



PERMIT

Permittee: The Metropolitan District
555 Main Street
Hartford, CT 06103
Attn: James Randazzo, Susan Negrelli, Alexander Cosentino

Permit No: DS-202212429

Town: New Hartford

Project: Richards Corner Dam Improvements, Dam ID #9202, Hazard Class: C

Waters: East Branch Farmington River/ Lake McDonough

Pursuant to Connecticut General Statutes Section 22a-403, the Commissioner of Energy and Environmental Protection (“Commissioner”) hereby grants a permit to The Metropolitan District (“the Permittee”) to conduct regulated activities associated with the Richards Corner Dam Improvements, Dam ID # 9202. The purpose of said activities is to repair the Richards Corner Dam.

AUTHORIZED ACTIVITY

Specifically, the permittee is authorized to do the following: maintenance and repairs in and around the diversion conduit outlet structure to minimize and prevent additional undermining and slope regrading of the left embankment.

The proposed improvements will result in approximately 4,900 square feet of permanent impacts and approximately 1,200 square feet of temporary impacts within the East Branch Farmington River.

All activities shall be conducted in accordance with plans entitled: “Richards Corner Dam, Diversion Conduit Outlet Channel and Embankment Repairs” dated December 2022 prepared by Gregory S. Bazydola, P.E., of Arcadis Inc. , signed and sealed on December 14, 2022 and submitted as part of the application.

This authorization constitutes the licenses and approvals required by Section 22a-403 of the Connecticut General Statutes. This authorization 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 thereby.

The permittee's failure to comply with the terms and conditions of this permit shall subject the

permittee, including the permittee's agents or contractor(s) to enforcement actions and penalties as provided by law.

This authorization is subject to the following conditions:

CONDITIONS:

1. **Expiration.** This permit shall expire three years following the date of issue unless this permit is specifically renewed.
2. **Construction Commencement and Completion.** If construction of any structures or facilities authorized herein is not completed within three years of issuance of this permit or within such other time as may be provided by this permit, or if any activity authorized herein is not commenced within three years of issuance of this permit or within such other time as may be provided by this permit, this permit shall expire three years after issuance or at the end of such time as may be authorized by the Commissioner.
3. **Notification of Project Initiation.**
 - a. The permittee 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 permittee 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 Lake McDonough for the purpose of undertaking permitted activities.
4. **De minimis Alteration.** The permittee may not make any alterations, except de minimis alterations, to any structure, facility, or activity authorized by this permit. A de minimis alteration means a change in the design, construction or operation authorized under this permit that does not increase environmental impacts or substantively alter the construction of the project as authorized. If during the process of construction, unforeseen conditions are found on the site and the permittee and their engineer determine that it would be appropriate to modify the design, then the permittee shall notify DEEP within 24 hours of any potential design changes. DEEP shall determine if the design modifications will be an activity that can be categorized as a de minimis activity when compared to the permitted design. No work shall take place which was not included as part of the permitted design until DEEP responds to this determination request.
5. **Maintenance of Structures.** All structures, facilities, or activities constructed, maintained, or conducted pursuant hereto shall be consistent with the terms and conditions of this permit, and any structure, facility or activity not specifically authorized by this permit, or exempted pursuant to Section 22a-377 of the Connecticut General

Statutes or Section 22a-377(b)-1 of the Regulations of Connecticut State Agencies, or otherwise exempt pursuant to other Connecticut General Statutes, shall constitute a violation hereof which may result in modification, revocation or suspension of this permit or in the institution of other legal proceedings to enforce its terms and conditions.

6. **Accuracy of Documentation.** In issuing this permit, the Commissioner has relied on information provided by the permittee. If such information was false, incomplete, or misleading, this permit may be modified, suspended or revoked and the permittee may be subject to any other remedies or penalties provided by law.
7. **Best Management Practices & Notification of Adverse Impact.** The permittee shall utilize engineered erosion and sediment controls to prevent pollution of wetlands and watercourses in accordance with Best Management Practices. Best Management Practices include, but are not limited to, the *Connecticut Guidelines for Soil Erosion and Sediment Control*¹ as revised, the *Connecticut Stormwater Quality Manual* as revised, the Department of Transportation's *ConnDOT Drainage Manual* as revised, and the Department of Transportation Standard Specifications as revised.

The permittee shall deploy controls prior to the commencement of construction, and regularly inspect and maintain controls as needed for effectiveness. 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.

The permittee shall immediately inform the Commissioner of any adverse impact or hazard to the environment which occurs or is likely to occur as the direct result of the construction, maintenance, or conduct of structures, facilities, or activities authorized herein.

8. **Reporting of Potential Violations.**
 - a. The permittee shall, no later than 48 hours after the permittee learns of a violation of this permit, report in writing to the Commissioner. Such written report shall contain the following information, and be submitted to DEEP.DamSafety@ct.gov:
 - a. The provision(s) of this permit that has been violated;
 - b. The date and time the violation(s) was first observed and by whom;
 - c. The cause of the violation(s), if known
 - d. If the violation(s) has ceased, the duration of the violation(s) and the exact date(s) and times(s) it was corrected;

¹ For guidance on the use of erosion and sediment controls, refer to the *2002 Connecticut Guidelines For Soil Erosion and Sediment Control* document (update pending). URL: <https://portal.ct.gov/-/media/DEEP/water/sesc/sescintrotcpdf.pdf>.

- e. If the violation(s) has not ceased, the anticipated date when it will be corrected;
- f. 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; and
- g. The best telephone number where DEEP can reach the engineering consultant in a timely manner.

- 9. Material Storage in the Floodplain.** 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 is prohibited. 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.
- 10. Permit Transfer.** This permit is not transferable without the prior written consent of the Commissioner.
- 11. Contractor Notification.** 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.
- 12. 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 or a responsible corporate officer of the permittee, a general partner 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 thereto and I certify that based on reasonable investigation, including my inquiry of the individuals responsible for obtaining the information, the submitted information is true, accurate and complete to the best of my knowledge and belief. I understand that a false statement in the submitted information may be punishable as a criminal offense in accordance with Section 22a-6 of the General Statutes, pursuant to Section 53a-157b and in accordance with any other applicable statute.”

- 13. Submission of Documents.** 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:

DEEP.DamSafety@ct.gov

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" means any 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 legal holiday shall be submitted or performed by the next business day thereafter.

- 14. Rights.** This permit is subject to and does not derogate any rights or powers of the State of Connecticut, conveys no property rights or exclusive privileges, and is subject to all public and private rights and to all applicable federal, state, and local law. In constructing or maintaining any structure or facility or conducting any activity authorized herein, the permittee may not cause pollution, impairment, or destruction of the air, water, or other natural resources of this State. The issuance of this permit shall not create any presumption that this permit should be renewed.

15. Dam Safety Conditions

- 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 has expertise in 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. Within thirty (30) days of completion of the permitted activities, permittee 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. In addition, the permittee shall arrange for submission of an electronic copy of the final record drawings in Adobe Acrobat "pdf" format.
- d. Nothing in this chapter and no order, approval or advice of the Commissioner, shall relieve any owner or operator of this dam from his legal duties, obligations and liabilities resulting from such ownership or operation. No action for damages sustained through the partial or total failure of any structure or its maintenance

shall be brought or maintained against the state, the Commissioner of Energy and Environmental Protection, or his employees or agents.

- e. The Sequence of Construction and Water Handling Plan provided in the application shall be reviewed by the contractor repairing the dam. If the plan is revised or updated, a copy of the revised plan must be submitted to the Dam Safety Program at its email address: DEEP.DamSafety@ct.gov before beginning repair or within 48 hours of its revision after the work has started.
- f. The flood contingency plan submitted with the application shall be reviewed by the contractor and if any revisions are made to the plan, a copy of the revised plans must be submitted to the Dam Safety Program at DEEP.DamSafety@ct.gov within 48 hours.

16. NDDB Species Protection. The Permittee shall conduct work in accordance with mitigation measures identified in NDDB Final Determination # 202201004 renewal dated March 7, 2024, attached hereto.

17. Time-of-Year Restrictions. Unconfined in-water excavation, dredging, filling or removal of debris or other material is prohibited from October 1st through May 30th inclusive, of any year in order to protect fisheries resources in the area unless otherwise authorized in writing by the Commissioner.

Issued by the Commissioner of Energy and Environmental Protection on:

Date

Graham J. Stevens
Bureau Chief
Water Protection and Land Reuse



March 7, 2024

Julie K. Bjorkman
JKB Consulting, LLC
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Old Saybrook, CT 06475
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NDDB DETERMINATION NUMBER: 202201004 renewal

Project: The Metropolitan District (or MDC) Richard's Corner Dam Maintenance & Repairs Project, Reservoir Road (Rte. 219), New Hartford, CT

Expiration: March 7, 2025

I have reviewed Natural Diversity Database (NDDB) maps and files regarding this project. According to our records, there are State-listed species (RCSA Sec. 26-306) documented nearby the area that should be considered during project activities.

- **Downstream concerns**
 - **Eastern pearlshell (*Margaritifera margaritifera*) State Special Concern**

This freshwater mussel species lives buried in clean, stable, mixed substrate in fast-flowing unpolluted streams and rivers. Best habitats are good trout streams that are heavily shaded by a riparian canopy, possess clean cold water with high dissolved oxygen, and have stable channels with substrates of coarse sand, gravel, and cobble. Factors that limit the eastern pearlshell are changes to water quality, including eutrophication, acidification, sedimentation, and increases in water temperature.

Freshwater mussels are aquatic animals that play an important role in our environment. These sedentary organisms live in sediments on the bottom of streams and rivers and provide a service to all by filtering water and removing bacteria and phytoplankton. It is because they are filter-feeding animals that they are very susceptible to sediments and pollutants in the water in which they live. The greatest diversity of freshwater mussels in the world is found in Eastern North America. Freshwater mussels are one of the most endangered groups of animals with almost three-quarters of the native mussels in North America imperiled. The disappearance of freshwater mussels is a reliable indicator of chronic water pollution. The following considerations will help protect and benefit these species.

- Adhere strictly to water quality standards that to control sediment at your project site.
- Recommended Water quality targets for waterways downstream that contain this species should include, but are not limited to those that affect Turbidity and Water temperature:
 - Turbidity should not increase 8 NTU over background levels
 - Maximum induced suspended sediments in any 24 hr period should be less than 25mg/L over background levels
 - Induced suspended sediments averaged over 30 day period should be less than 5mg/L over background levels
 - Water temperature should not increase 1° C (~1.8°F)

Dam operations:

Dams have the ability to affect hydrology, water temperature, water quality, sediment transport and other channel processes, nutrient cycles, and migration routes. The following concerns relate to freshwater mussels regarding dam operation:

- Changes in operation may alter thermal regimes in impoundments or downstream areas.
- Minimize unnaturally high flow variations on short time scales that could cause fine sediment loss downstream due to hydropeaking.
- Should the need arise for dam maintenance that requires a drawdown to the impoundment:
 - Consult with the DEEP Wildlife Division early to plan how drawdown work will be coordinated to protect freshwater mussels (DEEP.nddbrequest@ct.gov, Laura.saucier@ct.gov)

- **Slimy sculpin (*Cottus cognatus*) State Special Concern**

DEEP Fisheries Biologists review permit applications submitted to DEEP regulatory programs to determine whether projects might adversely affect listed species. If you are not already in consultation with a Fisheries Biologist, please complete the DEEP Fisheries consultation form:

- https://portal.ct.gov/-/media/DEEP/Permits_and_Licenses/Common_Forms/fisheriesconsultationappdoc.doc

and submit to:

- Deep.inland.fisheries@ct.gov

Natural Diversity Database information includes all information regarding critical biological resources available to us at the time of the request. This information is a compilation of data collected over the years by the Department of Energy and Environmental Protection's Bureau of Natural Resources and cooperating units of DEEP, independent conservation groups, and the scientific community. This information is not necessarily the result of comprehensive or site-specific field investigations. Consultations with the NDDB should not be substituted for on-site surveys required for environmental assessments. Current research projects and new contributors continue to identify additional populations of species and locations of habitats of concern, as well as, enhance existing data. Such new information is incorporated in the NDDB as it becomes available.

Please contact me if you have any questions (shannon.kearney@ct.gov). Thank you for consulting with the Natural Diversity Database and continuing to work with us to protect State-listed species.

Sincerely,

/s/ Shannon B. Kearney
Wildlife Biologist