioned herein. Further 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 revised permit conflict with the submitted narrative, these terms and conditions shall be deemed to supersede the narrative.
4. For this specific project, all construction involving soil disturbances within watercourses must be limited to the period from June 1 through October 31 of any calendar year. Cofferdam removal is allowed outside of this modified low-flow period once turbines and the powerhouse are in place and the adjacent shoreline has been stabilized against erosion. Unconfined soil disturbance within the watercourse must temporarily cease in the event of any abnormally high stormwater runoff event during this modified low-flow period.

5. Within ten (10) days of the receipt of this revised permit, you must record this permit in the land evidence records of the Town of Cumberland and supply this Program with written documentation obtained from the Town showing this revised permit was recorded.
6. This revised permit expires with the original permit on August 26, 2021 unless renewed pursuant to 250-RICR-150-15-1.9(D)(5).

Except as authorized in this revised permit pursuant to revised low-flow permit condition, all terms and conditions previously specified in the Program's permit dated August 26, 2020 (copy enclosed) remain in effect.

Pursuant to the provisions in 250-RICR-150-15-1.7(A)(9) and 250-RICR-150-15-1.11(D), 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 revised 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 the Program.

In permitting the proposed alterations, the DEM assumes no responsibility for damages resulting from faulty design or construction.

This revised 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.

Please contact Andrew Charpentier of the Freshwater Wetlands Program Program (telephone: 401-222-6820 ext. 77414; e-mail andy.charpentier@dem.ri.gov) should you have any questions regarding this letter.

Sincerely,



Charles A. Horbert, Deputy Administrator
Groundwater & Freshwater Wetlands Protection
Office of Water Resources
CAH/AC/cah

Enclosure: Permit dated August 26, 2020

ec: Terry Gray, Associate Director, RIDEM
Eric Beck, Administrator, Groundwater & Freshwater Wetlands Protection
Martin Wencek, Program Supervisor
Mary Kay, Executive Counsel, DEM Office of Legal Counsel
Philip Edwards, Chief, DEM Division of Fish & Wildlife
Michael Wierbonics, US Army Corps of Engineers, New England District
John Baummer, Federal Energy Regulatory Commission
Jonathan Stevens, Cumberland Planning Director
Christopher D'Ovidio, Esq., D'Ovidio Law



RHODE ISLAND DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
OFFICE OF WATER RESOURCES
235 Promenade Street
Providence, Rhode Island 02908

CERTIFIED MAIL

August 26, 2020

New England Hydropower Company, LLC
Michael C. Kerr, CEO
P. O. Box 5524
Beverly Farms, MA 01915

PERMIT TO ALTER FRESHWATER WETLANDS

Re: Wetland Application No. 19-0181; RIPDES File Number RIR101931 in reference to the location below:

Approximately 450 feet northwest of Albion Road, and approximately 350 feet east of its intersection with School Street, Assessor's Plat 33, Lot 431, Cumberland, RI.

Dear Mr. Kerr:

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 hydropower facility utilizing two Archimedes Screws at the existing Albion Dam. Associated proposed structures include a crushed stone access road, intake channel & tailrace, powerhouse, transformer pad, two stormwater bioretention basins, a temporary access road, stockpile area, a crane pad, and dam reinforcement as described and detailed in the material and information submitted in support of your application and on site plans received by the DEM on April 15, 2020. 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. Gen. Laws § 2-1-18 et seq.) and the procedures set forth in the Rules and Regulations Governing the Administration and Enforcement of the Freshwater Wetlands Act, 250-RICR-150-15-1, specifically in 250-RICR-150-15-1.10.

This Program received two letters relating to your application which were submitted during the public notice period. These letters expressed concern regarding your project's impacts to freshwater wetland values. This Program reviewed these letters together with any supporting documents and evaluated the potential impacts from the project upon the values mentioned in the letters. The Program has determined that the comments contained within these letters do not constitute an objection of a substantive nature as defined in 250-RICR-150-15-1.10(D)(3)(c). Therefore, a public hearing pursuant to R.I. Gen. Laws § 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 Wetlands Application No. 19-0181 & RIPDES No. RIR101931:

1. This letter is the DEM's permit for this project under the R.I. Fresh Water Wetlands Act, R.I. Gen. Laws § 2-1-18 et seq.
2. This determination also includes your final authorization to discharge storm water associated with construction activity under the **2018 RIDPES General Permit for Stormwater Discharge During Construction Activity ("CGP")**. For future references and inquiry, your permit authorization number is **RIPDES No. RIR101931**.
3. 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 April 15, 2020. 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.
4. 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.
5. You must notify this Program in writing of the anticipated start date, and of your contractor's contact information, by submitting the Notice of Start of Construction Form prior to commencement of any permitted site alterations or construction activity. You must also notify this Program in writing upon completion of the project, including submittal of the Notice of Termination Form. The Start of Construction Form and the Notice of Termination can be found on the webpage: dem.ri.gov/stormwaterconstruction.
6. 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 city/town representative upon request.
7. Within ten (10) days of the receipt of this permit, you must record this permit in the land evidence records of the Town of Cumberland and supply this Program with written documentation obtained from the Town showing this permit was recorded.
8. The effective date of this permit is the date this letter was issued. This permit expires one (1) year from the date of this letter unless renewed pursuant to 250-RICR-150-15-1.10(G)(6).
9. Any material utilized in this project must be clean and free of matter that could pollute any freshwater wetland.
10. 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.

11. Both the owner and the contractor retained to undertake the construction activity are required to comply with all terms and conditions of the CGP. This includes maintaining the Soil Erosion and Sediment Control (SESC) Plan, performing the required inspections and maintenance of the selected Best Management Practices (BMPs), and retaining inspection records. Further information on the requirements of the CGP is available at:
<http://www.dem.ri.gov/programs/benviron/water/permits/swcoord/pdf/cpg092618.pdf>.
12. 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. The necessary placement of an erosion control blanket that Prior to the installation of the erosion control blanket, and where proposed slopes are 2:1 or steeper, you must have a double set of erosion and sediment controls installed parallel to one another with one set of controls no more than two feet upslope of the controls installed at the toe of slope. All Limits of Disturbance shall remain as illustrated on the approved site plans.
13. Upon permanent stabilization of all disturbed soils, temporary erosion and/or sediment controls must be removed.
14. You are responsible for the proper installation, operation, maintenance and stability of any mitigative features, stormwater treatment facilities, and systems of treatment and control that are installed or used in compliance with this permit to prevent harm to adjacent wetlands until such time that documentation is provided that this responsibility has been assigned to another entity. Operation and maintenance shall be as described in the plan entitled "Albion Stormwater BMP Operations & Maintenance Plan, Albion Hydroelectric Project, FERC No. 14633, Prepared for New England Hydropower Company Beverly Farms, Massachusetts", dated November, 2019 as prepared by Kleinschmidt, Group.
15. 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.
16. All construction activities involving soil disturbances within watercourses must be limited to the low flow period (i.e., the period from July 1 to October 31 of any calendar year). Soil disturbance in these watercourses must temporarily cease in the event of any abnormally high stormwater runoff event during the low flow period.
17. The site plan does not depict a culvert under the permanent access road to carry the Area Subject to Storm Flowage (ASSF) flow from the Forested Wetland (near flag WF#C6) to the Blackstone River. A properly sized culvert and outfall must be installed at this location to carry stormwater flow at existing flow rates and must not alter water elevations within the Forested Wetland.
18. You must provide written certification from a registered land surveyor or registered professional engineer that the stormwater drainage system including any and all basins, piping systems, catch basins, culverts, swales and any other stormwater management control features have been constructed/installed in accordance with the site plans approved by this permit. This written certification must be submitted to this Program within twenty (20) days of its request or upon completion of the project.

19. 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.
20. All proposed plantings of trees and/or shrubs, except for necessary replacement, must be allowed to develop naturally without being subjected to mowing or manicuring.
21. Any plantings which fail to survive one full growing season shall be replaced. Replacement plantings shall be similarly guaranteed for one full growing season.
22. Areas to be replanted must be monitored for the presence of non-native, invasive flora. Non-native flora which is negatively affecting the health and growth of required plantings must be removed by hand methods for a period of two years following project completion.
23. Artificial lighting authorized by this permit must be directed away from all vegetated wetland areas. Where this is not possible, the use of deflectors to concentrate lighting away from vegetated wetlands must be employed.
24. This permit is predicated on the premise that existing pedestrian access on the subject property situated immediately adjacent to the bank of the Blackstone River shall be maintained up to the proposed turbine outfall in perpetuity. Likewise, the existing foot path starting at School Street, situated on the subject property traversing northerly approximately 120 feet east of the edge of the River and parallel to the River, shall be restored as close to the original location as possible within the project area to allow continued, unfettered access from School Street to that area where the existing foot path continues northerly of the project Limits of Disturbance. Both these public access areas must be available for public use prior to any operation of the hydropower facility. Temporary pedestrian access must also be maintained in the close proximity of both locations prior to and concurrent with proposed project activities.
25. The new gate and fence as depicted on sheets 8 and 9 of 16 of the approved site plans shall not be of a nature to prevent public access to both the area immediately along the bank of the River, and the area along the existing path from School Street northerly to that portion of the existing path beyond the project Limits of Disturbance. A permanent sign must be posted at the site's School Street entrance to inform the public that pedestrian access is available at the two locations identified within Condition No. 24 above.
26. All concrete waste generated by activities on the subject property must be removed from the site and disposed of outside any wetland area.
27. The water quality certificate issued by the DEM's Water Quality Certification Program dated June 5, 2020 (copy enclosed), is incorporated herein as a condition of this permit. You are required to comply with this certificate as a term and condition of this permit. All correspondence required by the certificate must be jointly filed with this Program and the Office of Water Resources/Water Quality Certification Program.

Pursuant to the provisions in 250-RICR-150-15-1.7(A)(9) and 250-RICR-150-15-1.11(D) of the Rules, as applicable, any properly recorded and valid permit is automatically transferred to the new owner upon sale of the property. Pursuant to the provisions in 250-RICR-150-15-1.7(A)(9)(c), within ten (10) days of any property transfer, the subsequent transferee must notify the Department by forwarding a certified copy of the deed of transfer.

If you have not already done so, or in order to check on the status of their review, please contact the U.S. Army Corps of Engineers to determine federal permit requirements on your project. Write the Corps' New England District, Regulatory Branch, 696 Virginia Road, Concord, MA 01742-2751; website: <https://www.nae.usace.army.mil/Missions/Regulatory/or> email at cenauer@usace.army.mil. Please note that the Department of the Army authorization must be obtained before any work is initiated in areas subject to Corps jurisdiction.

Please be aware that the RIDEM's Rules and Regulations Governing the Establishment of Various Fees (250-RICR-30-00-1) require that RIPDES CGP permit holders to pay an Annual Fee of \$100.00. An invoice will be sent to the owner on record in May/June of each year if the construction was still active as of December 31st of the previous year. The owner will be responsible for the Annual Fee until the construction activity has been completed, the site has been properly stabilized, and a completed Notice of Termination (NOT) has been received by the RIPDES Program.

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.

In permitting the proposed alterations, the Department 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.

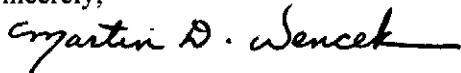
If you are aggrieved by this decision, you may, within thirty (30) days of the receipt of this letter, request an adjudicatory hearing in writing. This request must be sent directly to the DEM Administrative Adjudication Division ("AAD"), One Capitol Hill, Second Floor, Providence, RI 02903. A copy of 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 250-RICR-10-00-1.7(B) of the DEM Rules and Regulations for the Administrative Adjudication Division, 250-RICR-10-00-1. Section 250-RICR-10-00-1.7(B) provides:

"The request for a 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 250-RICR-10-00-1, R.I. Gen. Laws Chapter 42-35-1 *et seq.*, 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 or Andrew Charpentier at this Program (telephone: 401-222-4700 ext. 7414).

Sincerely,



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

MDW/mdw

Enclosure: Approved Site Plans
Water Quality Certificate dated June 5, 2020

cc: Mary Kay, DEM, Office of Legal Services
James McNamee, DEM, Bureau of Natural Resources
Philip Edwards, DEM, Fish and Wildlife
Chuck Horbert, DEM, Water Quality Certification Program
Melissa Grader, U.S. Fish and Wildlife Service
Mike Weirbonics, U. S. Army Corps of Engineers
Brad Ward, Town of Cumberland, Building Official
Jonathan Stevens, Town of Cumberland, Planning and Community Development
Kate McPherson, Save the Bay
John Marsland, Blackstone River Watershed Council
Scott P. Rabideau, Natural Resource Services, Inc.
Eric Turgeon, Kleinschmidt Group