

# STATE OF NEW HAMPSHIRE

## Inter-Department Communication

DATE: June 22, 2011

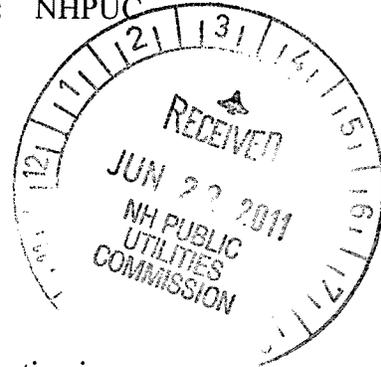
AT (OFFICE): NHPUC

END

FROM: Edward N. Damon, Esq., Director, Legal Division

SUBJECT: DE 10-193 Derr Petition for Line Crossing

TO: Debra A. Howland, Executive Director  
DE 10-193 File



This memorandum summarizes the status of this docket. The information is based on the petition and communications between Staff and the Derrs and the New Hampshire Electric Cooperative (NHEC).

On July 26, 2010, Thomas S. Derr and John S. Derr filed a petition under RSA 371:17 for a license to cross public waters, namely, a portion of Squam Lake in Center Harbor. The water crossing involves two underwater cables, one between Center Harbor Neck and Kimball Island and the other from one location on Kimball Island to another location on the Island, in order to provide residential electric service. The petition is for an "after-the-fact" authorization since the two cables were constructed in 1996 and have been used since then. According to the petitioners, their contractor told them, inaccurately as it turned out, that they did not need a license for the two cables because a license previously granted by the Commission in 1979 for a third underwater cable between Center Harbor Neck and Kimball Island, see Order No. 13,712, had granted the necessary permission.

The petition stated that the petitioners "have obtained Wetlands and Non-Site Specific Permits" from the Department of Environmental Services (DES) for the two cables and indicated that DES had no problem with the two cables since no new dredging is involved; however, DES is now taking the position that a standard dredge and fill permit is necessary. Because they were unable to complete the required DES application last fall and last winter, the Derrs have not yet obtained the DES permit. In an email to me dated December 22, 2010, Mr. John Derr requested that Staff put the Commission file aside until he can complete the DES application and obtain DES approval.

Staff understands that ultimately, the Derrs desire to have the NHEC take over the ownership and maintenance of the cables. According to Dean Benton at the NHEC, before that can happen, all the necessary permits must be obtained and a punch list of construction revisions must be made. According to the Derrs, some of the punch list items were completed last summer while some will be completed this summer.

Staff recommends that this docket be held open to allow the Derrs time to obtain the DES permit for the two cables being petitioned for in this docket and to complete the construction revisions requested by the NHEC to the two cables. Randall Knepper also desires to perform a site inspection, which would be coordinated with the Derrs, in connection with Staff's review of the petition. Once these matters are attended to, Staff will make a final recommendation for Commission action on the petition. Staff's recommendation will not be dependent on approval by the NHEC to take over ownership and maintenance of the cables.

cc Service List

Thomas Frantz, Director, Legal Division

Randall Knepper, Director, Safety Division

**LINKED**

6/23/11 CHP

