OFFICE OF ADJUDICATIONS

IN THE MATTER OF : ***APPLICATION NO. IW-2002-115***

DOT ROUTES 7 & 202
NEW MILFORD : ***JUNE 12, 2002***

PROPOSED FINAL DECISION

The parties have submitted the attached *Agreed Draft Decision* (Attachment 1) for my consideration in this matter. I hereby adopt this agreement as my *Proposed Final Decision*, and recommend that the Commissioner issue the requested permit incorporating the terms and conditions set forth in the attached draft permit (Attachment "A").

June 12, 2002
Date

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

ATTACHMENT 1

AGREED DRAFT DECISION

I

SUMMARY

The Connecticut Department of Transportation (the "applicant"), has applied to the Department of Environmental Protection for a permit to conduct regulated activities in proximity to the Housatonic River in the Town of New Milford. These regulated activities are associated with the reconstruction of U.S. Routes 7 & 202 and CT Route 67, State Project Nos. 95-220, 226, & 227, beginning just north of the Lanesville Road intersection with Route 7 and continuing north to a point approximately 320 meters north of the Route 7 and Route 202 intersection at Bridge Street. The application also includes the Still River Drive extension to Pickett District Road (also known as Lanesville Connector). The DOT has filed an application for an Inland Wetlands and Watercourses Permit pursuant to General Statutes §22a-39 of the Inland Wetlands and Watercourses Act., pursuant to General Statutes §22a-36 through 22a-45. (Exhibit DOT-1)

The applicant and Inland Water Resources Division ("staff") are the only parties in this matter. Staff supports issuance of the permit and has submitted into the record a draft permit that would authorize the applicant's proposed regulated activities. (Exhibit DEP-6)

The reconstruction of U.S. Routes 7 & 202 and CT Route 67 as well as the construction of the Still River Drive extension that is the subject of this permit application would improve public safety by adding two travel lanes and a connector roadway to address significantly increased traffic volumes within this project corridor. The subject roadway is experiencing significantly increasing Average Daily Traffic (ADT) volume and commercial development. Some form of corrective action is necessary to address safety issues along the corridor. The proposed project will alleviate these problems and provide a safer, more efficient roadway. The project has been planned to minimize wetland impacts while meeting current highway design and safety standards. These proposed regulated activities, if conducted in accordance with the terms and conditions of the draft permit, would be consistent with the applicable legal standards for issuance of the permit. (Exhibit DOT-1)

This permit should be issued in accordance with the terms and conditions of the draft permit (Attachment A).

II

DECISION

A

FINDINGS OF FACT

1. The Application

On May 2 2001, the Department of Transportation (DOT) submitted an application to the Department of Environmental Protection (DEP) Inland Water Resources Division for an Inland Wetland and Watercourses permit. (Exhibit DOT-1) A Notice of Tentative Determination and Intent to Waive the Requirement for Public Hearing was issued on February 13, 2002 (Exhibit DEP-1). A petition signed by at least 25 persons was received by the DEP on March 14, 2002 (Exhibit DEP-7). Subsequent to the receipt of this petition, a letter was issued fulfilling the requirements of CGS Section 22a-6(d) (Exhibit DEP-8). A hearing was held on May 22, 2002. The record remained open until May 31, 2002 to allow time for the submission of additional written public comments. Staff responded to comments made at the public hearing and written comments received (Exhibit DEP-16).

2. The Project

a. The proposed regulated activities that are the subject of this permit application (the "project") are all associated with the reconstruction of Route 7 in New Milford, Connecticut. The project will begin approximately 350 meters north of the Still River Drive intersection of Route 7 and continues north to a point approximately 320 meters north of the Route 7 and U.S. Route 202 and Route 67 intersection (Bridge Street). Generally, the existing roadway will be widened to accommodate a four lane pavement section to accommodate significantly increasing Average Daily Traffic (ADT). As a result of the proposed work, eight wetland areas will be impacted at nine separate locations *(herein described as Sites A, B, C, D, E, G, H, I/J.* Approximately 0.38 acres of regulated areas will be permanently impacted as a result of this project with an additional 0.03 acres of temporary impact associated with the bridge reconstruction at Little River (Exhibit DOT-5). The storm drainage design for the catch basins and piping in the project area conforms to applicable state and federal guidelines. Adequate sediment and erosion controls are proposed. (Exhibit DOT-1, Exhibit DEP-15)

b. The proposed project has been identified by the DOT as a priority due to substandard roadway and intersection capacity along the Route 7 corridor. The project is intended to help improve capacity restraints and safety issues caused by current design deficiencies. (Exhibit DOT-1, Exhibit DOT-4)

c. Route 7 is characterized as an urban arterial roadway. Based on DOT standards for a minor urban arterial roadway and traffic volumes, the road should have four 3.6 meter (12 ft.) lanes and 2.4 meter (8 ft.) shoulders for a total width of 19.2 meters (63 ft.). The present width of the road, which varies from 7.5 meters (25 ft.) at Bridge Number 00554 (Route 7 over Little Brook) to 13 meters (43 ft.) near the Valley Industrial Condominium, cannot consistently accommodate these standard widths. (Exhibit DOT-4)

d. Improvements to the road include widening and reconstruction from two lanes to four lanes of undivided roadway with exclusive turning lanes at intersections. Intersections will be improved as necessary. In addition to the Lanesville Connector, a new connection, Peagler Hill Road, will be constructed at the intersection of Route 7 and U.S. 202 and CT 67. The roadway profile between Bridge Number 00554 and U.S. 202 and 67 is being raised slightly to provide improved storm drainage. (Exhibit DOT-1, Exhibit DOT-4) Drainage systems and guide railing will be upgraded as necessary. (Exhibit DOT-1)

e. Pursuant to state design guidelines, fill slopes for the roadway will be as flat as possible for safety purposes. Part of State Project No 95-220, 95-226, and 95-227, the project also includes improvements to eight local roads that intersect this area of Route 7. These roads are from south to north; Lanesville Road, Still River Drive, Pickett District Road, Cedar Knolls Drive, Dodd Road, Sunny Valley Road, Peagler Hill Road, and Bridge Street. (Exhibit DOT-4)

f. Without improvements to the roadway, it is reasonable to assume the rate of accidents will increase, particularly with the expected increase in traffic volumes in this area. With improvements to the roadway, safety conditions will improve on this critical roadway segment benefiting the public welfare and will lessen the chance of accidents. (Exhibit DOT-4)

Watercourses/ Flood Control

g. The major watercourses within the general project corridor area are the Housatonic River, the Still River and Little Brook and various stormwater drainage swales and fringe palustrine wetlands which are tributary to the Housatonic River. The project corridor is located on the west side of the Housatonic River, approximately 2500 meters west of the river at the southern project limits and 200 meters west of the river at the northern project limits. Along the southern half of the project corridor, the Still River flows to the north between the highway corridor and the Housatonic River. Little Brook is located near the northern end of the project corridor, flowing easterly beneath the highway. The project corridor also traverses several unnamed tributaries to the Still River and Housatonic River. (Exhibit DOT-1, Exhibit DOT-5)

Locations of watercourses within the project corridor are as follows (Exhibit DOT-1, Exhibit DOT-5):

Location	Station Number	Description
Wetland A	52+190 to 52+230	Unnamed watercourse tributary to Still River, flowing easterly through 600-millimeter RCP culvert beneath Pickett District Road.
Wetland B	7+980	Narrow drainage ditch located west of Route 7&202, flowing southwesterly, receiving drainage from 600 millimeter CMCE.
Wetland C	9+082	Narrow drainage ditch with intermittent easterly flow through 375 millimeter CMP culvert beneath highway.
Wetland E	1+720 to 1+780	Route 7&202 over Little Brook. Brook flows easterly beneath highway bridge no. 00554. Site is within Stream Channel Encroachment Limits. Little Brook constitutes a flood backwater for the Housatonic River.
Wetland F	2+100	New stormwater discharge to the Housatonic River. Site is within Stream Channel Encroachment Limits and FEMA 100 year floodplain.
Wetland G	1+145	New stormwater discharge to the Housatonic River. Site is within Stream Channel Encroachment Limits and FEMA 100 year floodplain.

h. FEMA, the Federal Emegergency Management Agency has established floodplains on the Housatonic and Still. The portion of the Little River within the project corridor is within a backwater 100 year flood elevation of the Housatonic River. A backwater 100 year flood elevation also extends up the unnamed stream at Wetland Site A. Portions of the northern project corridor are within the Stream Channel Encroachment Lines (SCEL) of the Housatonic River. The need to address overtopping of Route 7 during storm events will require 3900± cubic meters of fill within the SCEL limits and 100 year FEMA floodplain in order to raise the roadway an estimated 0.7 meters, making the roadway passable during a 5 year storm event. The project will increase the hydraulic capacity of the new culverts. This will lessen the frequency and duration of floodwaters that might back up at the culvert locations and decrease the likelihood of environmentally destructive flood damage. (Exhibit DEP-14, Test. J. Caiola, Exhibit DEP-15, Test. C. Chase, Exhibit DOT-4)

Wetland Impact Sites/ Proposed Activities

i. The impacted areas in this project consist of an existing stream crossing at Little Brook, several stormwater drainage swales and fringe palustrine wetlands throughout the project corridor, and new discharges into the Housatonic River. The current project will impact eight wetlands over nine separate sites. A total of 0.38 acres of wetlands and watercourses will be permanently impacted by the project. An additional 0.03 acres of temporary impact will occur in association with bridge reconstruction at the Little River. These impacts are minimal and are unavoidable due to the proposed alignment. The majority of these areas offer limited wetland functions or values as a result of the encroaching commercial uses and road network which contribute to the ambient noise levels and physical pollution of the waterways. The majority of the roadway corridor being widened is flanked by commercial development. Much of the commercial lands immediately adjacent to the roadway

are currently allocated for storefront/businesses parking and driveways. In most places the impact areas are littered with trash and/ or construction debris and area extremely disturbed form human activities within the corridor. (Exhibit DOT-1, Exhibit DOT-5) DEP staff found the proposed project impacts to wetlands acceptable (Exhibit DEP-13).

Site A. (Station 52+190 to 52+230)

- This wetland is a channelized watercourse with disturbed or limited vegetation, including predominantly invasive species. Principal species include Phragmites, purple loosestrife, autumn olive, bittersweet, multiflora rose and goldenrod. Wetland functions and values are limited but include floodflow attenuation and sediment/contaminant retention. (Exhibit DOT-1, Exhibit DOT-5)
- Approximately 0.001 acre of wetland resource will be impacted in this area. (Exhibit DOT-1, Exhibit DOT-4, Exhibit DOT-5)
- The existing Pickett District Road in this area is two lane facility. Wetland Site A is located approximately 80 meters north of the intersection of the proposed Still River Road extension and Pickett District Road. The property is undeveloped commercial land with a sand and gravel pit to the west of Pickett District Road. The area to the east is a phragmites dominated area along the stream course. The pavement width will be increased for the intersection with the Still River Rd extension to accommodate turning movements. The existing 600 millimeter PVC culvert will be replaced with a 600 millimeter RCP and a modified riprap splashpad and vegetated swale created for the discharge location. The vegetated swale extends into the wetland to replace a poorly vegetated, low renovation area with a high quality swale and improve water quality. An existing squashed CMP adjacent to the new 600 millimeter RCP will remain. (Exhibit DOT-1, Exhibit DOT-4, Exhibit DOT-5)
- There will be no adverse impacts to the functions and values provided by this wetland due to the project. (Exhibit DOT-5)

Site B. (7+980 left)

- This wetland system is a southwesterly flowing drainage ditch (watercourse), originating at an existing highway stormwater discharge, with a one-foot wide channel, located between two commercial driveways, west of Route 7. Vegetation within the ditch is extremely limited due to its frequent mowing, but includes common or invasive species such as multiflora rose, silky dogwood, purple loosestrife, chicory, and various grasses. Stormwater discharges into the ditch from existing Route 7. Principal wetland functional values include floodflow attenuation and sediment/contaminant retention, although both functions are highly limited due to the channelized nature of the wetland resource. (Exhibit DOT-1, Exhibit DOT-5)

- Approximately 0.01 acres of wetland resource will be impacted in this area. (Exhibit DOT-1, Exhibit DOT-4, Exhibit DOT-5)
- The existing Route 7 highway in this area is a two lane, bidirectional facility with a 600 millimeter CMP culvert discharge into the ditch. The roadway will be reconstructed as a four-lane facility, extending the 600 millimeter culvert end slightly and installing a modified riprap splash pad. The roadway in this area will be widened from 10 meters (32 ft.) to 16.9 meters (55 feet). The low renovation ditch will be improved by adding a vegetated swale for improved water quality. (Exhibit DOT-1, Exhibit DOT-4, Exhibit DOT-5)
- There will be no adverse impacts to the functions and values provided by this wetland due to the project. (Exhibit DOT-5)

Site C. (9+082 right)

- This wetland system is a easterly flowing drainage ditch (watercourse), originating at an existing highway stormwater discharge, with a narrow, eroded channel, located between two commercially developed properties, east of Route 7. Vegetation within the ditch is extremely limited due to its frequent mowing, but includes common or invasive species such as Phragmites, wild carrot, purple loosestrife, mugwort, red osier dogwood, chicory, and various grasses. Stormwater discharges into the ditch from existing Route 7. Principal wetland functional values include floodflow attenuation and sediment/contaminant retention, although these functions are highly limited due to the channelized nature of the wetland resource. (Exhibit DOT-1, Exhibit DOT-5)
- Approximately 0.01 acres of wetland resource will be impacted in this area. (Exhibit DOT-1, Exhibit DOT-4, Exhibit DOT-5)
- The existing Route 7 highway in this area is a two lane, bidirectional facility with a 375 millimeter CMP culvert discharge into the ditch. The roadway will be reconstructed as a four-lane facility, extending a 600 millimeter culvert end slightly and installing a modified riprap splash pad. The roadway in this area will be widened from 13 meters (43 ft.) to 16 meters (52 feet). (Exhibit DOT-1, Exhibit DOT-4, Exhibit DOT-5)
- There will be no adverse impacts to the functions and values provided by this wetland due to the project. (Exhibit DOT-5)

Site D. (9+290 to 9+350)

- This wetland system is a shrub-dominated wetland located on the west side of Route 7, on an undeveloped parcel. Vegetation within the wetland includes common or invasive species including multiflora rose, smooth alder, red cedar, goldenrod and various grasses. The site is littered with trash and debris and deposition of road sand. Principal wetland functional values include floodflow attenuation, sediment/contaminant retention, and groundwater recharge, although these functions are highly limited due to

the disturbed nature of the wetland resource and its small size. (Exhibit DOT-1, Exhibit DOT-5)

- Approximately 0.05 acres of wetland resource will be impacted in this area. (Exhibit DOT-1, Exhibit DOT-4, Exhibit DOT-5)
- The existing Route 7 highway in this area is a two lane, bidirectional facility. The roadway will be reconstructed as a four-lane facility, extending road side fill into the immediate margins of this wetland resource. The roadway in this area will be widened from 10 meters (33 ft.) to 20.1 meters (66 ft.). The roadway is widened to accommodate a left turn lane onto Sunny Valley Road for improved intersection operations. (Exhibit DOT-1, Exhibit DOT-4, Exhibit DOT-5)
- There will be no adverse impacts to the functions and values provided by this wetland due to the project. (Exhibit DOT-5)

Site E. (Station 1+720 to 1+780)

- This wetland is a channelized segment of Little Brook (watercourse), crossed by Route 7 via Bridge No.00554. The bridge is an existing 10± meter span over the brook. In addition to the watercourse, this site is located within the Stream Channel Encroachment Limits and the 100 year flood elevation of the Housatonic River. Vegetation upgradient of the bridge includes Phragmites, speckled alder, pussy willow, mugwort, red osier dogwood, purple loosestrife, autumn olive, common mullein and various grasses. Vegetation downgradient of the bridge includes the same species as well as staghorn sumac and chicory. The upgradient area is a site of construction and disturbance with stagnant and algal matted areas. The eastern, downstream channel flows between and to within 15 m of the parking lots of two restaurants, one to the north and one to the south of the brook. The vegetation is limited to shrubs and herbaceous growth along the banks. There is evident deposition of road sand along the stream bed. The stream banks are lined with riprap and considerable trash and debris in this area. The site generally provides floodflow attenuation and sediment/contaminant retention, as well as the potential for groundwater discharge or recharge, dependent upon the time of year. Wildlife habitat is extremely limited within the actual area of disturbance due to the proximity of the existing structure and associated cultural changes to the natural environment. However, the habitat downgradient is substantially more functional. (Exhibit DOT-1, Exhibit DOT-5)
- Approximately 0.08 acre of wetland resource will be impacted in this area. There will be an additional temporary impact to 0.03 acres of wetland resource associated with cofferdam installation during reconstruction. (Exhibit DOT-1, Exhibit DOT-4, Exhibit DOT-5)
- The existing Route 7 highway in this area is a two lane, bi-directional facility, bridging Little Brook. Currently, there is one stormwater discharge point at each corner of the bridge. The roadway will be reconstructed as a four-lane facility. The roadway in this area will be widened from 7.5 meters (25 ft.) to 16.8 meters (55 ft.) The box culvert proposed for this crossing will

include greater vertical height to aid in wildlife passage through the culvert. As part of the widening, the two stormwater discharge points at the south side of the bridge will be relocated, and the two on the north side will be combined into one site, discharging on the downstream side of the new bridge. Each will have a modified riprap splash pad to minimize erosion. (Exhibit DOT-1, Exhibit DOT-4, Exhibit DOT-5)

- There will be no adverse impacts to the functions and values provided by this wetland due to the project. There will be an enhancement to the existing functions and values due to the increase in the size of the new culvert. (Exhibit DOT-5)

Site F. (2+100)

- This wetland area is the west bank of the Housatonic River, east of existing Route 7, at the site of an existing 375 millimeter stormwater discharge. The site is located within the floodplain of the Housatonic River and within the Stream Channel Encroachment Lines. Dominant vegetation in this area includes a wooded canopy with about 50% closure, dominated by red maple and cottonwood (8-12 dbh). Other vegetation includes multiflora rose, Japanese barberry, and poison ivy. Principal wetland functional values include floodflow attenuation and wildlife habitat, although the latter is limited by the narrow band of riparian vegetation adjacent to the river. (Exhibit DOT-1, Exhibit DOT-5)
- There will be no wetland resource impacted in this area. (Exhibit DOT-1, Exhibit DOT-4, Exhibit DOT-5)
- The existing Route 7 highway in this area is a two lane, bi-directional facility with a 375 millimeter RCP culvert discharge along the banks of the Housatonic River. The roadway will be reconstructed as a four-lane facility, replacing the existing culvert discharge with a 600 millimeter RCP culvert. The discharge end will be pulled back from the river's edge about 15 meters to allow open channel flow though a modified riprap channel before reaching the river. (Exhibit DOT-1, Exhibit DOT-4, Exhibit DOT-5)
- There will be no adverse impacts to the functions and values provided by this wetland due to the project. (Exhibit DOT-5)

Site G. (1+145)

- This wetland area is the proposed site of a new stormwater discharge. It is located on the west bank of the Housatonic River, east of existing Route 7, at the toe of the wingwall to the westerly abutment of the Bridge Street Bridge (Route 202 & 67) over the Housatonic River. The site is located along a sandy slope just below a small vegetated berm at the edge of the River. It is within the floodplain of the Housatonic River and within the Stream Channel Encroachment Lines. Vegetation within this area includes silver maple, cottonwood, speckled alder, poison ivy, purple

loosestrife, and goldenrod. Principal wetland functional values include floodflow attenuation, contaminant retention and wildlife habitat. (Exhibit DOT-1, Exhibit DOT-5)

- Approximately 0.02 acre of wetland resource will be impacted in this area. (Exhibit DOT-1, Exhibit DOT-4, Exhibit DOT-5)
- The work to be performed involves the installation of a 900 millimeter RCP, RCCE and modified riprap splash pad and channel. Turf will be established on the embankment above the riprap for erosion control. (Exhibit DOT-5) The newly designed drainage system for the Big Y Plaza is to be outletted through this system. The drainage system for the Big Y Plaza includes grit and oil separators. (Exhibit DOT-4)
- There will be no adverse impacts to the functions and values provided by this wetland due to the project. (Exhibit DOT-5)

Site H. (1+050)

- This wetland area is the site of an existing 375 millimeter RCP stormwater discharge. It is located west of the Housatonic River, east of existing Route 7, at the northern slope of Bridge Street (Route 202 & 67). The site is within the floodplain of the Housatonic River and within the Stream Channel Encroachment Lines. Vegetation within this area includes cottonwood and speckled alder, although the impact area is dominated by a Phragmites monoculture. Principal wetland functional values include floodflow attenuation, contaminant retention and wildlife habitat. The site is very disturbed with heavy deposits of trash. (Exhibit DOT-1, Exhibit DOT-5)
- Approximately 0.001 acre of wetland resource will be impacted in this area. (Exhibit DOT-1, Exhibit DOT-4, Exhibit DOT-5)
- The work to be performed involves the replacement of the existing 375 millimeter RCP end will a 300 millimeter RCP, RCCE and modified riprap splash pad, at the same location. The discharge point is separated from Bridge Street by a sidewalk. (Exhibit DOT-1, Exhibit DOT-4, Exhibit DOT-5)
- There will be no adverse impacts to the functions and values provided by this wetland due to the project. (Exhibit 5)

Site I/J. (2+420 o 2+650)

- This wetland area is a shrub/herbaceous-dominated wetland fronting on a larger wooded wetland with seasonal flooding. It is located on the east side of Route 7, on an undeveloped parcel, opposite a large shopping center. Vegetation within the wetland includes common or invasive species including cottonwood, Phragmites, multiflora rose, silky dogwood, curled dock, purple loosestrife, wild garlic, goldenrod, and garlic mustard. The site is within the floodplain of the Housatonic River and within the Stream Channel Encroachment Lines. Principal wetland functional values

include floodflow attenuation, sediment/contaminant retention, groundwater recharge, and wildlife habitat, although these functions are highly limited along the margins of the existing roadway, due to the disturbed nature of the wetland resource (litter and debris near roadway) and its small size. (Exhibit DOT-1, Exhibit DOT-5)

- Approximately 0.21 acres of wetland resource will be impacted in this area. (Exhibit DOT-1, Exhibit DOT-4, Exhibit DOT-5)
- The existing Route 7 highway in this area is a two lane, bidirectional facility. The roadway will be reconstructed as a four-lane facility, extending road side fill into the immediate margins of this wetland resource. The roadway in this area will be widened from 8.5 meters (28 ft.) to 19.5 meters (64 ft.) In addition, a new stormwater discharge will be installed with a 375 millimeter RCP, RCCE outlet into a modified riprap splash pad. (Exhibit DOT-1, Exhibit DOT-4, Exhibit DOT-5)
- There will be no significant adverse impacts to the functions and values provided by this wetland due to the project. (Exhibit DOT-5)

j. The wetlands are habitat for wildlife tolerant of nearby motor traffic and disturbance by humans. The Little Brook bridge (Wetland Area E) may provide a migratory corridor for small mammals between the Housatonic River floodplain and undeveloped woodlands to the west. Wetland Area I/J is contiguous with a larger undeveloped portion of the Housatonic River floodplain including old field and wooded sections. A portion of this area is being excavated and vegetated as part of the SCEL mitigation for the project reconstruction. New impacts to wildlife within the project area will be minimized due to the limited impact area of the project, and the existing disturbance of the roadway and residential uses. The project is designed to minimize long-term reduction in habitat values for existing wildlife species. (Exhibit DEP-13, Exhibit DOT-1, Exhibit DOT-5).

k. DEP Fisheries Division recommended several measures to minimize impacts to fisheries resources. DOT has incorporated all of these recommendations into design plans and construction contracts. Therefore, as part of permit, the replacement culvert at Bridge No. 00554 will be depressed approximately 0.3 meters and filled with local stream bed material to provide fish habitat within the culvert. It will also be taller which will provide more passage room for larger animals.(Exhibit DEP-2, Exhibit DOT-1). In addition, plantings have been included along the proposed stormwater discharge channels at sites F and G as recommended by DEP Fisheries. (Exhibit DOT-5)

3. Mitigation

SCEL Floodplain Mitigation Site

a. A Stream Channel Encroachment Line and Floodplain mitigation site will be located along the west side of the Housatonic River between the river and the north/south running Route 7, north of the Route 202 bridge crossing. The project is designed to provide 3900 cubic meters of compensatory floodplain storage for fill required within the SCEL for the Housatonic River as part of the reconstruction of Route 7/202. (Exhibit DOT-4, Exhibit DOT-5) The compensation of flood storage is such that the proposed project will not have an adverse impact on flooding to adjacent properties (Exhibit DEP-14, Test. J. Caiola). While this site has been designed chiefly as SCEL/floodplain replacement for lost storage volume, the creation of undulating topography and selected floodplain plantings will maximize species diversity because small differences in the water available to the plants will encourage a wider range of floodplain species to develop, enhancing wildlife and other floodplain functional values. The area is designed to provide good floodplain habitat for a variety of species and encourage the succession of this floodplain community into a wooded floodplain, typical for many areas along the Housatonic River. (Exhibit DOT-5) DEP staff found the mitigation plan to be acceptable (Exhibit DEP-13, Test. J. Caiola).

b. The mitigation area has been developed as part of an interagency consensus negotiation between Connecticut DOT (CT DOT) officials and Connecticut DEP (CT DEP) and the Army Corps of Engineers (ACOE). No other area near the project corridor was available within the SCEL where the necessary flood storage volume could be achieved without impacting developed sites. Based upon the negotiations between the CTDOT and CDEP and ACOE officials, several other criteria emerged during discussions which have been incorporated the project design:

- the mitigation site is to have positive drainage during flooding or high rainfall periods to allow drainage to the Housatonic River;
- the design is to avoid areas of potential standing water;
- the design is to minimize total site disturbance to the maximum extent practicable;
- the mitigation site is to avoid areas of existing woody vegetation to the maximum extent practicable; and
- a re-planting plan is to be provided, emphasizing a mosaic of woody floodplain species for about 25% of the mitigation site with grass seeding on the remainder of the area

(Exhibit DOT-5)

c. The hydrology at the site is conducive to this proposed mitigation plan. The entire area of work is to occur within the floodplain of the Housatonic River, within the SCEL, and this area currently qualifies as State regulated wetlands due to the presence of alluvial, non-hydric soils. Most of this area does not qualify as Federal wetlands due to the non-hydric soil condition. Soils examined within the fallow field

showed a typical floodplain profile with a thick topsoil ("Ap") horizon of fine sandy loam underlain by fine sandy loam subsoil at higher chroma. Indications of seasonal high groundwater were typically between 24-30 inches below the soil surface. Upon completion of the project, the lower grades may provide some hydric soils conditions, although such is not a mandatory design goal for this project. (Exhibit DOT-5)

d. Based upon the design criteria, the proposed floodplain mitigation plan achieves the necessary 3900 cubic meters of floodplain compensatory storage over 13,500± square meters of land, principally located in the fallow, herbaceous-dominated agricultural field. A relatively narrow vegetative swale has been designed to provide minimal positive drainage to the storm water drainage areas immediately abutting the intersection of Route 7/202. The excavation of the existing floodplain soils has also been minimized to avoid interception of seasonal high groundwater, as well as to provide positive drainage. Positive drainage has been directed towards existing storm water outlets on Route 7/202 in order to avoid any disturbance of the riparian community and existing banks of the Housatonic River. (Exhibit DOT-5)

e. As part of the mitigation plan, the upper one foot of existing agricultural field topsoil will be removed and stockpiled for re-use in re-planting, avoiding re-use of any soils that currently contain significant numbers of invasive species. All of the soils within the areas of woody plantings will be seeded and mulched. The selected seed is a mix of grass species designed to provide erosion control for New England soils, focussing upon facultative wetland species. (Exhibit DOT-5)

f. The planting plan for the site has been designed to provide and maintain the ecological diversity and productive habitat function and value for the wetlands. The plan has also been designed to maximize species diversity, minimize erosion, and discourage the establishment of invasive species. Plant species selected for the revegetation of this area have been chosen because of their ability to grow favorably under the expected hydrologic conditions. The final grades for this floodplain mitigation area will be an area of floodplain that has had its elevation lowered up to 18 inches in depth over existing conditions, and re-vegetated with predominantly grass areas with a mosaic woody-planted areas with floodplain trees and shrubs. The area will continue to provide good floodplain habitat for a variety of species and encourage the succession of this floodplain community into a wooded floodplain, typical for many areas along the Housatonic River. The floodplain planting plan focuses on typical floodplain trees and shrubs, which are relatively fast growing and hardy in these environments, and will be resistant and/or outgrow the herbaceous invasive species that are also endemic to this area. All these species will be planted in specific zones and depicted on the planting plan in order to create a mosaic of woody dominated areas. These woody dominated areas, as they mature, will potentially spread and populate the entire regrading/planting area, as well as extend into the remainder of the fallow field floodplain, if it is not maintained in any agricultural condition. (Exhibit DOT-5)

g. The floodplain compensation site will be monitored during construction and planting of herbaceous plant materials. (Exhibit DOT-5)

Construction Mitigation: Erosion and Sedimentation Controls

h. Short-term impacts will be minimized through erosion and sedimentation control measures that will be included in the construction contract for the project as required by the DOT. (*Standard Specifications for Roads, Bridges and Incidental Construction* Form 814A (or 815) (1995) *and Supplemental Specifications* (2000); *On-site Mitigation for Construction Activities*, Connecticut DOT Environmental Planning Division 1994., *Connecticut Erosion and Sediment Control Guidelines, as revised*) These guidelines address the installation, schedule for implementation, maintenance, inspection and expected results for the selected methods for erosion and sedimentation control. Adherence to these guidelines will assure minimization of adverse effects to fisheries or riparian habitat as a result of this project. The measures included in these guidelines provide for protection of ground and surface water quality, and minimize the possibility of siltation and sedimentation within the area of regulated wetlands and watercourses. (Exhibit DOT-1)

i. Specific care and special construction methods will be used. When existing piping is being repaired or upgraded, drainage work will be done during seasonal periods of low rainfall and flow. In drainage installations, accepted water-handling methods will be used. These include cofferdamming and piping to an adequate basin in accordance with DOT's Best Management Practices. (Ex. DOT-1)

j. The following specific erosion and sedimentation control measures are proposed:

    1. Silt fencing will be installed in conjunction with all disturbed and new soil slopes that could affect other areas;
    2. Exposed soils will be seeded with an approved erosion control mixture within seven days of the contractor reaching the appropriate grade;
    3. Sedimentation control measures will be installed around all catch basins receiving flow from unstabilized areas;
    4. Where possible, curbing was eliminated to allow storm runoff to sheet flow off the roadway in order to filter sediment and any pollutants through roadside vegetated areas;
    5. Vegetated swales will be used in some areas; some will be lined with erosion control matting prior to turf establishment to reduce the risk of erosion and allow a quicker establishment of vegetation; and
    6. Riprap splash pads or plunge pools, as appropriate, will be installed at stormwater discharge locations where erosion potential has been determined to be high.

(Exhibit DOT-1)

Other Mitigative Measures

k. To minimize impacts to wetlands and watercourses, certain measures were taken during design. Fill slopes were designed as steep as possible for the sites taking into account the safety of the traveling motorists. In order to improve stormwater runoff quality, the use of curbing was eliminated where possible, vegetation swales were used where feasible and deep sumps were provided in catch basins to increase retention of sediment. (Exhibit DOT-1)

The improved safety conditions for this critical roadway segment will benefit the public welfare and will lessen the chance of accidents

l. A DEP Stormwater Discharge Registration will be required for the project. A Pollution Control Plan will also be developed in association with that registration.

m. During construction, the contractor is required to inspect, report and repair any erosion. An on-site project engineer and staff of the DOT Environmental Planning Division will monitor the contractor's work to ensure compliance with DEP and DOT regulations and guidance. (Test. T. Gaffey)

4. State Threatened, Endangered, or Species of Special Concern

The DOT reviewed the Natural Diversity Database Maps[1] for this project area and determined that there are no known extant populations of Federal or State Endangered, Threatened or Special Concern Species that occur in the project corridor. (Exhibit DOT-1, Exhibit DOT-5)

5. Alternatives

During the planning and design of this project, a continuous examination of design alternatives was conducted. Numerous alternatives were considered in consultation with the various units of the DOT, as well as the DEP, the U.S. Army Corps of Engineers, the Town of New Milford, concerned citizens and regulatory agencies. Among the factors considered when assessing alternatives were geometric constraints, historical and archeological concerns, impacts to private property, and environmental concerns. The following alternatives were considered when examining the potential range of alternatives: no build, alternative alignment, reconstruction maintaining existing centerline alignment (the preferred alternative), and reconstruction adjusting centerline alignment to north or south. (Exhibit DOT-1, Exhibit DOT-4)

[1] DEP Natural Diversity Database mapping includes information regarding critical biological resources available to the DEP. The information is a compilation of data collected over the years by the DEP Natural Resource Center's Geological and Natural History Survey and cooperating units of the DEP, private conservation groups, and the scientific community.

Given the extent of the commercial development and the increasing average daily traffic along both sides of this section of roadway, the "No-Build" alternative was neither viable nor prudent. (Exhibit DOT-1, Exhibit DOT-4)

The development of a new roadway alignment was not viable because it is the existing commercial development along Route 7 and 202 which is creating the need for the expansion. A new alignment would miss the area of demand altogether and not eliminate the problem along Routes 7 and 202. Further, any such option would likely increase environmental impacts. (Exhibit DOT-1, Exhibit DOT-4)

The preferred alternative involves the addition of one lane in both the east and west directions creating a four lane roadway without a median, in order to handle the significantly increasing ADT volumes and associated growth. The majority of the roadway corridor being widened is flanked by commercial development. By approximately maintaining the existing centerline, the wetland impacts and economic impacts from taking commercial lands in use are minimized. It was determined early in the scoping process that a shift to one side or the other would cause a serious economic burden for those commercial businesses on the widened side. Much of the commercial lands immediately adjacent to the roadway are currently allocated for storefront/business parking and driveways. A reduction in parking would ultimately impact the level of service provided by the local businesses and trigger extensive property takes that would be prohibitively expensive. (Exhibit DOT-1, Exhibit DOT-4)

Reconstruction subalternatives adjusting the roadway off the existing centerline, to the north or the south would not achieve significantly lower impacts to wetland resources, floodplain, or the SCEL, and would result in significantly greater socio-economic impacts associated with business and residential displacement. Therefore, such realignments were considered to be neither viable nor prudent. (Exhibit DOT-1, Exhibit DOT-4)

B
CONCLUSIONS OF LAW

The purposes and policies set forth in the Inland Wetlands and Watercourses Act are secured through the process and criteria outlined in Section 22a-41 of the General Statutes. Section 22a-41(b)(1) provides that where a permit application has been the subject of a hearing, the commissioner must find that there is no feasible and prudent alternative to the proposed action before issuing a permit. In determining whether such an alternative exists, the commissioner must consider all relevant facts and circumstances, including but not limited to, the six statutory factors outlined in Section 22a-41 (a*).*

The six factors set out in Section 22a-41 (a) are:

(1) The environmental impact of the proposed regulated activity on wetlands or watercourses;

(2) The applicant's purpose for, and any feasible and prudent alternatives to, the proposed regulated activity which alternatives would cause less or no environmental impact to wetlands and watercourses;

(3) The relationship between the short-term and long-term impacts of the proposed regulated activity on wetlands or watercourses and the maintenance and enhancement of long-term productivity of such wetlands or watercourses;

(4) Irreversible and irretrievable loss of wetland or watercourse resources which would be caused by the proposed regulated activity, including the extent to which such activity would foreclose a future ability to protect, enhance or restore such resources, and any mitigation measures which may be considered as a condition of issuing a permit for such activity including, but not limited to, measures to (A) prevent or minimize pollution or other environmental damage, (B) maintain or enhance existing environmental quality, or (C) in the following order of priority: Restore, enhance and create productive wetland or watercourse resources;

(5) The character and degree of injury to, or interference with, safety, health or the reasonable use of property which is caused or threatened by the proposed regulated activity; and

(6) Impacts of the proposed regulated activity on wetlands or watercourses outside the area for which the activity is proposed and future activities associated with, or reasonably related to, the proposed regulated activity which are made inevitable by the proposed activity and which may have an impact on wetlands or watercourses.

Applying these factors to this permit application, the following facts are found:

(1) *Environmental Impacts*

The proposed project will result in some loss of wetlands and some disturbance to wetlands during the construction phase.

The project has been designed and planned to reduce impacts on wetlands to the greatest extent possible. Recommendations of DEP Fisheries Division have been incorporated into design plans and construction contracts, minimizing impacts to fisheries resources. Impacts to wildlife as a result of the project will be limited due to the restricted area of the project, and the existing disturbance of the area due to the existing roadway and developed properties.

Short-term impacts during construction will be reduced through measures to control sedimentation and erosion. These controls will assure that no permanent adverse effects will impact fisheries or riparian habitat. These measures will minimize the chance that siltation and sedimentation will encroach into the area of

the regulated wetlands and watercourses. Ground and surface water quality will also be protected.

The project will not result in any significant short or long-term environmental impacts. The overall long-term impacts to the wetlands will be minimal. Long-term impacts will include the loss of 0.38 acres of inland wetland and watercourse and 3900 cubic meters of fill placed with the SCEL for the Housatonic River.

To compensate for the fill within the SCEL, a mitigation site will be developed to replace the loss of 3900 cubic metersCM of floodplain storage within SCEL area. The SCEL replacement area will be augmented by floodplain plantings over approximately 3.25± acres. The site has been designed to provide riparian habitat functions as well as replace the lost floodplain storage.

Short-term impacts will be controlled though the use of sedimentation and erosion controls during construction. Long-term impacts to the wetland system as a habitat for wildlife and fish will be minimal or positive, including the improvements to the existing degraded and substandard stormwater drainage system along Routes 7 & 202 and the proposed floodplain plantings for the SCEL mitigation site. The improved safety conditions for this critical roadway segment will benefit the public welfare and will lessen the chance of accidents and any associated pollution due to the spillage of petroleum compounds.

(2) *Alternatives*

There are no feasible or prudent alternatives to the present proposed plan for the project. The alternative of taking no action, or the "no build alternative", would not meet the goal of the project and obligation of the applicant to provide for a safe roadway. The project has been designed to minimize environmental impacts to the greatest extent possible. Where safety would be significantly and negatively impacted, the DOT reasonably rejected changes to the design that would only minimally improve the impact to the environment. The proposed plan for reconstruction of Routes 7, 202 and 67 is reasonable in view of the social benefits to be derived from an improved and safer roadway. The applicant has adequately demonstrated that the proposed plan is a feasible and prudent choice.

(3) *Short and Long-term Impacts /Maintenance and Enhancement of Long-Term Productivity*

The record demonstrates that the short-term impacts of the project, primarily due to the construction activities that will be necessary, will be minimized through erosion and sedimentation control guidelines that will be included in the construction contract as required by the DOT. These guidelines will protect ground and surface water by minimizing the possibility of siltation and sedimentation within the area of the wetlands and watercourses impacted by the project. Adherence to these guidelines and the terms and conditions of the permit will assure that temporary impacts to the environment will be minimal.

The project will improve the functioning of some areas of the present wetland systems by addressing existing deficiencies in stormwater discharges and providing stable outlets. Further, the SCEL mitigation site is likely to improve the floodplain habitat potential and hasten its redevelopment at a natural wooded riparian habitat. Improvements to culverts and streambed channels will allow wildlife and fish to travel in and around the watercourses.

This project will impact the environment, both in the short and long term. However, the short-term impacts during construction will be tempered by construction mitigation efforts and the long-term impacts will be kept to a minimum. Improvements as a result of the project will enhance the overall long-term productivity of the wetlands. The proposed plans include steps that will be taken to rehabilitate some areas of the impacted wetlands immediately after construction is completed.

(4) *Irreversible/Irretrievable Loss of Wetlands and Watercourses Resources and Mitigation Measures*

The proposed project keeps to a minimum the irreversible and irretrievable commitment of wetlands resources. In recognition of wetlands as an indispensable, irreplaceable fragile natural resource, the project is designed to protect existing wetland areas to the greatest extent possible.

The project will improve and enhance some of the functions of the existing wetlands through addressing existing deficiencies in stormwater discharges and providing stable outlets. These systems will also allow for better drainage and storm water control. Further, the SCEL mitigation site is likely to improve the floodplain habitat potential and hasten its redevelopment at a natural wooded riparian habitat. The commitment of wetland resources to the proposed project will not result in an unacceptable loss of irretrievable or irreplaceable wetland resources and the SCEL mitigation site that will be created will enhance a productive wetland resource.

(5) *Impact on Safety and Health or Reasonable Use of Property*

The project, which will result in a safer roadway, has been designed to avoid adverse impacts to the wetlands to the greatest extent possible. The applicant will take measures to mitigate the potential for harm during construction, including the protection of ground and surface waters. The success of these measures will be monitored through regular inspections during the construction phase of the project. Potential impacts to wildlife and fisheries resources will be minimized through measures that include the incorporation of recommendations of the DEP. When concluded, the improvements to existing Little River bridge and the SCEL mitigation site, the construction of a new stormwater drainage system, and the enhancements of existing channels will facilitate wildlife and fish movement throughout the wetlands systems and will enhance the ability of the wetlands to control stormwaters. The improvements as a result of the project will provide a safer segment of Route 7 & 202 for the public. These improvements will also

enhance the functioning of the overall wetland systems to be impacted by the project. The impacts to the wetlands do not pose a threat of injury or interference with the public health or safety or the reasonable use of property.

(6) *Impacts on Wetlands Outside the Area and Inevitable Future Activities*

There is no evidence that the proposed project will have a negative impact on wetlands outside of the project area. The measures that will be taken during construction will prevent erosion and sedimentation that could encroach upon surrounding wetlands. Improvements as a result of the project, such as addressing existing deficiencies in stormwater discharges and providing stable outlets and the SCEL mitigation site with improvements to the floodplain habitat potential will offset the impacts to wetlands. The project as designed will not prevent future activities in and around Routes 7, 202 and 67. Those future activities, if designed in a fashion similar to the present plan, could also have an overall minimal impact on the environment.

RECOMMENDATION

The requirements of General Statutes §22a-41(b) have been met by this permit application. The record presented and consideration of all the relevant facts and circumstances pursuant to the six factors outlined in §22a-41(a) demonstrate that there is no feasible and prudent alternative to the proposed project that meets the purpose of the project and that would cause substantially fewer impacts to the natural resources.

The reconstruction and reconfiguration of Route 7 will result in a safer and better roadway and a more efficient transportation system. The proposed plan strikes an appropriate balance between the obligation of the applicant to improve a road that is presently a risk to human health and safety and the mission of the DEP to protect the environment. The permit that is the subject of this application should be issued.

/s/ Edgar S. Hurle 6/11/2002
Applicant, Department of Transportation *Date*

/s/ Robert L. Smith 6/11/02
CT DEP IWRD Representative *Date*

ATTACHMENT A - DRAFT PERMIT

Permittee: Connecticut Department of Transportation
2800 Berlin Turnpike
P.O. Box 317546
Newington, CT 06131-7546

Attn: Edgar T. Hurle

Permit No: IW-2001-115, SCEL-2001-05
Permit Type: Inland Wetlands and Watercourses
Stream Channel Encroachment
Town: New Milford
River: Housatonic River
Map No: HT-Nmi-4
Project: DOT Proj. Nos. 95-219,95-220,95-226,95-227

Pursuant to Connecticut General Statutes Sections 22a-39 and 22a-342 the Commissioner of Environmental Protection hereby grants a permit to the Connecticut Department of Transportation (the "permittee") to conduct activities within inland wetlands and watercourses and riverward of Stream Channel Encroachment Lines for the Housatonic River in the Town of New Milford in accordance with its application and plans which are part thereof filed with this Department on May 2, 2001 signed by Edgar T. Hurle and dated April 30, 2001, revised November 16, 2001 and January 17, 2002, (the "plans"). The purpose of said activities is the widening of Route 7 from just north of Lanesville Road to just north of the Route 7/202 intersection, and modifications to the Lanesville Connector (the "site").

AUTHORIZED ACTIVITY

Specifically, the permittee is authorized to alter 0.38 acres of inland wetlands or watercourses for roadway widening, bridge reconstruction, and modifications to the storm drainage system in accordance with said application.

This authorization constitutes the permits and approvals required by Section 22a-39 of the Connecticut General Statutes and is subject to and does not derogate any present or future property rights or other rights or powers of the State of Connecticut, conveys no property rights in

real estate or material nor any exclusive privileges, and is further subject to any and all public and private rights and to any federal, state, or local laws or regulations pertinent to the property or activity affected hereby.
PERMITTEE'S FAILURE TO COMPLY WITH THE TERMS AND CONDITIONS OF THIS PERMIT SHALL SUBJECT PERMITTEE AND PERMITTEE'S CONTRACTOR(S) TO ENFORCEMENT ACTIONS AND PENALTIES AS PROVIDED BY LAW.

This authorization is subject to the following conditions:

SPECIAL CONDITIONS

1. If any changes are proposed in the water handling plan at the site from that which is shown on the permit plates, the permittee shall submit such changes to the Commissioner for review and written approval. The permittee shall not implement any such plan until an approval is issued.

2. If any changes are proposed in the storm drainage system at the site, including any proposed swales, from that which is shown on the permit plates, the permittee shall submit such changes to the Commissioner for review and written approval. The permittee shall not implement any such plan until an approval is issued.

3. If any changes are proposed in the bank protection from that which is shown on the permit plates, the permittee shall submit such changes to the Commissioner for review and written approval. The permittee shall not implement any such plan until an approval is issued.

4. The permittee shall not conduct any unconfined in-water work at the site between October 1 and May 31, inclusive.

5. The permittee shall construct the flood storage compensation site in accordance with plans entitled, “SCEL Mitigation Plan,” drawings MIT-1 through MIT-3 dated 9/27/01 by the expiration date of this permit.

GENERAL CONDITIONS

1. **Initiation and Completion of Work.** At least five (5) days prior to starting any construction activity at the site, the permittee shall notify the Commissioner of Environmental Protection (the "Commissioner"), in writing, as to the date activity will start, and no later than five (5) days after completing such activity, notify the Commissioner, in writing, that the activity has been completed.

2. **Expiration of Permit.** If the activities authorized herein are not completed by five years after the date of this permit, said activity shall cease and, if not previously revoked or specifically extended, this permit shall be null and void.

   Upon the written request of the permittee and without notice, the Commissioner may extend the expiration date of this permit for a period of up to one year, which period may be extended once for a like period, in order for the permittee to complete activities authorized herein which have been substantially initiated but will not be completed by the expiration date of this permit. Any request to extend the expiration date of this permit shall state with particularity the reasons therefore.

   In making his decision to extend the expiration date of this permit, the Commissioner shall consider all relevant facts and circumstances including but not limited to the extent of work completed to date, the permittee's compliance with the terms and conditions of this permit, and any change in environmental conditions or other information since the permit was issued.

   Any application to renew or reissue this permit shall be filed in accordance with the Section 22a-39 of the General Statutes and section 22a-3a-5(c) of the regulations of Connecticut State Agencies.

3. **Compliance with Permit.** All work and all activities authorized herein conducted by the permittee at the site shall be consistent with the terms and conditions of this permit. Any regulated activities carried out at the site, including but not limited to, construction of any structure, excavation, fill, obstruction, or encroachment, that are not specifically identified and authorized herein shall

constitute a violation of this permit and may result in its modification, suspension, or revocation. In constructing or maintaining the activities authorized herein, the permittee shall not store, deposit or place equipment or material including without limitation, fill, construction materials, or debris in any wetland or watercourse on or off site unless specifically authorized by this permit. Upon initiation of the activities authorized herein, the permittee thereby accepts and agrees to comply with the terms and conditions of this permit.

4. **Transfer of Permit.** This authorization is not transferable without the written consent of the Commissioner.

5. **Reliance on Application.** In evaluating the permittee's application, the Commissioner has relied on information provided by the permittee. If such information subsequently proves to be false, deceptive, incomplete or inaccurate, this permit may be modified, suspended or revoked.

6. **Best Management Practices.** In constructing or maintaining the activities authorized herein, the permittee shall employ best management practices, consistent with the terms and conditions of this permit, to control storm water discharges and erosion and sedimentation and to prevent pollution. Such practices to be implemented by the permittee at the site include, but are not necessarily limited to:

   a. Prohibiting dumping of any quantity of oil, chemicals or other deleterious material on the ground;

   b. Immediately informing the Commissioner's Oil and Chemical Spill Section at 424-3338 of any adverse impact or hazard to the environment, including any discharges, spillage or loss of oil or petroleum or chemical liquids or solids, which occurs or is likely to occur as the direct or indirect result of the activities authorized herein;

c. Separating staging areas at the site from the regulated areas by silt fences or haybales at all times.

d. Prohibiting storage of any fuel and refueling of equipment within 25 feet from any wetland or watercourse.

e. Preventing pollution of wetlands and watercourses in accordance with the document "Connecticut Guidelines for Soil Erosion and Sediment Control" as revised. Said controls shall be inspected by the permittee for deficiencies at least once per week and immediately after each rainfall and at least daily during prolonged rainfall. The permittee shall correct any such deficiencies within forty eight (48) hours of said deficiencies being found.

f. Stabilizing disturbed soils in a timely fashion to minimize erosion. If a grading operation at the site will be suspended for a period of thirty (30) or more consecutive days, the permittee shall, within the first seven (7) days of that suspension period, accomplish seeding and mulching or take such other appropriate measures to stabilize the soil involved in such grading operation. Within seven (7) days after establishing final grade in any grading operation at the site the permittee shall seed and mulch the soil involved in such grading operation or take such other appropriate measures to stabilize such soil until seeding and mulching can be accomplished.

g. Prohibiting the storage of any materials at the site which are buoyant, hazardous, flammable, explosive, soluble, expansive, radioactive, or which could in the event of a flood be injurious to human, animal or plant life, below the elevation of the five-hundred (500) year flood. Any other material or equipment stored at the site below said elevation by the permittee or the permittee's contractor must be firmly anchored, restrained or enclosed to prevent flotation. The quantity of fuel stored below such elevation for equipment used at the site shall not exceed the

quantity of fuel that is expected to be used by such equipment in one day.

h. Immediately informing the Commissioner's Inland Water Resources Division (IWRD) of the occurrence of pollution or other environmental damage resulting from construction or maintenance of the authorized activity or any construction associated therewith in violation of this permit. The permittee shall, no later than 48 hours after the permittee learns of a violation of this permit, report same in writing to the Commissioner. Such report shall contain the following information:

(i) the provision(s) of this permit that has been violated;

(ii) the date and time the violation(s) was first observed and by whom;

(iii) the cause of the violation(s), if known

(iv) if the violation(s) has ceased, the duration of the violation(s) and the exact date(s) and times(s) it was corrected;

(v) if the violation(s) has not ceased, the anticipated date when it will be corrected;

(vi) steps taken and steps planned to prevent a reoccurrence of the violation(s) and the date(s) such steps were implemented or will be implemented;

(vii) the signatures of the permittee and of the individual(s) responsible for actually preparing such report, each of whom shall certify said report in accordance with section 9 of this permit.

For information and technical assistance, contact the Department of Environmental Protection's Inland Water Resources Division at (860)424-3019.

7. **Contractor Liability.** The permittee shall give a copy of this permit to the contractor(s) who will be

carrying out the activities authorized herein prior to the start of construction and shall receive a written receipt for such copy, signed and dated by such contractor(s). The permittee's contractor(s) shall conduct all operations at the site in full compliance with this permit and, to the extent provided by law, may be held liable for any violation of the terms and conditions of this permit.

8. **Monitoring and Reports to the Commissioner.** The permittee shall record all actions taken pursuant to Condition Number 6(e) of this permit and shall, on a monthly basis, submit a report of such actions to the Commissioner. This report shall indicate compliance or noncompliance with this permit for all aspects of the project which is the subject of this permit. The report shall be signed by the environmental inspector assigned to the site by the permittee and shall be certified in accordance with Condition Number 9 below. Such monthly report shall be submitted to the Commissioner no later than the 15th of the month subsequent to the month being reported. The permittee shall submit such reports until the subject project is completed.

9. **Certification of Documents.** Any document, including but not limited to any notice, which is required to be submitted to the Commissioner under this permit shall be signed by the permittee, a responsible corporate officer of the permittee, a general partner of the permittee, or a duly authorized representative of the permittee 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 in accordance with Section 22a-6 under Section 53a-157b of the Connecticut General Statutes."

10. **Submission of Documents.** 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. Except as otherwise specified in

this permit, the word "day" as used in this permit means the calendar day. Any document or action which falls on a Saturday, Sunday, or legal holiday shall be submitted or performed by the next business day thereafter.

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

The Director
DEP/Inland Water Resources Division
79 Elm Street, 3rd Floor
Hartford, Connecticut, 06106-5127

Issued by the Commissioner of Environmental Protection on:

_____ _____

Date Arthur J. Rocque, Jr., Commissioner