



COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF ENERGY & ENVIRONMENTAL AFFAIRS
DEPARTMENT OF ENVIRONMENTAL PROTECTION
WESTERN REGIONAL OFFICE

436 Dwight Street • Springfield, Massachusetts 01103 • (413) 784-1100

DEVAL L. PATRICK
Governor

TIMOTHY P. MURRAY
Lieutenant Governor

IAN A. BOWLES
Secretary

LAURIE BURT
Commissioner

Charles Momnie
FirstLight Power Resources, LLC
99 Millers Falls Road
Northfield, MA 01360

October 1, 2009

Re: WATER QUALITY CERTIFICATION
Application for: BRP WW 10
MAJOR FILL AND EXCAVATION PROJECT
Connecticut River Bank Stabilization, Phase III, Gill
Turners Falls Pool, Pisgah Mountain Road and River Road
Gill, Massachusetts

USACOE Application Number: CENAE-R-NAE-2009-588
DEP Wetlands File Number: 162-68

Transmittal Number: X227705

Dear Mr. Momnie:

The Massachusetts Department of Environmental Protection (hereinafter the Department) has completed its Technical Review of the permit application for the project listed above. In accordance with the provisions of Massachusetts General Laws, Chapter 21, Sections 26 through and including 53 and the Regulations promulgated thereunder at 314 CMR 9.00; and Section 401 of the federal Clean Water Act as amended (33 USC §1251 *et seq.*), it has been determined that there is reasonable assurance this "Bank Restoration Project" will be undertaken in a manner which will not violate applicable Massachusetts Surface Water Quality Standards (Regulations at 314 CMR 4.00) and other applicable requirements of state law.

Findings:

- The activity, as defined at 314 CMR 9.02 Activity, described within the Water Quality Certification application and supplemental information (hereinafter the "application") will result in the "discharge of dredged or fill material" into and within "Waters of the United States within the Commonwealth" [each as defined at 314 CMR 9.02] on the Site;

- The application involves parcel(s) of land referred to as Split River Farm, Upper Split River Farm, Bathory/Gallagher and Wallace/Watson, off of Pisgah Mountain Road and River Road in the town of Gill, Franklin County, Massachusetts (hereinafter the “Site”). Names and addresses of property owners as well as Assessor’s Map and Parcel numbers are listed on the attachment entitled “List of Project Property Owners”.
- The Site contains and includes “Waters of the United States within the Commonwealth” which have been determined to meet the jurisdictional definition of “Bordering Vegetated Wetland” (BVW), [s defined at 314 CMR 9.02]; and Land Under Water (“jurisdictional resource areas”);
- The Department is in receipt of, has reviewed, and is in agreement with a written Category 2 Authorization under the Massachusetts Programmatic General Permit that an Individual Permit is not required, issued by the United States Army Corps of Engineers, New England District, Regulatory Division (USACOE) dated August 7, 2009 for USACOE Application Number CENAE-R-NAE-2009-588;
- The Department hereby approves the following site plan(s) and documents as the “plan(s) of record”:
 - “Phase III Bank Restoration for the Connecticut River in the Town of Gill, Massachusetts”, prepared by New England Environmental, Inc., 13 Sheets;
 - BT-1 “Overall Site Plan, Lower Split River Farm”, dated 7/22/09
 - BT-1A “Sediment and Erosion Control Plan, Lower Split River Farm” dated 9/28/09
 - BT-2 “Split River Farm Site Plan” dated 3/27/09
 - BT-3 “Split River Farm Details” 3/27/09
 - BT-4 “Landscape Layout Plans, Lower Split River Farm” dated 3/25/09
 - BT-5 “Overall Site Plan, Upper Split River Farm” dated 3/25/09
 - BT-6 “Landscape Layout Plans, Upper Split River Farm” dated 3/25/09
 - BT-7 “Overall Site Plan, Bathory/Gallagher Farm” dated 7/22/09
 - BT-8 “Landscape Layout Plans, Bathory/Gallagher Farm” dated 7/22/09
 - BT-9 “Cross Sections & Details” Dated 7/22/09
 - BT-10 “Plant Lists” dated 7/22/09
 - BT-11 “Overall Site Plan Wallace/Watson Property” Dated 6/5/09
 - BT-12 “Landscape Layout Plans, Wallace/Watson Property” Dated 6/5/09

Note: Although Figures 1 and 2 of sheet BT-9 appear to show the woody debris completely buried in the substrate, the material will not actually be buried by excavation or a discharge of fill, but will be pushed into the slope and anchored using soil anchors and cable. The standard details, as shown on Sheet BT-3 for example, show how the tree sections will be placed and anchored.

- The boundary of the Bordering Vegetated Wetland(s) on the Lower Split River Farm are demarcated via flags A-1 through and including A-6; B-1 through and including B-6; and flags E-1 through and including E-16; as shown on Sheet BT-1 of the plan(s) of record;
- The boundary of the Bordering Vegetated Wetland(s) on the Upper Split River Farm are demarcated via flags A-1 through and including A-7; B-1 through and including B-7; C-1 through and including C-6; and D-1 through and including D-7; as shown on Sheet BT-5 of the plan(s) of record;

- The boundary of Land Under Water on the parcel in question is demarcated at the “High Water Mark” [as defined at 314 CMR 9.02], at elevation 186 feet above mean sea level (assumed) as shown on the plan(s) of record;
- The Department has determined that the project, as shown on the plan(s) of record and further described in supplemental information, is the “least environmentally damaging practicable alternative”, and therefore meets the criteria at 314 CMR 9.06(1);
- The project, as approved in this Water Quality Certification, will result in the permanent discharge of dredged or fill material into 71,178 square feet of Land Under Water associated with the Connecticut River.
- The sum of these activities is proposed result in the discharge of dredged or fill material into **71,178** square feet of “Waters of the United States within the Commonwealth”;
- Per the authority of the Department at 314 CMR 9.09(1)(d), the Department has determined that the proposed project maintains water quality within Land Under Water on the Site, and adequately minimizes damage to the “Aquatic Ecosystem” [as defined at 314 CMR 9.02] therein associated, through application of the mitigation proposed, and as conditioned by this Water Quality Certification;
- The Department has determined that this project is subject to, and meets the definition at 314 CMR 9.06(8).

Water Quality Certification Conditions for Transmittal Number X227705

Therefore, based on information currently in the record, the Department **grants a Water Quality Certification** (hereinafter “Certification”) for this project subject to the following conditions necessary to maintain water quality, to minimize impact to “Waters of the United States within the Commonwealth”, and to insure compliance with appropriate state law:

Administrative and Procedural Conditions

1. This Certification does not relieve the permittee or any other person of the necessity of complying with all other applicable federal, state, or local statutes, ordinances, bylaws, or regulations, including those administered by the US Army Corps of Engineers. Activities, as defined at 314 CMR 9.02 Activity, conducted in accord with this Certification may only begin following the twenty-one (21) calendar day appeal period, as specified at 314 CMR 9.09(1)(e) and 314 CMR 9.10(2), and once all other required permits and licenses have been received. The permittee shall comply with all the Conditions of the “Department of the Army Programmatic General Permit, Commonwealth of Massachusetts” (US Army Corps of Engineers Application Number NAE-2004-2594, modified December 18, 2006) (available from the US Army Corps of Engineers, New England District, Regulatory Division at www.nae.usace.army.mil). The Programmatic General Permit Conditions therein hereby form a part of, and are inseparable from, this Certification.
2. All successors and assigns in interest or control of the property subject to this Certification and any contractor or other person performing work conditioned by this Certification shall adhere to **all** applicable procedural and technical Conditions of this Certification. All work upon or within “Waters of the United States within the Commonwealth” allowed per this Certification shall be accomplished by reference to the plan(s) of record, and to the several Conditions of this Certification.

3. The Connecticut River and its associated tributaries and Bordering Vegetated Wetlands are classified in the Massachusetts Surface Water Quality Standards [314 CMR 4.00] Class B, High Quality Waters, and are protected by the antidegradation provisions of these Standards. Therefore, reasonable care and diligence shall be taken by the permittee to assure that the proposed activity will be conducted in a manner that will avoid violations of these Standards.
4. The contractor(s) employed to execute earth-moving, vegetation removal, demolition, and/or motorized vehicle operation activities on the property subject to this Certification must be provided a copy of this Certification prior to the commencement of any such activities. Said contractor(s) may be held responsible with the permittee and property owner for violations by the contractor, and may be subject to penalties authorized by law and/or regulation for those violations.
5. This Certification specifically prohibits any activity, as defined at 314 CMR 9.02 Activity, within or upon any "Waters of the United States within the Commonwealth" not specifically authorized by this Certification. Any failure to abide by the Conditions of this Certification that results in or contributes to a discharge of dredged or fill material or discharge from dredging, as defined at 314 CMR 9.02, into "Waters of the United States within the Commonwealth", shall result in a potential enforcement action on the part of the Department, and possibly other regulatory agencies.
6. As this project has been determined to meet the definition of "Single and Complete Project" at 314 CMR 9.02, the amount of proposed "discharge of dredged or fill material" within "Waters of the United States within the Commonwealth" permitted by this Certification shall not be exceeded, regardless of future project modifications or any proposed modifications under Condition #7 of this Certification. This prohibition does not expire.
7. The Department shall be notified in writing of any proposed changes in construction methodology or design necessary to complete this project, save for any proposed modifications involving additional "discharge of dredged or fill material", which are strictly prohibited. Proposed reduction of "discharge of dredged or fill material" may be submitted under this Condition. Based upon submittals under this Condition, the Department will determine whether any proposed changes will require an "Amendment" to this Certification per the Department's authority at 314 CMR 9.09(2).
8. Failure to comply with this Certification is grounds for enforcement, including civil and criminal penalties, under MGL c. 21, § 42; 314 CMR 9.00; MGL c. 21A, § 16; 310 CMR 5.00; or other possible actions/penalties as authorized by the General Laws of the Commonwealth of Massachusetts.
9. Department staff shall have the right to enter and inspect the property subject to this Certification at reasonable hours to evaluate compliance with the Conditions of this Certification.
10. This Water Quality Certification expires on January 20, 2011, unless the US Army Corps of Engineers, New England District, Regulatory Division specifically authorizes a different expiration date in writing in a Category 2 Authorization or Individual Permit issued under § 404 of the federal Clean Water Act and the "Department of the Army Programmatic General Permit, Commonwealth of Massachusetts" (US Army Corps of Engineers Application Number NAE-2004-2594, modified December 18, 2006) issued thereunder.

Site Stabilization Conditions

11. Prior to commencement of any work on the Site, adequate erosion and sedimentation control measures shall be implemented, including any necessary controls not specifically referenced in the plan(s) of record, and they shall be maintained in effect throughout the entire project, and until the Site has become stabilized with an adequate vegetative or landscaping cover. Structural failure of the erosion and sedimentation controls required by this Certification, and subsequent discharge of untreated stormwater to "Waters of the United States within the Commonwealth", would constitute a violation of this Certification, and could result in enforcement actions taken by the Department, and possibly other regulatory agencies.
12. Prior to the commencement of any earth-moving activity, a double-staked weed-free straw bale or hay bale barrier (end to end) shall be placed along the limit of activity between all disturbed areas and jurisdictional resource areas, as shown on the plan(s) of record. Each bale shall be properly bound with at least two (2) lengths of twine or wire, and shall be entrenched to an excavated depth of at least four (4) inches, but no greater than six (6) inches. Excavated spoils from entrenching shall be deposited on the up-gradient side of the barrier. Bales shall be tightly butted against each other. A geotextile siltation fence shall be placed on the down-gradient side of the aforementioned straw/hay bale barrier, and shall be entrenched in a like manner such that the base of the fabric lies below grade extending at least six (6) inches away from the fence. This fence shall be located no further than twelve (12) inches from the down-gradient side of the straw/hay bale barrier. These erosion and sedimentation controls shall be constructed and installed per the plan(s) of record, and shall be maintained in proper functioning condition until all disturbed areas have been stabilized, or until the Department has determined that the control measures are no longer necessary.
13. The proposed "Turbidity Curtain" Detail on Sheet BT-9 and Sheet BT-1A shall be installed per the plans of record, and shall fully isolate the water column in which work will take place from the natural flow of the Connecticut River. Turbidity curtains shall be installed in approximately two hundred foot sections and work shall be phased by section, beginning at the northern end of the work site. Work within an area enclosed by a turbidity curtain shall not begin until the compliance monitor, as required per Condition #14 of this Certification, has inspected the area enclosed by the turbidity curtain and determined that all erosion and sedimentation controls for that phase are properly installed and functioning, in accordance with the plans of record and the several Conditions of this Certification. Each section of turbidity curtain is to be securely anchored to the shoreline at the upstream and downstream ends. If water depths are observed or expected to exceed the capacity of the proposed width, a wider turbidity curtain shall be installed outside of the curtain in place, so as to enclose the entire area within the curtain to be replaced. If breaching or gaps occur along the turbidity curtain all work shall immediately cease and the Department shall be contacted. An eight (8) foot width turbidity curtain shall be kept on hand for rapid installation if needed. The turbidity curtain shall be inspected by the compliance monitor designated at Condition #14 of this Certification any time the water level is observed or expected to rise to within one (1) foot of the capacity of the turbidity curtain. The turbidity curtain shall only be removed when work has been completed for the year, the site is stable, and the designated compliance monitor has inspected the site and approved its removal per Condition #14 of this Certification. The sedimentation and erosion controls specified within the several Conditions of this Certification shall be installed per the plans of record, and shall insure that sediment

disturbed and exposed during construction shall not enter the water column of the Connecticut River at any time. These erosion and sedimentation controls shall be maintained in proper functioning condition until all disturbed areas have been stabilized, or until the Department has determined that the control measures are no longer necessary. The "Turbidity Curtain", as depicted on Sheet BT-1A, shall constitute a limit-of-work-line. No work shall be permitted on the down-gradient side (the resource area side) of this line under this Certification, save that specifically allowed per the several Conditions of this Certification, if any. At the end of each work day a straw bale or straw wattle barrier shall be installed along the top and bottom of the roadways; and anywhere within the limit of work where un-stabilized soils could discharge to free water behind the turbidity curtain. Additionally, erosion control blankets, geotextiles, temporary tarps, and any other reasonable materials shall be used to cover disturbed soils and sediment at the close of each work day, and during precipitation events. When the access roadways are undergoing restoration, the open work area shall be covered with erosion control blankets, geotextiles, temporary tarps, and any other reasonable materials at the end of each work day, and during precipitation events, such that there is no open soil or fill material left exposed. At least thirty (30) days prior to the commencement of work allowed per this Certification in each calendar year, a detailed sediment and erosion control plan for that phase shall be submitted to the Department for review and approval, along with any other proposed changes in project details for that phase. These shall be reviewed per Condition #7, and subject to it and all other Conditions of this Certification. Crossing of all intermittent streams shall be accomplished using stacked swamp mats, or similar devices, which shall not involve a temporary discharge to Land Under Water.

Compliance Monitoring Conditions

14. Within ten (10) business days of the issuance date of this Certification, the permittee shall confirm the nomination of the "compliance monitor(s)" listed in "Section 10, Monitoring and Maintenance" in the "Supporting Documentation" section of the Notice of Intent and Water Quality Certification Application. The approved compliance monitors shall supervise **all construction activity** within all "Waters of the United States within the Commonwealth" (as defined at 314 CMR 9.02) permitted by this Certification and subject to it. **Construction activities** are all activities (as defined at 314 CMR 9.02 Activity) within and proximate to "Waters of the United States within the Commonwealth" which result or could result in the "alteration" (as defined at 310 CMR 10.04 Alter) of said Waters, including but not limited to earth-moving and mechanical soil disturbance, vegetation planting, placement of woody material, vegetation removal, demolition of structures and impervious surfaces, pouring of concrete and other flowable substances, and/or motorized vehicle operation activities where such operation could result in soil disturbance, release of flowable substances, etc. The compliance monitor shall also inspect the condition of the turbidity curtain and all other sedimentation and erosion controls at least once per week during active construction; and within twenty-four (24) hours of any rainfall event in excess of 0.5 inches within a twenty-four (24) hour period; and within twenty-four (24) hours of predicted high water events that could exceed the capacity of the curtain and other controls. The compliance monitor shall avail herself or himself of accurate climatological forecasts, accurate water elevations and releases within the Turners Falls Pool of the Connecticut River, and any other information

typically helpful in predicting precipitation and water level rise. The compliance monitor shall meet the minimum requirements specified at 310 CMR 10.60(1) (b) of the Massachusetts Wetlands Protection Act Regulations, unless some other standards are requested by the permittee and approved by the Department. Said compliance monitor shall directly and visually oversee all construction activity within all "Waters of the United States within the Commonwealth". Said compliance monitor shall keep a daily, written log of compliance with this Certification, and shall make weekly reports to the Department via electronic mail (e-mail) during construction (See Condition #16). The permittee and all other parties subject to this Certification shall comply with all orders and instructions of the compliance monitor, including orders to cease all activity within "Waters of the United States within the Commonwealth" when non-compliance with the Certification is observed. The permittee and all other parties subject to this Certification shall not resume activity until such time as the Department has authorized the resumption of activity, which authorization may be written or verbal, direct or through the compliance monitor. Failure to comply with this Condition would constitute a violation of this Certification and could result in enforcement actions taken by the Department. The compliance monitor(s) or their designee shall be available to the Department for rapid response in the event of conditions warranting immediate action. The compliance monitor(s) or their designee shall be on-site during any work within Land Under Water (as defined at 314 CMR 9.02) below the High Water Mark. Any change in staffing of the compliance monitor(s) must be approved by the Department per Condition #7 of this Certification.

15. This Certification approves the installation of coarse woody debris structures and creation of an aquatic vegetated bench within Land Under Water associated with the Connecticut River. These structures will work partly by dissipating flow energy along the bank, but will also cause localized redirection of flows including backwater flows, with the purpose of causing sediment deposition. This is a demonstration project, and a five (5) year monitoring plan is proposed in order to assess the impacts. All monitoring activities shall be completed in compliance with the detailed description and schedule in the five (5) year monitoring plan at "Section 10.0, Monitoring and Maintenance" of the Water Quality Certification Application. The five (5) year monitoring plan shall be undertaken for all restoration work approved under this Certification, and shall occur at least once annually, and at approximately the same time of year, from 2010 to 2014:

- Ten (10) business days prior to beginning construction on this project, the applicant shall nominate in writing qualified wetland scientist(s) acceptable to the Department. Upon written approval by the Department, said wetland scientist(s) shall conduct or oversee at a minimum all required aspects of the five (5) year monitoring plan. Any substitution of staff required by this provision shall be requested and approved in writing. The Department maintains the right to approve or disapprove any nominee based upon education, experience, and/or training;
- The approved wetland scientist(s) shall establish the locations of permanent monitoring stations with fixed cross-sectional transects for survey and sampling. Each fixed cross-sectional transect shall be demarcated in the field with metal reference points (survey located), positioned above the "High Water Mark", in addition to other reference points as proposed;
- The approved wetland scientist shall establish the locations of scour chains, bank pins, and stakes for measuring sediment accrual/loss, vegetation plots and photo stations.

- Structural inspections will be conducted monthly between the April 1st and November 1st during the first year of each section of bank restoration, as described in “Section 10.0, Monitoring and Maintenance”;
- Once within thirty (30) days of the completion of construction; and once per year for a period of five (5) years thereafter; the designated wetland scientist shall prepare or oversee the preparation of scaled topographic cross sections for each of the required cross-sectional transects described above;
- Each scaled topographic cross-section shall show, at a minimum, the topographic and bathymetric relief of the substrate; the elevational position of the “High Water Mark”; the elevational position of the water level at the time of sampling; and the maximum depth of the thalweg;
- The designated wetland scientist shall submit a set of completed topographic cross sections prepared per the above, along with the vegetation plots, photos and other relevant data, in a report, to the Department by November 30th of each year specified in this Condition. These reports shall offer a professional assessment of the data and the success of the project components in achieving the objectives. The report shall also include a description of any encountered problems and any adverse impacts to the “Aquatic Ecosystem”; and supportive data analysis. Specific to the “Aquatic Ecosystem”, the designated wetland scientist shall conduct an annual monitoring, in each of the five (5) years required per this Condition, of the location and number of all nesting burrows of belted kingfisher (*Ceryle alcyon*) and bank swallow (*Riparia riparia*) within the limit-of-work, and within 100-feet of the limit-of-work. The designated wetland scientist shall offer a professional assessment of this data, and any impacts to riparian avian breeding habitat as a result of the project.

Based upon the data collected during sampling events, the wetland scientist approved by the Department, or her/his designee(s), or the Department upon its own discretionary initiative, shall render a detailed conclusion within each Report required by Condition #15, as to the success of the various elements of the “restoration project”. If, at the end of the fifth data year, the wetland scientist or her/his designee(s), or the Department upon its own discretionary initiative, renders a conclusion that the “restoration project” has had unintended detrimental consequences to the physical and biological integrity of the “Aquatic Ecosystem” of the Connecticut River, said wetland scientist shall prepare and submit a written “**corrective plan of action**” no later than the end of that calendar year to the Department for approval. The approved “corrective plan of action” shall be implemented the next growing season under the supervision of a wetland specialist approved by the Department, and shall be monitored via the requirements specified in Condition #7 of this Certification.

16. All reports required by all Conditions within this Certification shall be accompanied by the submittal of digital photographs via electronic mail (e-mail) to the following addresses karen.hirschberg@state.ma.us. Submitted photographs shall clearly show the extent of project alteration within “Waters of the United States within the Commonwealth”; the progress in the construction/installation of any required restoration/mitigation; the condition of all required erosion and sedimentation controls; and the construction, installation, and stabilization of all structural and non-structural stormwater management components; as well as any other aspect of the project as it directly relates to the several Conditions of this Certification.

Prohibitions and Mitigation for Activities in Land Under Water

17. All work upon or within Land Under Water, below the High Water Mark allowed per this Certification shall be accomplished by reference to the plan(s) of record.
18. This Certification specifically prohibits the use of stone riprap, or any other *off-site* product or substance, from permanent emplacement below the High Water Mark of any Land Under Water at the Site, except as detailed in the approved plans of record. All stabilization of Land Under Water ("lake", "pond", "reservoir", "river", "stream", or "creek") shall be accomplished through the methods described in the Water Quality Certification Application and approved plans of record, unless some other methodology is proposed by the permittee in writing and approved by the Department per Condition #7 of this Certification.

Compliance With Massachusetts Natural Heritage and Endangered Species Program

19. This Certification does not relieve the permittee or any other person of the necessity of complying with the Massachusetts Endangered Species Act ("MESA"), and the Regulations promulgated thereunder at 321 CMR 10.00. All parties identified at Conditions #2 and #4 shall fully comply with all requirements specified within any Massachusetts Natural Heritage and Endangered Species Program (MANHESP) Determination and/or CMP issued for the proposed project. These requirements hereby form a part of, and are inseparable from, this Certification.

Appeal Rights

Certain persons shall have a right to request an adjudicatory hearing concerning certifications by the Department when an application is required:

- a. The applicant or property owner;
- b. Any person aggrieved by this certification who has submitted written comments during the public comment period;
- c. Any ten (10) citizens of the Commonwealth pursuant to MGL c. 30A where a group member has submitted written comments during the public comment period; or
- d. Any governmental body or private organization with a mandate to protect the environment that has submitted written comments during the public comment period.

Any person aggrieved, any ten (10) citizens of the Commonwealth, or a governmental body or private organization with a mandate to protect the environment may appeal without having submitted written comments during the public comment period only when the claim is based on new substantive issues arising from material changes to the scope or impact of the activity and not apparent at the time of public notice. To request an adjudicatory hearing pursuant to MGL c. 30A, § 10, a Notice of Claim to an Adjudicatory Hearing must be made in writing, provided that the request is made by certified mail or hand delivery to the Department, with the appropriate filing fee specified within 310 CMR 4.10 along with a Departmental Action Fee Transmittal Form within twenty-one (21) days from the date of issuance of this Certificate, and addressed to:

Massachusetts Department of Environmental Protection
Case Administrator
One Winter Street, 2nd Floor
Boston, MA 02108

A copy of the request shall at the same time be sent by certified mail or hand delivery to the issuing office of the Wetlands and Waterways Program at:

Massachusetts Department of Environmental Protection
Springfield State Office Building
436 Dwight Street
Springfield, MA 01103

A Notice of Claim for Adjudicatory Hearing shall comply with the Department's Rules for Adjudicatory Proceedings, 310 CMR 1.01(6), and shall contain the following information pursuant to 310 CMR 4.10(3):

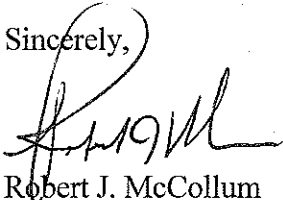
- a. The §401 Certification Transmittal Number and DEP Wetlands Protection Act File Number;
- b. The complete name of the applicant and address of the project;
- c. The complete name, address, and facsimile and telephone numbers of the party filing the request, and, if represented by counsel or other representative, the name, facsimile and telephone numbers, and address of the attorney;
- d. If claiming to be a party aggrieved, the specific facts that demonstrate that the party satisfies the definition of "aggrieved person" found at 314 CMR 9.02;
- e. A clear and concise statement that an adjudicatory hearing is being requested;
- f. A clear and concise statement of (1) the facts which are grounds for the proceedings, (2) the objections to this Certificate, including specifically the manner in which it is alleged to be inconsistent with the Department's Water Quality Regulations, 314 CMR 9.00, and (3) the relief sought through the adjudicatory hearing, including specifically the changes desired in the final written Certification; and
- g. A statement that a copy of the request has been sent by certified mail or hand delivery to the applicant, the owner (if different from the applicant), the conservation commission of the city or town where the activity will occur, the Massachusetts Department of Conservation and Recreation (when the Certificate concerns projects in Areas of Critical Environmental Concern), the public or private water supplier where the project is located (when the certificate concerns projects in Outstanding Resource Waters), and any other entity with responsibility for the resource where the project is located.

The hearing request along with a Departmental Action Fee Transmittal Form and a valid check or money order payable to the Commonwealth of Massachusetts in the amount of one hundred dollars (\$100) must be mailed to:

Commonwealth of Massachusetts
Department of Environmental Protection
Commonwealth Master Lockbox
Post Office Box 4062
Boston, MA 02211

The request will be dismissed if the filing fee is not paid, unless the appellant is exempt or granted a waiver. The filing fee is not required if the appellant is a city or town (or municipal agency), county, or district of the Commonwealth of Massachusetts, or a municipal housing authority. The Department may waive the adjudicatory-hearing filing fee pursuant to 310 CMR 4.06(2) for a person who shows that paying the fee will create an undue financial hardship. A person seeking a waiver must file an affidavit setting forth the facts believed to support the claim of undue financial hardship together with the hearing request as provided above.

If you have further questions in regards to this Certification, please contact Karen Hirschberg at (413) 755-2240.

Sincerely,

Robert J. McCollum
Wetlands Program Chief

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Certified Mail #7008 0500 0000 7958 8108, return receipt requested.

cc: Gill Conservation Commission

United States Department of the Army
New England District, Corps of Engineers
Regulatory Division
696 Virginia Road
Concord, MA 01742-2751

(electronic copy)

Michael Bathory
Maryanne Gallagher
144 River Road
Gill, MA 01354

Certified Mail #7008 0500 0000 7958 8115, return receipt requested.

Split River Farm, LLC
159 Montague Road
Sunderland, MA 01375

Certified Mail #7008 0500 0000 7958 8122, return receipt requested.

Alan Wallace
Barbara Watson
143 River Road, Apt C
Gill, MA 01354
Certified Mail #7008 0500 0000 7958 8139, return receipt requested.

Town of Gill
54 Boyle Road
Gill, MA 01376
Certified Mail #7008 0500 0000 7958 8146, return receipt requested.

New England Environmental, Inc. (electronic copy)
9 Research Drive
Amherst, MA 01002

Thomas W. French, PhD., Assistant Director (electronic copy)
Massachusetts Natural Heritage and Endangered Species Program
Massachusetts Division of Fisheries and Wildlife
1 Rabbit Hill Road
Westborough, MA 01581

Massachusetts Historical Commission
220 Morrissey Boulevard
Boston, MA 02125
Attention Judith B. McDonough, Executive Director