

OFFICE OF ADJUDICATIONS

IN THE MATTER OF

: APPLICATION NO. DS-01-17

**UNIVERSITY OF CONNECTICUT
HILLTOP APARTMENTS**

: OCTOBER 17, 2002

PROPOSED FINAL DECISION

The parties have submitted the attached *Agreed Draft Decision* for my consideration in this matter. Following my review of the record and this agreement, I hereby adopt it as my *Proposed Final Decision*. I recommend that the Commissioner issue the requested permit (Attachment 1), as modified in the *Agreed Draft Decision*.

October 17, 2002 _____
Date

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

STATE OF CONNECTICUT
DEPARTMENT OF ENVIRONMENTAL PROTECTION
OFFICE OF ADJUDICATIONS

IN THE MATTER OF

APPLICATION NO. DS-01-17

THE UNIVERSITY OF CONNECTICUT

OCTOBER 3, 2002

AGREED DRAFT DECISION

I
SUMMARY

The University of Connecticut (the applicant or the University) has applied to the Department of Environmental Protection (“DEP”), for a permit to construct and maintain a dam to retain storm water discharged from a section of the University’s Storrs campus known as the Hilltop Apartments. The location of the dam is the northeast corner of the intersection of Separatist Road and Stadium Road in the Town of Mansfield, Connecticut.

The University constructed a storm water detention basin at the above location to detain water running off the Hilltop Apartments. By excavating the detention basin on a hillside, the applicant left in place soil on the down gradient side of the detention basin which, although original soil, is an earthen berm.

Staff of the DEP Inland Water Resources Division (“IWRD”) inspected the detention basin and determined that the earthen berm was a dam under the Chapter 446(j) of the General Statutes, and thus required a permit, whereupon the University applied. The dam safety permit application was referred to the IWRD staff.

Upon receipt of a petition by at least twenty-five persons, and upon a limited waiver of the Applicant’s rights under the UCONN 2000 legislation¹ that authorizes the University to expedite the permit process, the commissioner of environmental protection (the “commissioner”) ordered that a hearing take place.

A site walk was conducted and a hearing was held on October 3, 2002 on the Storrs campus. The applicant, DEP staff, and the public were fully heard. The record remained open for written comment until October 11, 2002, as announced at the hearing.

¹ See General Statutes § 10a-109n(e)(4) as amended by Public Act 02-03 of the May 9, 2002 Special Session, a copy of which is appended hereto, Schedule A.

The parties to this proceeding are the applicant and the DEP staff. These parties submit that a review of the record and consideration of the facts and applicable law in this matter, supports their conclusion that the application meets the requisite statutory criteria. The proposed regulated activities, if conducted in accordance with the terms and conditions of this Agreed Draft Decision, will therefore be consistent with the legal standards for issuance.

II DECISION

FINDINGS OF FACT

1. Procedural History.

1. On or about November 16, 2001, Mr. Larry Schilling, Director of Engineering and Architectural Services, on behalf of the University of Connecticut submitted a dam safety permit application to the DEP. This application was entitled "Detention Pond Dam Permit for Hilltop Apartments Detention Pond." (Ex. App. - 2).

2. On or about November 16, 2001, the applicant published Notice of Permit Application for the Town of Mansfield in the Willimantic Chronicle. The Notice indicated that the application was available for inspection at DEP. (Ex. App. - 6).

3. On or about November 27, 2001, the commissioner received a petition, signed by at least twenty-five people, requesting a "public hearing regarding the application for a permit by the University of Connecticut under Connecticut General Statutes Section 22a-403 Dam Construction." (Ex. DEP - 1).

4. On or about November 30, 2001, Thomas Q. Callahan, Special Assistant to the University President, writing on behalf of the applicant, waived expedited process by stating:

The University believes that a public hearing on the above referenced permit application (DS-01-17) will provide Mansfield's elected officials and area residents a necessary forum to both become informed of and express their views about this matter.... in light of.... the appropriateness of a public hearing on this matter, the University waives its right to timely consideration for purposes of this application only, pursuant to consideration for purposes of this application only, pursuant to the provisions of Connecticut General Statutes 185b, Section 10a-109n(e)(4)(A).... (Ex. DEP - 2).

5. In a letter dated January 4, 2002, by letter, the commissioner informed the host community, the town of Mansfield, that the DEP “will schedule a public hearing” regarding the Hilltop Apartments/ Dam Safety Permit Application. (Ex. App. - 7).
6. On or about August 30, 2002, the DEP issued a Notice of Tentative Determination announcing an intention to issue the dam safety permit (DS-01-17) and noticed the time, date and location of a public hearing on the proposed constructing of the dam. (Exs. DEP - 5 and - 6).
7. In an August 30, 2002 letter, the DEP informed the applicant of its intention to approve the University’s permit application. (Ex. DEP - 4).
8. In an August 30, 2002 letter, the DEP informed the Mansfield Town Manager of its intention to approve the University’s permit application. Pursuant to statutory requirements, copies were mailed to Inland Wetlands Agency, Planning and Zoning Commission and Conservation Commission. (Ex. DEP - 3).
9. The DEP published a newspaper notice of a public hearing in the *Willimantic Chronicle* on August 30, 2002. (Exs. DEP - 5 and - 6).
10. Pursuant to the UCONN 2000 legislation, the DEP published notice of a public hearing for October 3, 2002 in the *Willimantic Chronicle* on September 24, 2002. (Ex. DEP - 16).
11. A hearing was conducted on the dam safety application on October 3, 2002, at which the public, the applicant, and staff were fully heard. Witnesses for the applicant included: Larry Schilling, Director of Engineering and Architectural Services for the University of Connecticut (who testified as to the history of the project and the permitting process); David N. Battista, P.E., Lenard Engineering; Dean Johnson, Johnson Land Design (who testified as to the landscaping design associated with the project). Witnesses for DEP included: Arthur P. Christian, II, P.E., Supervising Civil Engineer, DEP, Bureau of Water Management; Brian Golembiewski, Environmental Analyst 3, DEP Inland Water Resources Unit. Various members of the public also spoke at the hearing. Their written comments as well as the comments of 6 persons who were either not present or did not speak, are in the record as exhibits, HO-1 through 5.

2. The Application.

12. The commissioner determined that an earthen dam was created by the applicant as part of a storm water detention system for the University Hilltop Apartment Complex located at the northern corner of the intersection of Stadium Road and Separatist Road in Mansfield, Connecticut and could, by breaking away, cause loss of life or property damage. (Test. Arthur Christian, Ex. DEP - 17; Test. David Battista; Ex. App. - 1).

13. The University Hilltop Apartment Complex was constructed in 2001-2002. The existing basin results from excavation of a sloping area “resulting in an embankment of natural ground between the basin and the roadway.” This earthen embankment supports trees planted by the applicant as a screen or buffer. (Test. Arthur Christian, Ex. DEP - 17; Test. David Battista, Ex. App. - 10).

14. Following receipt of the University’s application, staff inspected the earthen embankment and determined that a dam safety permit could be issued provided that the following conditions were met:

- (a) All trees and shrubs were to be removed from the earthen embankment;
- (b) The slope would be uniformly graded. (Test. Arthur Christian, Ex. DEP -17; Test. David Battista, App. -10).

15. Balancing the staff’s concern that the trees would compromise the integrity of the earthen dam with the University’s view that the trees provide a desirable buffer, the University proposed to create a concrete dam to be located up gradient of the earthen dam away from the screen of the trees. This proposed fifteen foot distance between the trees and the downstream toe of the proposed concrete dam is designed and is sufficient to provide DEP inspectors and the owner an opportunity to visually inspect the dam. (Test. Larry Schilling).

16. The initial plans dated August 30, 2002 reflect the University’s proposal to construct a new concrete dam. The plans and permit application have been revised to address issues raised during the preliminary portion of staff’s review. The revision is dated Sept. 10, 2002 and the three (3) plan sheets are dated Sept. 18, 2002. (Test. Larry Schilling).

Testimony and Documentary Evidence

17. The DEP Bureau of Natural Resources evaluated the potential for migration of anadromous fish over this proposed dam. Mr. Richard Jacobson and Mr. Edward Parker concluded that no fish ladder is required for this dam. There is no natural spawning or nursing area of fishery above the dam. (Test. A. Christian; Ex DEP 17; Ex. DEP - 9).

18. The concrete dam, as proposed, will safely retain water generated in a one hundred year storm event and, thus, will not adversely impact the safety of persons or property downstream therefrom. (Test. Arthur Christian, Ex. DEP -17; Test. David Battista, Ex. App. -10).

“ . . . my review of the proposed dam construction plan indicates the dam is appropriately designed hydrologically, hydraulically, and structurally. Its layout allows it to be readily inspected and maintained.” (Test. Arthur Christian, DEP Ex. - 17).

19. Staff reviewed the plans to determine potential for environmental impact. No long-term adverse environmental impact is anticipated.

“No long-term adverse environmental impacts are associated with the construction of the proposed concrete retaining wall dam, since this wall is being placed upstream of the existing natural ground left in place after the original detention basin excavation. In addition, the proposed construction will not take place in a watercourse.

The work that is to take place in the bottom of the basin has been added to the plan to enhance the pretreatment of the stormwater. The plantings in the forebay area have been specifically chosen because of their ability to enhance the area.” (Test. Arthur Christian, Ex. DEP - 17).

20. Staff prepared a draft permit with conditions authorizing the applicant to construct the dam. In addition, pursuant to the requirements outlined in the newly revised “Connecticut Guidelines for Soil Erosion and Control,” (dated May 2002) and the permit specifications, the applicant will extend the proposed silt fence along the northern shoulder of Stadium Road, and include “detailed stabilization measures . . . consistent with the latest guideline revision.” (Ex. DEP - 8; Test. Arthur Christian, Ex. DEP - 17).

21. At the October 3, 2002 hearing the applicant, staff and the public presented comments on both the safety and aesthetics of the concrete dam. After hearing the testimony and reviewing the exhibits, the staff concludes that the dam is capable of withstanding a one hundred year storm, is safe, will not “break away or cause loss of life or property damage.” (Test. Arthur Christian, Ex. DEP - 17).

22. “Provided the proposed construction activities are conducted in accordance with the “Connecticut Guidelines for Soil Erosion and Sediment Control” dated May 2002 and current Best Management Practices, impacts from the proposed construction activities to inland wetlands watercourses should be minimal. As a mitigation measure, the applicant proposes to establish two (2) wetlands vegetative habitat types through the implementation of a wetland- planting plan. The applicant proposes to establish a herbaceous wet meadow type in the eastern section of the basin and a scrub-shrub wetland type in the southwestern section of the basin. The proposed mitigation should adequately offset the minor impacts associated with the dam repair project and should establish new productive wetlands vegetative communities within the detention basin.” (Test. Brian Golembiewski, Ex. DEP- 18; Ex. DEP - 2; amended permit application).

B. CONCLUSIONS OF LAW

1. Statutory Requirements.

Pursuant to Section 22a-403(b) of the General Statutes:

“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 . . . “

a. Need For a Fishway.

By the criteria of Section 26-136 of the Statutes, no fishway is needed.

b. The Impact Of The Proposed Construction On The Safety Of Persons And Property.

Hydraulic & Hydrologic Review

Structural Review

This dam in conjunction with the detention basin has been designed to pass the one hundred (100) year frequency flood with two (2) feet of freeboard. In this case, the top of the new concrete retaining wall is considered the top of the dam. The two (2) feet of freeboard was appropriate because there is no emergency spillway for this dam.

In the rare case that the basin's capacity is exceeded, the concrete retaining wall will be the hydraulic control. As this wall will be level, a uniform thin layer of water would flow over the wall in the event it overtops. For example, if this layer of water rises to one (1) inch deep, there will be approximately twenty-five (25) cubic feet per second (cfs) flowing over the top of the dam.

Therefore, the twenty-five (25) cfs would be spread equally throughout the three hundred fifty (350) linear feet of the wall. It is for this reason that even during a minor overtopping event, the dam is safe and not subject to failure.

The design of the new concrete retaining wall dam does not rely on the downstream natural ground berm for its stability. For this reason, the dam or water retaining structure is considered to be the concrete retaining wall and its concrete footing. The new retaining wall dam is designed to withstand the forces associated with the water surface elevation at the top of the wall. Additional factors of safety have been incorporated into the dam's design. In that the actual one hundred (100) year flood elevation is two (2) feet below the top of the concrete wall and for design purposes, it was assumed that the wall did not have backfill on its downstream side. Both of these design assumptions are conservative. The design does not incorporate an earthen embankment rather natural ground remains on the downstream side for aesthetic purposes.

c. The Impact Of The Construction Work On The Environment.

Almost all of the construction work for the proposed concrete dam will occur within the already existing basin. The area was recently disturbed to excavate the basin. The area will be revegetated upon conclusion of the construction. The proposed sediment and soil erosion control plans conform to the criteria of the "Connecticut Guidelines For Soil Erosion and Control" May 2002, and thus, when implemented, will prevent the escape of any material from the construction site within the basin to the outside environment. A small amount of work has been completed in a watercourse on the other side of Separatist Road. This area is now stable. (Test. Larry Schilling; Test. Arthur Christian, Ex. DEP - 17; Test. David Battista, Ex. App. - 10).

d. The Impact Of The Proposed Construction On The Inland Wetlands And Watercourses Of The State.

Applicant intends to improve the existing detention basin by creating an upper detention chamber within the basin, replacing a straight water flow channel with a curved channel, and building a new concrete dam including a modification to the existing out flow structure. The upper detention chamber will retard the flow of water through the basin in order to remove sediments.

Regulatory Criteria.

Section 22-409(a) of the Connecticut General Statutes requires the Commissioner of Environmental Protection to periodically inspect dams. The statute authorizes the commissioner to adopt regulations in support of his inspection authority. Section 22a-409-2 of the Regulations of Connecticut State Agencies (RCSA) supports the commissioner's statutory inspection authority with regulations which proscribe the frequency of inspections, protocol for inspections, check lists and record keeping, classification of dams, and responsibilities of dam owners. This last section, responsibilities of dam owners is found at subsection (j) and requires inspection by the owner, reporting deteriorated or unsafe conditions, and maintenance of a cleared area for the purpose of inspections. The regulations call for a twenty-five (25) foot area from the downstream toe be free of trees and brush, but stabilized with grass. In this case, the applicant proposes a fifteen (15) foot cleared area for inspections. This will allow the maintenance of a tree buffer between the dam and street. This tree buffer is a courtesy to the residents of Separatist Road who have expressed a desire for a vegetative buffer. (Test. Larry Schilling).

The engineers, Mr. Christian of the staff and Mr. Battista for the Applicant, agree and have testified that leaving trees between fifteen (15) feet and twenty-five (25) feet of the toe of the dam will provide adequate room for the owner or the commissioner to inspect the dam. They further testified that trees, at the locations proposed, not less than fifteen (15) feet from the toe of the proposed dam, will not compromise the safety of the new concrete dam. (Test. Arthur Christian, DEP - 17; Test. David Battista, App. - 10).

Unlike concrete dams, earthen dams are constructed with earthen slopes on both the up gradient and down gradient sides. In contrast to earthen dams, the proposed concrete dam will have a vertical gradient wall. Whereas a twenty-five (25) foot inspection area may be necessary in the case of a sloped earthen dam, staff and the applicant assert that fifteen (15) feet is sufficient to inspect a vertical concrete dam.

Evidence that Section 22a-409-2(j)² applies to earthen dams is apparent because it calls for vegetative stabilization of a twenty-five (25) foot area and an inspection zone of twenty-five (25) feet. Similarly, if a roadway were located within twenty-five (25) feet of

the toe of a concrete or an earthen embankment dam, the road would not need to be replaced with vegetation. Applied to a vertical concrete dam, these regulations make no sense. A vertical concrete dam does not require any stabilizing vegetative cover.

The regulation which at sub (A) provides, “brush and tree growth shall be cleared from embankments and within twenty-five (25) feet of the downstream toe and the abutment embankment contact . . .” is subordinate to Section 6 which mandates that the owner “facilitate visual inspection during the intervals between regularly scheduled inspections, the dam owner shall be required to maintain the structure and adjacent area free of brush and tree growth . . .”.

The principle focus of Section 22a-409-2(j) of the RCSA is regulation of earthen dams. Therefore, it is proper to interpret these regulations as giving the commissioner appropriate discretion to assure inspection of the dam. In the absence of an exercise of discretion by the commissioner a twenty-five (25) feet no tree or brush inspection buffer area would be the appropriate default standard.

The purpose of the regulation is to facilitate visual inspections and to protect the structural integrity of earthen embankment dams. A sensible and appropriate analysis of this regulation allows it to be applied to both earthen and concrete dams. To do so, the intent of the regulation to facilitate visual inspection, must be honored without slavish adherence to the subordinate provision, which under the circumstances is in contravention of the commissioner’s discretionary authority. It is necessary to be certain that the intent of the regulation, facilitate visual inspection, executed without slavish adherence to the irrelevant. This is accomplished by reading the general rubric as mandatory, that the DEP staff and dam owner agree that visual inspection is facilitated, but reading the subordinate provision, a treeless, brushless twenty-five (25) feet as directory.

In default of concurrence by the staff and applicant on a different distance, twenty-five (25) feet should be used.³ In this case, the regulatory mandate and intent that a visual inspection area be maintained, is satisfied by a lesser distance, fifteen (15) feet. Under C.G.S. Section 22-405, after construction of a dam, the commissioner must issue a certificate of approval under that statute, the commissioner must be satisfied that the dam is safe and capable of being inspected. In the event the commissioner is not satisfied, he may issue further orders or impose such conditions as he in his discretion may deem appropriate. The commissioner has the right at any time to insist on twenty-five (25) foot cleared area. In this case the proposed fifteen (15) foot cleared area meets the spirit and the intent of the regulation.

Accordingly, the facts of this application meet the criteria imposed by law.

c. Recommended Permit Conditions.

In addition, pursuant to the requirements outlined in the newly revised “Connecticut Guidelines for Soil Erosion and Control,” (dated May 2002) and the permit specifications, the applicant must extend the proposed silt fence along the northern shoulder of Stadium Road, and include “detailed stabilization measures...consistent with the latest guideline revision.” (Ex. DEP - 8).

4. Conclusion.

Upon review of the record and consideration of the facts and applicable law in this matter, the parties submit that the applicant meets the necessary statutory and regulatory criteria. The proposed activities, if conducted in accordance with the terms and condition of the Draft permit as modified in this decision, will be consistent with the legal standard for issuance.

The parties request that the permit be issued with the terms and conditions of the attached draft permit as modified herein. (See Attachment 1).

SCHEDULE A

Section 10a-109n. Construction by the University of Capitol Improvements

.

ATTACHMENT 1

Dam Safety Permit

ATTACHMENT 1

DRAFT PERMIT

Permittee: University of Connecticut
c/o Larry Schilling
31 LeDoyt Road, U-38
Storrs, CT 06269-3038

Permit No: DS-01-17
CT Dam Inventory No.: 7841
Town: Mansfield

Pursuant to Section 22a-403 of the Connecticut General Statutes, the University of Connecticut, c/o Larry Schilling (“permittee”) is hereby permitted to conduct activities at the Separatist Road Detention Basin (“the dam”) located on the northern corner of the intersection of Stadium Road and Separatist Road in Mansfield, Connecticut as set forth in application #DS-01-17 prepared by Lenard Engineering, Inc., which includes plans entitled “Hilltop Apartments Detention Basin Improvements, dated August 30, 2002 revised September 10, 2002.

Authorized Activity

Specifically, the permittee is authorized to construct new reinforced concrete retaining wall and modify the detention basin floor as depicted in the above referenced plans.

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:

Special Conditions

1. All plantings for the subject project shall be installed as depicted on plans entitled “Hilltop Apartments Detention Basin Improvements, University of Connecticut, Storrs, Connecticut.” Referenced above.

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

2. The permittee shall retain a qualified wetland scientist approved by the department to oversee the implementation of the proposed wetland planting plan

- and perform surveys as necessary. For the first two growing seasons after installation, the permittee through their approved wetland scientist shall conduct a survey of the planting areas to determine plant and shrub survivorship and the occurrence of invasive species. The permittee shall submit a report within 45 days of the survey to the Commissioner for review and approval, such report shall contain survey findings and recommendations for plant replacement or reestablishment and invasive plant control or removal. The permittee shall undertake any remedial action as directed by the Commissioner to assure the persistence of the wetland vegetative communities.
3. The permittee shall implement and maintain in effect thereafter, the emergency operation plan procedures submitted as part of application DS-01-17.
 4. The permittee shall submit for review and approved by DEP an Operations and Maintenance Plan. This Operation and Maintenance Plan shall include provisions detailing the inspection procedures and frequencies of the dam and outlet structure after construction is complete. This plan shall be submitted within 30 days of the issuance of this permit.
 5. The permittee shall revise Drawings #3 of 9, entitled "Proposed Site Plan," to include the temporary installation of a stone check dam immediately upgradient of the detention basin outlet to minimize downstream turbidity until all disturbed soils in the basin have adequately stabilized.
 6. The permittee shall revise Drawing #3 of 9, entitled "Proposed Site Plan," to include any construction access points from Separatist Road and Stadium Road to the project site. These construction access points shall include anti-tracking pads to minimize sedimentation to the two roads.
 7. The permittee shall revise Drawing #3 of 9, entitled "Proposed Site Plan," to include the extension of the proposed row silt fence easterly approximately 60 linear feet (along the northern shoulder of Stadium Road) to fully encompass the limits of disturbance at the intersection of Separatist Road and Stadium Road.
 8. The permittee shall revise Drawing #9 of 9, entitled "Erosion Control Narrative," to reflect the newly revised "Connecticut Guidelines for Soil Erosion and Sediment Control" dated May 2002. All detailed stabilization measures shall be consistent with the latest guideline revision.
 9. The permittee shall submit plan revisions enumerated in special condition number 4 through 7 to the Commissioner for review and approval prior to initiation of any construction activities.

General Conditions

1. **Initiation and Completion of Construction**

Permittee shall notify the Commissioner in writing no less than two (2) days prior to commencement of permitted activities and no less than seven (7) days following completion of permitted activities.

2. **Expiration of Permit**

- A. The construction activities authorized herein shall be completed on or before November 15, 2003 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).
- C. This permit shall expire 3 years after the date of issuance.

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 permittee may not modify the permitted plans without the prior written approval of the Commissioner.
- D. Within thirty (30) days of completion of the permitted activities, permittee shall submit to the Commissioner record drawings depicting the dam construction and associated activities as completed, including any deviations from the approved plans. 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, as of the date this permit is issued, a fishway is not required at this structure.

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 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 permittee 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 wetland 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 permittee, a responsible corporate officer of the permittee, or a duly authorized representative of such person, 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. Arthur Christian, Supervising Civil Engineer

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 by this permit, the word “day” as used in this permit means one calendar year. 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.

9. **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.

Date

Arthur J. Rocque, Jr., Commissioner