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C-52-3-5-2160W

March 20, 1995

Mr. Paul Kulpa
Rhode Island Department of Environmental Management
Division of Site Remediation
291 Promenade Street
Providence, Rhode Island 02908

Reference: Contract No. N62472-90-D-1298 Navy (CLEAN)
Contract Task Order (CTO) 172

Subject: Wetland Permit Requirements for Phase II Activities at the Melville North
Landfill, Naval Education and Training Center, Newport, Rhode Island

Dear Mr. Kulpa:

As per your request, a review of Rhode Island wetland regulations was performed by Halliburton NUS (HNUS) to identify wetland permit requirements for planned activities at the Melville North Landfill in Newport, Rhode Island. The documentation reviewed by HNUS included the Rhode Island Department of Environmental Management (RIDEM) Rules and Regulations Governing the Administration and Enforcement of the Freshwater Wetlands Act. In summary, the review indicates that neither permits or notification of the Freshwater Wetlands Division (RIDEM) are required for the site investigation activities proposed in the HNUS Work Plan for the Melville North Landfill dated October 1994. The applicable sections of the Rules and Regulations are presented in the following paragraph.

The terms and conditions of Rules 6.01 and 6.10 (see attached) apply to the investigation activities proposed in the work plan. Rule 6.01 is a list of general restrictions that would apply to any activities in wetlands. Rule 6.10 lists monitoring and research activities which are exempt from permit requirements and are permitted in accordance with Rule 6.01 without notification or written authorization from RIDEM. The monitoring activities listed in Rule 6.10 that apply to the Phase II activities in the October 1994 Work Plan include:

- Installing groundwater monitoring wells and exploratory borings for soil and bedrock assessments.
- Clearing footpaths or transect lines no greater than five feet in width to access sampling stations.
- Excavation to temporary pits for examination of soil properties and for the collection of soil samples.

These activities are permitted "provided that there is no permanent loss of wetland, and that any soil disturbance is stabilized and the area is allowed to revert to its natural condition."

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Requirements for remediation activities in wetlands are covered under Rule 6.05 (attached), and do require submission of a plan to the Freshwater Wetlands Division identifying potential impacts to the wetlands. However, the investigation activities proposed in the October 1994 Work Plan do not involve remedial action activities.

A telephone conversation between Dan Cowell (RIDEM Freshwater Wetlands Division) and Mr. Kevin O'Neill, an HNUS Wetlands Specialist, verified that the investigative activities currently proposed by HNUS would be included under Rule 6.10 and that any future remedial action activities would be included under Rule 6.05 (see attached telecon).

If you have any questions regarding this matter, please contact me at (508) 658-7899.

Very truly yours,



Kevin J. Scully
Project Manager

KJS:ib

Attachments

- c: D. Carlson, Navy w/attach.
- R. Gottlieb, RIDEM w/attach.
- B. Wheeler, Navy-NETC w/attach.
- M. Turco, HNUS w/o attach.
- G. Bullard/K. O'Neill, HNUS w/o attach.
- File 1679-3.2 w/attach.

3/20/95 CC: PRIORITY FILE
CODE 1822 / TB
CODE 1831 / SH



RULE 6.00 - EXEMPT ACTIVITIES

Rule 6.01

General Conditions for Exempt Activities

- A. Certain limited activities in freshwater wetlands may proceed without a specific written permit from the Department under the restrictions set forth below. Such restricted activities shall be considered exempt from the requirement to obtain a permit.
- B. Nothing in this Rule shall be deemed to supercede any existing terms or conditions or to interfere with the Director's authority to make a determination or decision on an application, or to impose terms and conditions on any permit, enforcement action or Consent Agreement. In addition, any activities not described within this Rule which could alter the character of any freshwater wetlands require a specific written permit.
- C. Nothing in this Rule shall preclude the Director from initiating an enforcement action in the event of any failure to undertake exempt activities in accordance with the requirements and conditions set forth herein.
- D. The following general restrictions apply to all activities performed under this Rule:
 - 1) Exempted activities do not obviate the need to obtain other applicable federal, state, or local permits, approvals, or authorizations required by law;
 - 2) Any structure or fill exempt under this Rule shall be properly maintained to ensure public safety, and to protect wetland functions and values;
 - 3) Appropriate erosion and sediment controls must be used and maintained in effective operating condition during the activity, and all exposed soil and other fills must be permanently stabilized at the earliest possible date. (See Rhode Island Soil Erosion and Sediment Control Handbook);
 - 4) No activity exempted herein may jeopardize the continued existence of a rare wetland type, or a rare species; likewise, no activity exempted herein may destroy or adversely modify the critical habitat of such species;
 - 5) Following the limited activity, all equipment used in installation or maintenance activities shall be removed from any wetland;
 - 6) Any access to undertake an exempt activity must be limited to only that necessary to complete the activity, and must be temporary in nature; and
 - 7) For all exempt activities, care must be taken to the maximum extent possible to protect all wetland functions and values, and to prevent pollutants, sediment, or any material foreign to any wetland, or any material hazardous to life, from entering any wetland.

6.02 Limited Cutting or Clearing of Vegetation

Limited cutting or clearing of vegetation in freshwater wetlands is allowed in accordance with Rule 6.01 without written authorization from the Department when:

- A. The cutting is to remove dead or diseased trees or shrubs which, if left unattended, pose a threat to individuals, dwellings, structures, or safe vehicle movement over roads and driveways; or

underground storage tanks, is permissible in accordance with Rule 6.01 without written authorization from the Division of Freshwater Wetlands provided that such installation or activity is undertaken under the direct supervision of Department or federal clean-up personnel or the Department's emergency response personnel. During the emergency clean-up, unnecessary alterations of freshwater wetlands shall be prevented to the maximum extent possible, and best management practices for erosion and sediment controls must be initiated and maintained. Where applicable, heavy equipment working in wetlands must be placed on mats, and other temporary measures must be taken to minimize soil and habitat disturbance. Following emergency clean-up, the disturbed area must be stabilized and restored to the satisfaction of the Department.

- B. The Division of Freshwater Wetlands must be notified of the initiation of emergency environmental clean-up and upon completion of emergency clean-up activities.

Rule 6.05

Site Remediation

Activities which may affect freshwater wetlands and which are required by the Department's Division of Site Remediation for remediation of contamination resulting from releases of oil and/or hazardous materials are allowed in accordance with Rule 6.01 without written authorization from the Division of Freshwater Wetlands provided that:

- A. The initial document or plan identifying potential impacts to freshwater wetlands and all subsequent action plans are submitted for the Division of Freshwater Wetlands' review;
- B. All site remediation activities which may affect freshwater wetlands are under the direct oversight and/or control of the Department's Division of Site Remediation;
- C. The remediation activities are only those necessary to protect and/or restore freshwater wetlands from impacts and/or substantial threats resulting from actual releases of hazardous materials; and
- D. The remediation activities incorporate all measures necessary to fully restore and/or mitigate the harm to any affected wetlands including best management practices, best available technologies, and any other measures which, in the opinion of the Director are necessary to:
 - 1) Comply with the substance and intent of these Rules;
 - 2) Protect the wetland environment; and
 - 3) Protect the functions and values provided by freshwater wetlands;

6.06 Utility Emergencies

Emergency access and repair or replacement of utility lines, poles, structures, equipment or facilities which is necessary as a result of storm damage, accidents or equipment failure is permissible in accordance with Rule 6.01 without written authorization from the Department, provided that all affected wetlands are fully restored following completion of the repair or replacement.

6.07 Agricultural Practices

Continuing agricultural practices in wetlands by any property owner other than a farmer are permissible in accordance with Rule 6.01 without written authorization from the Department provided that the activities are restricted to pre-existing or approved gardens, pastures, and fields which have been in use on a regular basis. Expansion of existing gardens, pastures, and fields within regulated wetlands is prohibited without written authorization except as provided under Rule 6.08.

6.08 Normal Farming and Ranching Activities

Normal farming and ranching activities carried out in wetlands by farmers are exempt in accordance with Section 2-1-22(i)(1) of the Act.

6.09 Fish and Wildlife Management/Conservation Activities

Fish and wildlife management and conservation activities carried out on state or federal property by the Department's Division of Fish, Wildlife and Estuarine Resources or by the U.S. Department of Interior Fish and Wildlife Service are permissible in accordance with Rule 6.01 without written authorization from the Department. Such activities are limited to the following:

- A. Manipulation of water elevations within existing impoundment areas on state or federal property for the purpose of habitat and species management;
- B. Management of species and habitat conditions by cutting, clearing, planting, plowing, or prescribed burning; and
- C. The installation of in-stream structures for manipulation and management of fisheries habitat including fish ladders, fish diversions, fish traps and structures to moderate stream velocities/volumes for fisheries management objectives.

This Rule does not allow for the installation of new dams, construction of new ponds, or filling or permanent drainage of wetlands.

Rule 6.10 Monitoring and Research Activities

The following monitoring and research activities are permitted in accordance with Rule 6.01 without written authorization from the Department provided that there is no permanent loss of wetland, and that any soil disturbance is stabilized and the area is allowed to revert to its natural condition.

- A. Installing groundwater monitoring wells to determine the depth to the water table or the extent of subsurface contaminants; installing groundwater table test pipes necessary for the testing of individual sewage disposal system design; and taking exploratory borings for soil and ledge/bedrock assessments;
- B. Installing stream flow gauging stations by the United States Geological Survey, Water Resources Division;
- C. Harvesting limited quantities of vegetation to estimate plant productivity or biomass;

6.10

continued

- D. Clearing footpaths or transect lines no greater than five feet (5') in width to permit wildlife surveys or access to sampling stations or plots;
- E. Excavation of temporary pits for examination of soil properties and for the collection of soil samples; or
- F. Construction of temporary blinds for wildlife observation.

6.11 Temporary Recreational Structures

The placement of temporary recreational structures for use during specific events such as water-skiing competitions and boat races is permissible in accordance with Rule 6.01 without written authorization from the Department, provided that such structures are removed immediately after the specific event. Such structures consist of temporary buoys, markers, floating docks under one hundred and fifty (150) square feet in size, and other similar structures.

RULE 7.00 - REGULATED ACTIVITIES AND GENERAL PROCEDURES FOR OBTAINING PERMITS

7.01 General

- A. A proposed project or activity which may alter freshwater wetlands requires a permit from the Director. Pursuant to Section 2-1-21(a) of the Act, except as exempt herein and except for farmers carrying out normal farming and ranching activities in accordance with Section 2-1-22(i)(1) of the Act, no person, firm, industry, company, corporation, city, town, municipal or state agency, fire district, club, non-profit agency, or other individual or group may excavate; drain; fill; place trash, garbage, sewage, road runoff, drainage ditch effluents, earth, rock, borrow, gravel, sand, clay, peat, or other materials or effluents upon; divert water flows into or out of; dike; dam; divert; clear; grade; construct in; add to or take from or otherwise change the character of any freshwater wetland as defined herein, in any way, without first obtaining a permit from the Director.
- B. In addition to those projects or activities proposed either partially or wholly within freshwater wetlands, projects or activities taking place outside of freshwater wetlands which in all likelihood, due to their close proximity to wetlands or due to the size or nature of the project or activity will result in an alteration of the natural character of any freshwater wetland, require a permit from the Director. Such projects generally include those which:
 - 1) Result in a change to the normal surface run-off characteristics which increases the rate and/or volume of water flowing into, or draining or diverting water away from, freshwater wetlands by such activities as:
 - (a) Creating or significantly increasing impervious areas;
 - (b) Modifying run-off characteristics by grading significant amounts of land area or clearing and permanently modifying significant amounts of vegetative cover on areas draining to freshwater wetlands;

TELEPHONE CONVERSATION REPORTING FORM

ISSUE DATE	2/17/95
FILE NUMBER	1679-3.3
TELEPHONE NUMBER	(508) 658-7899
TELEPHONE NUMBER	(401) 277-6820
DATE OF CALL	2/17/95
TIME	0940 <input checked="" type="checkbox"/> A.M. <input type="checkbox"/> P.M.
JOB NUMBER	1679-0405

RECORDED BY K. O'Neill (HNUS)

CALL TO FROM NAME Dan Cowell Return call

COMPANY RIDEM (Freshwater WL Section)

ADDRESS _____

CONFERENCE CALL NO YES (If YES, list conferees, conferees company, etc. in notes.)

CLIENT/PROJECT Melville LF

SUBJECT Requirements / Permits for drilling / sampling in wetland areas

CONVERSATION NOTES

I asked D.C. about RIDEM position on (test pits) permit requirements for mont. well installation / soil borings sampling in Melville LF wetlands. He referred me to Rules + Regs Filing Form Section 6.10. He clarified that these activities are exempt from permit requirements and are permitted in accordance w/ Rule 6.01 without written permission from RIDEM. ^{6.10 states -} There must be no permanent loss of WL, soil disturbance stabilized & area reverts back to WL. Site remediation activities not included in 6.10 would fall under section 6.05 of the Rules.

ACTION/RESPONSE		
RESPONSIBLE PERSON	ACTION NEEDED	DUE DATE
	NONE	

COPIES TO:

RECORDER'S SIGNATURE
Kevin O'Neill