

**OFFICE OF ADJUDICATIONS**

**IN THE MATTER OF** : **APPLICATION NO. 200600989**

**MONTVILLE COMMONS DAM** : **NOVEMBER 3, 2006**

**PROPOSED FINAL DECISION**

The co-applicants, Second Family, LLC and Home Depot U.S.A., Inc. have submitted a revised application to the Department of Environmental Protection Bureau of Water Protection and Land Reuse, Inland Water Resources Division seeking a permit to remove an existing earthen dam at property known as the Montville Commons Shopping Center in Montville, Connecticut. The co-applicants and DEP staff have submitted the attached Stipulation on Findings of Fact and Conclusions of Law (Attachment A).

This Stipulation satisfactorily conveys the factual findings and legal conclusions necessary to support a determination that the proposed activity, if conducted in accordance with the terms and conditions of the draft permit (Attachment B), will comply with the requirements of General Statutes §22a-403(b), including the provisions of §§22a-36 through 22a-45.<sup>1</sup> I therefore adopt the Stipulation as my proposed final decision in this matter and recommend that the Commissioner issue the requested permit.

/s/ Janice B. Deshais  
Janice B. Deshais, Director  
Hearing Officer

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<sup>1</sup> I note the following clarification of Paragraph 25 of the Stipulation. The citations to the transcript in 25a. – c. should be: 25a. (Tr., p.43); 25b. (Tr. pp. 42,43); 25c. (Tr. p. 42).

# LEVY & DRONEY

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FROM: JEFFREY J. MIRMAN

FILE NO: 333333

RE: MONTVILLE COMMONS DAM  
APPLICATION NO: DSO-05-12

COMMENTS:

This fax consists of 13 pages, including this cover sheet.

**If you do not receive any of these pages properly, please contact Kathleen Albino  
at 860.676.3212**

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October 30, 2006

**VIA HAND DELIVERY**

Janice B. Deshais  
Hearing Officer  
State of Connecticut  
Department of Environmental Protection  
Office of Adjudications  
79 Elm Street  
Hartford, CT 06106-5127

**Re: Application No. DSO-05-12**  
**In The Matter Of Montville Commons Dam**

Dear Ms. Deshais:

Please find enclosed a Stipulation of Findings of Fact and Conclusions of Law in the above-referenced matter. The parties have stipulated, and continue to stipulate, that all of the parties' exhibits should be admitted as part of the Record. None of the exhibits have been withdrawn.

Very truly yours,

LEVY & DRONEY, P.C.

Jeffrey J. Mirman

JJM/ka  
Enclosure

STATE OF CONNECTICUT  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
OFFICE OF ADJUDICATIONS

	:	APPLICATION NO.
	:	DSO-05-12
IN THE MATTER OF	:	(200600989)
	:	
MONTVILLE COMMONS DAM	:	OCTOBER 30, 2006
	:	

**STIPULATION ON FINDINGS OF FACT AND CONCLUSIONS OF LAW**

Second Family, LLC and Home Depot U.S.A., Inc. (the “applicants” or the “co-applicants”) applied to the State of Connecticut Department of Environmental Protection Bureau of Water Management & Land Reuse, Inland Water Resources Division, (“IWRD”) on April 4, 2006 for a permit to remove an existing earthen dam and construct another earthen dam at property known as Montville Commons Shopping Center, located at 1980 Norwich New London Turnpike (Route 32) in Montville, Connecticut (“Montville Commons”). A revised dam application was submitted by the Applicants to the IWRD on August 18, 2006 for review. The revised dam application was submitted solely for the removal of the existing dam.

The parties to this proceeding are the IWRD, the co-applicant Home Depot U.S.A., Inc. (“Home Depot”) and the co-applicant Second Family, LLC (“Second Family”). Stop & Shop Supermarket Company LLC, Manafort Brothers, Incorporated and certain residents of Podurgiel Lane, Montville, CT have intervened in this matter.

The parties stipulate to the following Proposed Findings of Fact and Proposed Conclusions of Law together with a proposed permit (DEP Exh. 22) and request that the Hearing Officer adopt these Proposed Findings of Fact and Proposed Conclusions of Law and the proposed permit in her *Draft Final Decision* to be submitted to the Commissioner of Environmental Protection.

***PROPOSED FINDINGS OF FACT***

**Procedural History.**

1. On April 4, 2006, Second Family and Home Depot, as co-applicants, submitted application No. DS-05-12, also referred to as application No. 200600989, for a dam construction permit in connection with an existing earthen embankment dam, commonly called the Montville Commons Dam, on the northeast corner of property located west of Connecticut State Route 32, between Podurgiel Drive and Fielding Terrace in Montville, Connecticut. (APP Exh. 1-3).

2. Second Family is a Connecticut limited liability company having a business address of 433 South Main Street, Suite 218, West Hartford, Connecticut 06110. Home Depot is a Delaware corporation registered to do business in Connecticut with a business address at One Commercial Plaza, Hartford, Connecticut 06103. Home Depot maintains a New England Division office at 15 Dan Road, Canton, Massachusetts 02021.

3. On May 19, 2006, IWRD staff issued a memorandum proposing approval of application No. DS-05-12. (DEP Exh. 11). On May 29, 2006, IWRD staff gave notice that the Department of Environmental Protection ("DEP") had made a tentative decision to approve the application pursuant to Conn. Gen. Stat. Section 22a-403. (DEP Exh. 1).

4. On or about May 2, 2006, the DEP received a petition signed by more than twenty-five persons requesting that a public hearing be held regarding the application. (DEP Exh. 17). The matter was then assigned to the Hearing Officer Janice Deshais ("Hearing Officer").

5. On July 6, 2006, the Hearing Officer granted intervenor status to Manafort Brothers, Incorporated, Stop & Shop Supermarket Company LLC, and certain residents of Podurciel Lane, pursuant to Conn. Gen. Stat. Section 4-177a(b).

6. On June 20, 2006, the IWRD staff provided notice, pursuant to Conn. Gen. Stat. Section 22a-6(d), to the public that a public hearing had been requested regarding the application and that such hearing was scheduled for 6:30 p.m. on August 3, 2006 at the Montville Town Hall. (DEP Exh. 2).

7. On July 18, 2006, pursuant to Conn. Gen. Stat. Section 22a-403(b), the Hearing Officer conducted a site visit, at which all parties were present.

8. On August 18, 2006, the co-applicants submitted revisions to their application, which eliminated construction of the new earthen dam, to the DEP. (APP Exh. 7-9). The Hearing Officer then issued an order postponing the hearing scheduled for August 3, 2006.

9. IWRD staff reviewed the revised application for removal of the existing earthen dam and proposed a draft permit No. DS-05-12, which, if issued by the Commissioner of Environmental Protection, would permit the co-applicants to remove the dam as depicted in the set of ten plan sheets submitted in connection with the revised application. (DEP Exh. 22).

10. On August 24, 2006, the IWRD staff provided notice, pursuant to Conn. Gen. Stat. Section 22a-6(d), to the public that a public hearing had been requested regarding the

application and that such hearing was scheduled for 6:00 p.m. on October 5, 2006 in the Montville Town Council Chambers at the Montville Town Hall. (DEP Exh. 23).

11. On September 1, 2006, IWRD staff gave notice that DEP had made a tentative decision to approve the application, as revised, pursuant to Conn. Gen. Stat. Section 22a-403, and on September 1, 2006, IWRD staff proposed a revised draft Permit No. DS-05-12. (DEP Exh. 22, 23).

12. A hearing was held on the revised application on the evening of October 5, 2006 at Montville Town Hall. At the hearing, the parties presented evidence and testimony that the proposed removal of the dam complied with all requirements of Conn. Gen. Stat. Section 22a-403. The hearing concluded the same evening and the record of these proceedings closed on October 5, 2006.

13. The parties stipulated to the admission of all of the exhibits listed on the attached Prehearing Submissions, comprising IWRD staff's exhibits 1 through 23 and co-applicants' exhibits 1 through 9. In addition, the parties have agreed to the admission of co-applicants' exhibits 10 through 12, which were not listed on the co-applicants' Prehearing Submissions and were admitted without objection at the public hearing of this matter on October 5, 2006. The record does not contain any exhibits submitted by any intervenor.<sup>1</sup>

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<sup>1</sup> Two exhibits were submitted by the intervening residents; however, in response to the co-applicants' revisions to the application, counsel for the intervening residents withdrew both exhibits prior to the commencement of the public hearing.

### **The Proposed Project**

14. The base of the existing detention basin dam (which is to be removed) is at an elevation of 186 feet and the top of the basin's earthen dam embankment is at an elevation of 200 feet. Following the removal of the existing dam, a detention basin is proposed to be constructed by excavating below the grade that existed prior to any construction on the site, so that the bottom elevation of the proposed excavated basin will be at an elevation of 166 feet. The top of the proposed basin will be at an elevation of 183 feet, or the grade existing prior to any construction at the site. The proposed new excavated detention basin ("new detention basin") will be able to contain a volume of water well in excess of the storage volume needed for a 100 year storm event, which is approximately 7.2 acre-feet, a standard to which detention basins are typically designed. (Tr. pp. 17-19)<sup>2</sup>

15. The construction of the new detention basin is designed to take place from south to north, so that the new detention basin will be constructed as the existing earthen dam embankment is being removed. The temporary pumping system, which is currently in place, will continue to be utilized during construction. The temporary pumping system will be relocated from time to time as construction progresses. The bypass pumping will remain operational until the new detention basin is constructed, including (i) the structures which will be utilized to carry the water through the catchment area, (ii) a cutoff trench to protect the groundwater levels in the existing wetlands and (iii) an emergency spillway. (Tr., pp. 23-27).

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<sup>2</sup> Reference to the transcript of proceedings of the October 5, 2006 Hearing will be noted as "(Tr., p. \_\_\_)."



16. Upon completion, the area where the existing earthen dam embankment is located will look much as it did prior to its construction. The area will be flattened and seeded, so that it will appear as a meadow. The earthen dam embankment will be completely removed and the new detention basin will not be visible when the area is viewed from Podurgiel Lane. The area will appear as a grassy meadow and the landscape buffer planting that has been installed along the north slope of the project will be continued through the area where the earthen dam embankment was located previously. (Tr., pp. 27-28)

**Alternatives Considered.**

17. Alternatives to removal of the existing earthen dam and subsequent construction of the new detention basin were considered. The co-applicants considered reconstruction of the existing earthen dam embankment, a proposal which was tentatively approved by IWRD staff. That proposal was deemed less desirable, because that proposal required additional maintenance and, in the event of a failure of the embankment, it could result in a greater release of water than would result from the overflow of an excavated detention basin. The previously proposed dam embankment is also subject to a greater chance of erosion should it not be properly maintained. An excavated basin has a lesser risk of erosion resulting from its overflow. (Tr., pp. 30-31)

18. The co-applicants also considered other alternatives, including locating the detention basin at the south parking area of the property. This alternative was not deemed feasible because the grade of the site would require pumping of storm water from other portions of the site and the depth of the basin would be limited because of high groundwater levels in this area. (Tr., p. 32)

19. Subsurface detention with pipes and chambers was also evaluated, but considered less desirable because of high groundwater in the north and south parking lot areas and storage limitations. Moreover, a portion of the existing basin would still need to be maintained. (Tr., p. 32)

20. The co-applicants also considered subsurface infiltration or percolating the storm water into the ground at various locations, but the level of the groundwater to the south and saturation of the soil in the area of the retaining wall in the south made that alternative not feasible. (Tr., pp. 32-33)

21. The removal of the existing earthen dam embankment and the subsequent excavation of a detention basin eliminates the potential for dam failure. The excavated basin is much like a pond or lake which may overflow, but not result in erosion or a release of the contents of the pond. (Tr., pp. 34; 37)

#### **IWRD Staff Analysis**

22. Mr. Eugenc Robida, Civil Engineer III with IWRD, was responsible for evaluating the initial application, and the amended application. At Mr. Robida's request (Tr., p. 41), the DEP's Fisheries Division reviewed the application, and concluded that the detention basin is "not located near any perennial [sic] watercourses," and there are "no direct fishery resource concerns." (DEP Exh. 20).

23. Mr. Robida also requested (Tr., p. 41) that the application be reviewed to determine its impact to wetlands and watercourses. IWRD staff concluded that there were "no direct wetland impacts expected from removal of the dam." (DEP Exh. 21)

24. Mr. Robida reviewed the components of the application, including the staged construction sequence; the hydraulics and hydrology of the proposed excavated basin to confirm that the structure will be able to safely contain a 100-year storm; and reviewed the reports from DEP's Fisheries and Inland Wetlands staff. Mr. Robida recommended that a permit be issued (Tr., pp. 42-43). Mr. Robida further concluded that the proposed removal will have no adverse impact upon the safety of persons or property (Tr., p. 43).

25. Mr. Robida testified regarding the statutory factors for consideration which were evaluated in conjunction with this permit as required by Conn. Gen. Stat. Section 22a-403(b). His testimony states:

- a. The proposed dam removal would not adversely impact the safety of persons or property (Tr., p. 39).
- b. DEP Fisheries determined that fish passage at the site is not required in conjunction with the removal of the earthen dam (Tr., p. 38, 39).
- c. Review by DEP's Inland Wetlands staff stated there are no impacts to the wetlands due to the dam removal project (Tr., p. 38).

### **Legal Standard**

1. Conn. Gen. Stat. Section 22a-403, states, in relevant part, that:

(b) The commissioner or his representative, engineer or consultant shall determine the impact of the construction work on the environment, on the safety of persons and property and on the inland wetlands and watercourses of the state in accordance with the provisions of sections 22a-36 to 22a-45, inclusive, and shall further determine the need for a fishway in accordance with the provisions of section 26-136, and shall examine the documents and inspect the site, and, upon approval thereof, the commissioner shall issue a permit authorizing the proposed construction work under such conditions as the commissioner may direct. . . . An applicant for a permit issued under this section to alter,

rebuild, repair or remove an existing dam shall not be required to obtain a permit under sections 22a-36 to 22a-45a, inclusive, or section 22a-342 or 22a-368. An applicant for a permit issued under this section to construct a new dam shall not be required to obtain a permit under sections 22a-36 to 22a-45a, inclusive, for such construction.

### ***PROPOSED CONCLUSIONS OF LAW***

The primary issue in this proceeding is whether the application for removal of the existing *earthen dam embankment in the northeast corner of the Montville Commons site* conforms to the requirements of Conn. Gen. Stat. Section 22a-403(b), including the provisions of Conn. Gen. Stat. Sections 22a-36 to 22a-45, inclusive. The following proposed conclusions of law address this issue.

1. Environmental Impact of the Proposal. The construction work to be performed pursuant to the application for removal of the existing earthen dam embankment will have minimal or no impact upon the environment, on the safety of persons and property and on the inland wetlands and watercourses of the state in accordance with the provisions of Conn. Gen. Stat. Sections 22a-36 to 22a-45, inclusive.
2. Fishway. The need for a fishway in accordance with the provisions of Conn. Gen. Stat. Section 26-136 has been considered and determined not to be necessary.
3. Alternatives to the Proposal. There is no feasible or prudent alternative to the removal of the existing earthen dam embankment which would have less impact upon the environment or upon the safety of persons and property or on the inland wetlands and watercourses of the state.

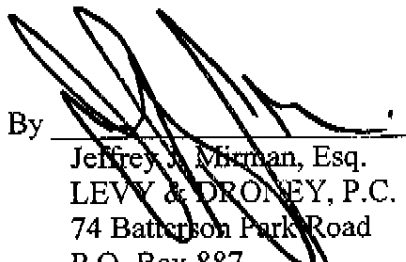
4. Removal of the earthen dam embankment is consistent with the policies and requirements of Conn. Gen. Stat. Section 22a-403(b) and Section 22a-36 to 22a-45 inclusive, particularly the factors listed in Section 22a-41.

STIPULATED and AGREED TO this 31<sup>st</sup> day of October, 2006:

INLAND WATER RESOURCES  
DIVISION, BUREAU OF  
WATER MANAGEMENT & LAND REUSE  
DEPARTMENT OF ENVIRONMENT  
PROTECTION

SECOND FAMILY, LLC

By \_\_\_\_\_  
Wesley Marsh  
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Department of Environmental Protection  
79 Elm Street  
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By  \_\_\_\_\_  
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Its Attorneys

HOME DEPOT U.S.A., INC.

By \_\_\_\_\_  
John Robinson, Esq.  
MCCARTER & ENGLISH, LLP  
185 Asylum Street  
Hartford, CT 06103  
Its Attorneys

4. Removal of the earthen dam embankment is consistent with the policies and requirements of Conn. Gen. Stat. Section 22a-403(b) and Section 22a-36 to 22a-45 inclusive, particularly the factors listed in Section 22a-41.

STIPULATED and AGREED TO this 30<sup>th</sup> day of October, 2006:

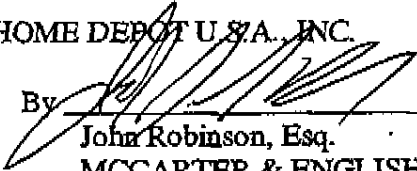
INLAND WATER RESOURCES  
DIVISION, BUREAU OF  
WATER MANAGEMENT & LAND REUSE  
DEPARTMENT OF ENVIRONMENT  
PROTECTION

SECOND FAMILY, LLC

By \_\_\_\_\_  
Wesley Marsh  
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Department of Environmental Protection  
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By \_\_\_\_\_  
Jeffrey J. Mirman, Esq.  
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Its Attorneys

HOME DEPOT U.S.A., INC.

By  \_\_\_\_\_  
John Robinson, Esq.  
MCCARTER & ENGLISH, LLP  
185 Asylum Street  
Hartford, CT 06103  
Its Attorneys

4. Removal of the earthen dam embankment is consistent with the policies and requirements of Conn. Gen. Stat. Section 22a-403(b) and Section 22a-36 to 22a-45 inclusive, particularly the factors listed in Section 22a-41.

STIPULATED and AGREED TO this \_\_\_\_ day of October, 2006:

INLAND WATER RESOURCES  
DIVISION, BUREAU OF  
WATER MANAGEMENT & LAND REUSE  
DEPARTMENT OF ENVIRONMENT  
PROTECTION

SECOND FAMILY, LLC

By *Wesley Marsh*  
Wesley Marsh  
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HOME DEPOT U.S.A., INC.

By \_\_\_\_\_  
John Robinson, Esq.  
MCCARTER & ENGLISH, LLP  
185 Asylum Street  
Hartford, CT 06103  
Its Attorneys

**CERTIFICATION OF SERVICE**

I hereby certify that a copy of the foregoing was delivered via facsimile on this 30<sup>th</sup> day of October, 2006, to the following:

Janice B. Deshais, Director  
Hearing Officer  
State of Connecticut  
Department of Environmental Protection  
Office of Adjudications  
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Hartford, CT  
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Jeffrey J. Mirman

# Draft

## PERMIT

Permittees:	Second Family, LLC 433 South Main St. Suite 218 West Hartford, CT 06110	Home Depot U.S.A., Inc. New England Division Office 15 Dan Road Canton, MA 02021
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Permit No.:	DS-05-12
CT Dam Inv. No.:	8640
Town:	Montville

Pursuant to Section 22a-403 of the Connecticut General Statutes, Second Family, LLC and Home Depot U.S.A., Inc. ("permittees") are hereby permitted to conduct activities at the Montville Commons Dam ("the dam") in Montville, Connecticut as set forth in dam construction permit application #DS-05-12.

This application includes a set of ten plan sheets are entitled "Montville Commons, Conn. State Route No. 32, Montville Connecticut Dam Construction Permit Application dated March, 2006, revised 8/18/06. Fuss & O'Neill, Inc. prepared sheet nos. GI.0.1, GI.0.2, CG2-4, CU.5.1 and CI.5.1 and bear the seal of Philip W. Moreschi P.E. Connecticut Professional Engineer Registration #12823. GZA Geoenvironmental Inc. prepared Figures 1 through 4 and bear the seal of Russell J. Morgan, P.E. Connecticut Professional Engineer Registration #14911.

### **Authorized Activity**

Specifically, the permittees are authorized to remove the dam as depicted in the above-referenced plans.

The Department of Environmental Protection's authorization of the dam removal as described above does not include the excavated detention basin, appurtenant piping or associated drainage structures nor does it relieve the permittees from obtaining any required municipal approvals.

This permit is subject to and does not derogate any present or future property rights or other rights and all public and private rights and to any federal, state, or local laws or regulations pertinent to the property or activity hereby. This authorization is subject to the following conditions:

**PERMITTEES' FAILURE TO COMPLY WITH THE TERMS AND CONDITIONS OF THIS PERMIT MAY SUBJECT PERMITTEE AND PERMITTEES' CONTRACTOR(S) TO ENFORCEMENT ACTIONS AND PENALTIES AS PROVIDED BY LAW**

Special conditions:

1. The applicant shall assure that authorized activities are performed in accordance with the conditions of the General Permit for the Discharge of Stormwater and Dewatering Wastewaters Associated with the Construction Activities, issued 10/1/02 and modified 4/8/04.

**General Conditions**

1. **Initiation and Completion of Construction**
  - A. Permittees shall notify the Commissioner in writing no less than seven (7) days prior to commencement of permitted activities and no less than seven (7) days following completion of permitted activities.
  - B. The permittees shall, pursuant to Section 22a-377(b)-1(a)(16)C of the Regulations of Connecticut State Agencies, notify the Commissioner and any potentially affected water company in writing at least seven (7) days prior to the lowering of the impoundment for the purpose of undertaking permitted activities.
  - C. The Department of Environmental Protection shall be notified at least forty-eight (48) hours prior to drawdown of the impoundment, in accordance with Section 26-138 of the Connecticut General Statutes. Such notification shall be made to the Inland Fisheries Division, 79 Elm Street, Hartford, CT 06106-5127, telephone no. 424-3474.
2. **Expiration of Permit**
  - A. The activities authorized herein shall be completed on or before December 31, 2007 unless this permit is specifically renewed.
  - B. This permit may be revoked, suspended, or modified in accordance with law, including but not limited to the Regulations of Connecticut State Agencies Section 22a-3a-5(d).
3. **Permit Compliance**
  - A. This permit and a copy of the approved plans and specifications shall be kept at the project site and made available to the Commissioner at any time during the construction of permitted activities.

- B. Permitted activities shall be performed under the supervision of an engineer who is licensed to practice in the State of Connecticut and who is familiar with dam construction. Said engineer shall, upon completion of the permitted activities, certify to the Commissioner in writing that the permitted activities have been completed according to the approved plans and specifications.
- C. The permittees may not modify the permitted plans and specifications without the prior written approval of the Commissioner.
- D. Within thirty (30) days of completion of the permitted activities, permittees shall submit to the Commissioner record drawings depicting the dam construction as completed, including any deviations from the approved plans and specifications. Said drawings shall be prepared and sealed by the engineer who oversaw the construction.

4. **Fishway Requirements**

The Commissioner has determined in accordance with Section 26-136 of the Connecticut General Statutes that at this time a fishway is not required at this dam.

5. **Reliance on Application**

In evaluating the permittees' application, the Commissioner has relied on information provided by the permittees. If such information subsequently proves to have been false, deceptive, incomplete or inaccurate, this permit may be modified, suspended or revoked.

6. **Best Management Practices**

In constructing the activities authorized herein, the permittees shall use construction methods that minimize sedimentation and erosion and prevent pollution. Such practices include but are not necessarily limited to the following:

- A. All authorized activities shall be performed in such a manner as to minimize resuspension of sediments and subsequent siltation, and to prevent construction materials and debris from entering wetlands or watercourses.
- B. No construction vehicles shall be stored, serviced, washed or flushed out in a location where leaks, spillage, waste materials, cleaners or waters will be introduced or flow into wetlands or watercourses.
- C. Haybales, mulch, sedimentation basins or other temporary sedimentation controls,

including silt fences, shall be used as necessary to control erosion and sedimentation.

- D. Except as provided in this permit, no material storage or stockpiling of construction materials shall occur in any wetlands or watercourses.
- E. Fill, without limitation, or construction debris, shall not be placed in wetlands or watercourses unless authorized by this permit.

7. **Certification of Documents**

Any document, including but not limited to any notice, which is required to be submitted to the Commissioner pursuant to this permit shall be signed by the permittees, a responsible corporate officer of the permittees, or a duly authorized representative of such persons, as those terms are defined in Section 22a-430-3(b)(2) of the Regulations of Connecticut State Agencies, and by the individual or individuals responsible for actually preparing such document, each of whom shall certify in writing as follows:

"I have personally examined and am familiar with the information submitted in this document and all attachments and certify that based on reasonable investigation, including my inquiry of those individuals responsible for obtaining the information, the submitted information is true, accurate, and complete to the best of my knowledge and belief, and I understand that any false statement made in this document or its attachments may be punishable as a criminal offense".

8. **Submission of Documents**

Any document required to be submitted to the Commissioner pursuant to this permit shall, unless otherwise specified in writing by the Commissioner, be directed to:

Mr. Wesley Marsh, Supervising Environmental Analyst  
DEP/Bureau of Water Management  
Inland Water Resources Division  
79 Elm Street  
Hartford, CT 06106-5127

The date of submission to the Commissioner of any document required by this permit shall be the date such document is received by the Commissioner. The date of any notice by the Commissioner under this permit, including but not limited to notice of approval or disapproval on any document or other action, shall be the date such notice is personally delivered or the date three days after it is mailed by the Commissioner, whichever is earlier. Except as otherwise specified in this permit, the word "day" as used in this permit means one

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calendar day. Any document or action which is required by this permit to be submitted or performed by a date which falls on a Saturday, Sunday or a Connecticut or federal holiday shall be submitted or performed before the next day which is not a Saturday, Sunday or a Connecticut or federal holiday.

**Dam Owner/Operator Liability**

Your attention is further directed to Section 22a-406 of the General Statutes: "Nothing in this chapter and no order, approval or advice of the Commissioner, shall relieve any owner or operator of {a dam} from his legal duties, obligations and liabilities resulting from such ownership or operation. No action for damages sustained through the partial failure of any structure or its maintenance shall be brought or maintained against the state, the Commissioner of Environmental Protection, or his employees or agents."

This authorization constitutes the permit required by Section 22a-403 of the Connecticut General Statutes.

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Date

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Gina McCarthy, Commissioner