

ANTRIM WIND PARK, NHSEC DOCKET #2015-02
WATERSHED MANAGEMENT BUREAU - 401 WATER QUALITY CERTIFICATION
JULY 26, 2016 FINAL DECISION

401 WATER QUALITY CERTIFICATION CONDITIONS:

The proposed Activity involves the discharge of dredge or fill material into surface waters of the U.S. and, therefore, requires a federal Clean Water Act (CWA) Section 404 (33 U.S.C. 1344) permit from the U.S. Army Corps of Engineers (Corps). In accordance with Section 401 of the CWA (33 U.S.C. 1341) and New Hampshire (NH) statute RSA 485-A: 12, III, the Activity therefore requires a Section 401 Water Quality Certification from the NH Department of Environmental Services (NHDES).

On February 24, 2016, the Corps indicated that the Section 404 general permit (i.e., the New Hampshire Programmatic General Permit or PGP) applies to the proposed Activity. The Corps issues PGPs every five years; the last PGP was issued in 2012. A 401 Water Quality Certification (WQC # 2012-404P-002) for the current PGP was issued by NHDES on August 2, 2012. WQC # 2012-404P-002 is applicable to all activities covered by the PGP. Since the proposed Activity is covered by the PGP, the Applicant for the proposed Activity must comply with the conditions of WQC #2012-404P-002, which are provided below:

“E-1. Construction or operation of all projects included under the PGP shall meet NH surface water quality standards.

E-2. Applications for projects included under the PGP shall be subject to DES review to determine whether additional conditions or an individual 401 Certification application is necessary to ensure compliance with surface water quality standards.

E-3. If DES determines that surface water quality standards are being violated by the specific project or there is reasonable potential to expect that water quality standards will be violated if more project specific conditions are not included in the 401 Certification, DES may modify this 401 Certification for the specific project to include additional conditions to ensure compliance with surface water quality standards.

E-4. Construction on any specific project permitted under the PGP shall not commence until all other applicable permits and approvals have been granted, including those permits issued through DES Wetlands Bureau and, if necessary, DES Alteration of Terrain Program.

E-5. All applicable conditions in the NH PGP shall be followed.

E-6. DES reserves the right to inspect any project permitted under the PGP and the effects of the project on affected surface waters at any time to monitor compliance with the NH surface water quality standards.”

08/30/16 DES FINAL DECISION CONTINUED:
NHSEC DOCKET #2015-02

NHDES has reviewed the information provided by the Applicant and has determined that compliance with WQC #2012-404P-002 issued in 2012, and the conditions for the Alteration of Terrain and Wetlands permits, provides reasonable assurance that construction and operation of the Activity will not violate surface water quality standards¹.

¹ New Hampshire surface water quality standards are included in statute (RSA 485-A:8) and regulation (Env-Wq 1700).