Excavation Permit

Guildhall Sand & Gravel, LLC
Lear Hill (Davis) Excavation Site, Goshen, New Hampshire, August 26, 2008
(Final revisions September 3, 2008)

Guildhall Sand & Gravel is issued a permit pursuant to RSA Chapter 155-E to excavate at its Lear Hill Road site in Goshen, New Hampshire – formerly the "Davis Pit" or "Davis Site" – consisting of map 403, lots 4.1 and 4.2 and map 204, lot 15, during the period beginning July 29, 2008 and ending December 31, 2011. Section III.8.B of the Goshen Excavation Regulations specifies that "*The permit shall be valid for three (3) years…*". The Board has chosen to waive this requirement to avoid permit expiration during mid-season, as would occur if the permit expiration date was August 26, 2011.

Excavation shall be subject to the following list of stipulations, the violation of any of which may subject the applicant to enforcement under RSA 155-E:10, including suspension or revocation:

1. ***Conformity With Plans.*** The excavation shall be performed in conformity with the written plans and oral testimony submitted by the applicant, and the reiteration of some aspects of those plans in this list of stipulations shall not be deemed to excuse or justify non-compliance with remaining aspects. No material changes in those plans, including transfer of ownership of the site, shall be made unless the applicant receives approval from the Goshen Planning Board for an amendment, using the procedure prescribed by RSA 155-E:6 and Goshen Excavation Regulations section III.6.

2. ***Posting of Permit.*** As required by RSA 155-E:8, a copy of this permit must be prominently posted at the excavation site.

3. ***Hours of Operation.*** Hours of operation on the site are limited to weekdays from 7:00 a.m. to 5:30 p.m. Operation on weekends (Saturdays and Sundays) and on state and national holidays shall be on an "emergency basis" only.

   a. The term "operation" includes the operation of any heavy motorized equipment or vehicles or the use of back-up warning devices or other noise-generating devices. It includes excavation activities, including the moving of any excavated material through, on or from the site, as well as any noise-generating activity ancillary to excavation, including land clearing or reclamation, which generates noise from power equipment such as bulldozers or chainsaws, whether such activities are performed by Guildhall Sand & Gravel employees, by contract personnel, or by any other parties. The term does not include the use of personal passenger vehicles to access or inspect the site, normal conversation, or routine Saturday morning (8:00 a.m. to 12:00 noon) maintenance of equipment left on site, which does not involve any moving of equipment.

   b. The applicant may begin the warming up of the loader engine at 6:45 a.m. on weekdays, as long as the loader is located in such a place that noise from this preparatory activity will not be noticeable to abutters and neighbors.

   c. The term "emergency" means a crisis or accident that requires the use of equipment or material to rescue or protect personal lives or property. Any operation which

occurs under the "emergency" provision shall be reported to the Goshen Board of Selectmen, with a written explanation of the emergency, within seven days.

4. ***Scope of Operation.*** The scope of the operation shall be limited as follows:

   a. As represented by the applicant any new excavation areas shall be within the gold polygon on the plan sheet 2 entitled "Updated RSA 485-A:17/RSA 155-E Site Plan, Final Grading Plan," dated 10/19/2007, Rev. No. 2, 03/28/08, prepared by Richard Fraser for Guildhall Sand & Gravel, LLC.

   b. Also as represented by the applicant on the plan sheet 1 entitled "RSA 155-E Site Plan, Existing Conditions", there shall be a total of not more than 22.10 acres of open excavation area. This area is depicted on the plan sheet by a gold polygon without stippling. A third plan sheet, labeled "Davis SheetBS.dwg" depicts this area without contour lines.

   c. Earth hauling using the Davis Site haul road shall not exceed a cumulative total of 110 round-trips by haul trucks during any single day carrying material excavated at the Davis site in Goshen and the Bridge site in Unity with no more that 77 carrying material excavated at the Davis Site. It is the Board's intent via this condition to regulate all use of the Davis Site as a haul road no matter where the material being trucked originated. Sales to third parties shall be included within this limitation. Records of all daily trips by all trucks using the Davis Site haul road, those in the employ of the applicant, as well as those which are not shall be maintained by the applicant and shall be available for inspection by the Planning Board upon request. These records will maintain a daily count of trucks carrying material excavated at the Davis Site, including sales to third parties, and a separate count of trucks carrying material excavated at the Bridge site in Unity and using the Davis Site as a gravel haul road.

   d. The above use of the Davis Site as a gravel haul road for material excavated from the Bridge Pit in Unity is adopted with this condition to be reviewed and altered or reaffirmed by the Board annually. The review shall occur in conjunction with the annual site visit and be completed by the end of each calendar year. The condition may also be reviewed and altered as part of any subsequent renewal application for the Davis Site. The Board decided that the initial trial period will commence on the date of permit approval and extend until December 31, 2009.

   e. The total amount excavated from the Davis Site in any one year shall not exceed 184,000 cubic yards.

   f. Any on-premises sales to any third party shall be conducted in such a manner that these sales shall be considered a part of the daily truck load limitation imposed by this permit for the Davis site. Such third parties as are engaged in such sales shall also observe the safety and community concerns regarding noise as exist in these regulations under paragraph 6, "Noise Control," paragraph 7, "Truck Traffic and

Highway Safety," and paragraph 8, "Excavation Site Safety" shall be observed. The applicant shall be responsible for compliance by third parties.

g. As represented by the applicant, no fuels shall be stored on site except in the present location near the Davis garage.

h. Overnight storage of explosives or blasting agents, whether supervised or not, is prohibited. Explosives shall be used in accordance with the Goshen Excavation Regulations, section III.4-a.V.

i. The company shall provide an emergency contact number for the general public and town officials, such that a responsible company person may be contacted at any time on all matters involving an emergency at the excavation site. An emergency number shall be posted at the excavation site which shall also include the number for the Goshen Police. The company shall give the Goshen Police Department contact numbers of responsible individuals who may be contacted in the event of any off-hours emergency.

5. ***Dust Control.*** Dust shall be reasonably controlled so as not to adversely affect the use or enjoyment of adjoining properties. In particular, the following measures shall be employed at a minimum:

   a. The applicant has verbally assured the Board that dust will be controlled. If the Select Board finds that trucks exiting the Davis Site are resulting in the loss of excavated material on the roadway described above, they shall contact the company to: 1) arrive at a mutually satisfactory method for clearing the roadway and 2) implement corrective action to prevent reoccurrence of the problem. Clearing of the roadway shall occur during permitted operation hours, as needed, subject, however, to the Selectmen's authority to regulate highways under RSA 41:11.

   b. The use of a water truck on unpaved haul routes within the pit during permitted operation hours, as needed.

   c. The use of calcium chloride or the equivalent on unpaved haul routes, as needed.

6. ***Noise Control.*** Noise shall be reasonably controlled so as not to adversely affect the use or enjoyment of adjoining properties. In particular, the following measures shall be employed at a minimum:

   a. The use of a discretionary backup beeper on the loader.

   b. The maximum use of hand signals or other silent means, rather than vehicle horns, for communicating among personnel within the excavation site.

   c. The directing of the flow of traffic such as to minimize the need for vehicles to back up within the excavation site.

   d. Compliance with the "hours of operation" as set forth in paragraph 3 above.

7. ***Truck Traffic and Highway Safety.*** In addition to the scope of operation limitations stated in paragraph 4 above, the following measures shall be required to control traffic impacts:

   a. Haul trucks carrying material excavated at the Davis Site shall be no larger than a 14-wheeler tri-axle with a gross weight of not more than 76,000 pounds. There shall be no 18-wheelers, tandem, or tractor-trailer haul vehicles. All vehicles shall comply with road and bridge weight limits.

      The Board has granted an exception to the 18-wheeler prohibition to allow one (1) such truck to carry material excavated at the Davis Site during the remainder of 2008. The present Unity permit for the Bridge property limits truck size to 14-wheelers. If Unity were to approve use of 18-wheeler trucks in the Bridge Site for 2008, the Board will grant the above limited exception to truck size for material excavated at the Bridge Site and exiting the Davis Site in Goshen.

   b. All trucking using the Davis Site as a gravel haul road must adhere to the operational limits and standards for trucking, including days and hours of operation, as specified for the Davis Site permit.

   c. The applicant shall notify all employees, contractors, and other haul truck operators that they must bring their vehicles to a complete stop before proceeding from the access road onto Lear Hill Road and that they shall adhere to posted speed limits on public highways.

8. ***Excavation Site Safety.*** The following measures, at a minimum, shall be taken to assure safety at the excavation:

   a. The applicant shall construct and maintain berms according to Mine Safety and Health Administration (MSHA) standards at all steep slope locations.

   b. Orange construction fencing at least four feet high shall be erected at the top of any temporary slopes which equal or exceed a 1:1 slope.

   c. The applicant shall maintain "No Trespassing" signs around the perimeter of the excavation site at all times to discourage any unauthorized trespass.

9. ***Buffers And Visual Impact.*** The following measures shall be required:

   The line of trees along the access road, which currently provide a visual barrier to the Landry property, shall not be removed, nor shall any other existing trees be removed within the buffer areas required by RSA 155-E:4-a, I, II, and III and by Goshen Excavation Regulations section III.4-a, A, B, and C.

   Notwithstanding the foregoing, in order to create a uniform topography between adjacent properties or to prepare an area for imminent reclamation activities, the applicant may remove the vegetation and excavate the underlying earth materials in the buffer areas on the Davis Site that are adjacent to properties owned or leased by the applicant, Newport

Sand & Gravel Co., Inc., Carroll Concrete Company or other companies that are subsidiaries of or affiliated with any of the foregoing entities, including but not limited to the buffer area between the Davis Site and the Bridge Site.

10. ***Reclamation.*** In addition to the open area limitation in paragraph 4(b) above, the following measures are required:

    a. The applicant shall continue to maintain a reclamation bond in the amount of $84,456. The reclamation bond shall state that it is to secure the applicant's obligation to perform the reclamation activities as required under an excavation permit granted pursuant to RSA Ch. 155-E for Tax Map 403, lots 4.1 and 4.2 and Map 204, lot 15. A copy of this decision and permit shall be attached and cross-referenced. The bond shall be of a self-calling variety, which does not automatically expire on a particular date, but instead makes the amount available for the use of the Town upon a particular date unless released by the Town or extended by the applicant. The Town's attorney shall review the security instrument for legal considerations, at the applicant's expense.

    b. The applicant will convene a meeting on or before December 31, 2009 to involve the company, the Planning Board, and the Natural Resources Conservation Service (NRCS) to review and approve the company's reclamation plan. The required outcome of the meeting is to obtain NRCS written approval of the company's reclamation plan for the 22.10 acres open to excavation under this permit. As represented by the applicant, reclamation will generally follow procedures in the document "Vegetating New Hampshire Gravel Pits" and in Goshen's Excavation Regulations. The Board has previously determined that Guildhall's excavation site, which existed prior to the adoption of a Town Zoning Ordinance, is exempt from the requirement that topsoil must be used for reclamation. Any other deviations from those procedures must be reviewed and approved by the NRCS and the Goshen Planning Board.

    c. As represented by the applicant, no bio-solids or sludge shall be used in the reclamation of this site.

    d. Using test pit data, written assurance will be provided that after final grading the new restored surface will be at least 12 inches above the seasonal high water table.

11. ***Reporting and Review Procedures.*** The operation shall be subject to reporting and an annual site inspection as follows:

    a. The company shall immediately notify the Goshen Planning Board of any inability to perform any conditions of this permit. Any alteration of any condition of this permit, express or implied, shall require a permit amendment as set forth in paragraph 1 above.

    b. The applicant shall copy the Board on all correspondence between Guildhall Sand & Gravel and any governmental agencies. In particular, the company shall provide the

Board copies of Guildhall's biennial filing with the Department of Environmental Services and the engineering plan which Guildhall submits to the state every six years, as well as the annual "Notice of Intent to Excavate" form and the annual "Report of Excavated Material" report filed with the Goshen Board of Selectmen. In addition, Guildhall shall also copy the Goshen Planning Board on all correspondence between the Unity Planning Board and Carroll Concrete or its subsidiaries regarding the Bridge site in Unity. This includes, but is not limited to, any application for a permit or permit amendment submitted by the company, any permit or permit amendment granted by Unity, and all "Notice of Intent to Excavate" forms and "Report of Excavated Material" forms filed for the Bridge site.

c. The protocol for tabulating daily trips by all trucks using the Davis Site haul road to move excavated material shall ensure that: 1) loaded trucks are counted before they exit the site, 2) daily records are maintained for annual reporting, 3) daily records provide for distinguishing whether a truckload originated at the Davis Site or at the Bridge site in Unity, and 4) daily records are available for Planning Board or Select Board review upon request.

d. The applicant shall submit an annual report to the Goshen Planning Board no later than October 1 of each year. This report shall note the extent of company compliance with the terms and conditions of this excavation permit and the reclamation plan. The report shall include at a minimum the monthly tally of haul truck-loads and cubic yards and pounds of excavated material originating from the Davis Site separate from a similar monthly tally of trucks-loads and cubic yards and pounds of excavated material for trucks simply using the Davis Site as a gravel haul road. The report shall also include the total annual cubic yards and pounds of "sugar" sand and the total annual cubic yards and pounds of other excavation materials combined that were excavated from the Davis Site. The report will include an updated chart depicting total cubic yards excavated annually from the Davis Site between 1998 and the present year.

e. The applicant shall also annually, before the Board's annual site visit, submit an updated sketch map that shows with reasonable accuracy all changes in the location of haul roads, berms, fences, and physical features. This map shall indicate all areas worked during the production season just ending, and shall be in sufficient detail for the Board to view changes and assure compliance with the total open area requirement set forth in paragraph 4(b) above.

f. The Goshen Planning Board will, under normal circumstances, conduct an annual inspection of the site between mid-September and mid-October of each year. The company shall provide a representative to accompany the Board during the annual inspection. Following the annual site inspection, the Board will prepare a letter to the applicant that confirms compliance with the terms and conditions of the permit or

identifies each item of the Excavation Permit that the Board believes to be out of compliance.

12. ***Complete Permit.*** All representations or statements of regulatory intent made by the Goshen Planning Board are merged into and incorporated into this permit and the accompanying written decision of the Board, which alone express the intent of the Board and the obligations of the applicant. The plain meaning of the conditions and stipulations contained herein shall not be deemed modified, construed, or altered by any prior or future statement, written or oral, made by the Goshen Planning Board or its members, or by the applicant or its agents, except following a request for amendment submitted under RSA 155-E:6 and Goshen Excavation Regulations section III.6 and a favorable Board decision on such.