



The State of New Hampshire
Department of Environmental Services



Robert R. Scott, Commissioner

September 15, 2023

NH DEPT OF TRANSPORTATION
7 HAZEN DRIVE
CONCORD NH 03301

Re: Approved Standard Dredge and Fill Wetlands Permit Application (RSA 482-A)
NHDES File Number: 2023-00690
Subject Property: NH RTE 1A over Hampton Harbor Inlet, Seabrook, Hampton
State Pier: Tax Map #299, Lot #022-000

Dear Owner:

On September 15, 2023, the New Hampshire Department of Environmental Services (NHDES) Wetlands Bureau approved the above-referenced application to permanently impact 55,599 square feet of sand dune and undeveloped tidal buffer zone (TBZ), permanently impact 21,307 square feet of previously-developed TBZ (including 4,651 square feet of temporary impact and impact 339,314 square feet of tidal wetlands and waters to include 21,131 square feet of permanent impact and 318,183 square feet of temporary impact for the replacement of the NH Route 1A, Neil R. Underwood Bridge (Bridge No. 235.025). The proposed bridge will be 1,300 foot long, seven span, structural steel fixed bridge. State of New Hampshire Department of Transportation (NHDOT), N.H. Project No. 15904. Compensatory mitigation includes a one-time payment \$821,349.22 submitted to the Aquatic Resources Mitigation (ARM) fund for impacts to sand dunes, undeveloped 100-foot tidal buffer zone, and tidal waters.

In accordance with RSA 482-A:10, RSA 21-O:14, and Rules Env-WtC 100-200, **any person aggrieved by this decision may file a Notice of Appeal directly with the NH Wetlands Council (Council) within 30 days of the decision date, September 15, 2023.** Every ground claiming the decision is unlawful or unreasonable must be fully set forth in the Notice of Appeal. Only the grounds set forth in the Notice of Appeal are considered by the Council. Information about the Council, including Council Rules, is available at <https://www.nhec.nh.gov/wetlands-council/about>. For appeal related issues, contact the Council Appeals Clerk at (603) 271-6072.

In accordance with RSA 482-A:3, II(a) and Env-Wt 313.02(b), as your project is a major project located in a great pond or in public waters of the state, your application must also be approved by the Governor and the Executive Council. Upon expiration of the appeal period, a redacted copy of the file is submitted to the Governor and the Executive Council for their consideration. Information about the Governor and the Executive Council is available at <https://www.nh.gov/council/>.

Sincerely,

Philip Trowbridge, P.E., Manager
Land Resources Management, Water Division

Enclosure: Copy of Decision

cc: Agent
Municipal Clerk/Conservation Commission
Abutters
ec: Assistant Administrator, Wetlands Bureau

www.des.nh.gov

29 Hazen Drive • PO Box 95 • Concord, NH 03302-0095
NHDES Main Line: (603) 271-3503 • Subsurface Fax: (603) 271-6683 • Wetlands Fax: (603) 271-6588
TDD Access: Relay NH 1 (800) 735-2964

DECISION DATE:
September 15, 2023

DECISION:

Permanently impact 55,599 square feet of sand dune and undeveloped tidal buffer zone (TBZ), permanently impact 21,307 square feet of previously-developed TBZ (including 4,651 square feet of temporary impact and impact 339,314 square feet of tidal wetlands and waters to include 21,131 square feet of permanent impact and 318,183 square feet of temporary impact for the replacement of the NH Route 1A, Neil R. Underwood Bridge (Bridge No. 235.025). The proposed bridge will be 1,300 foot long, seven span, structural steel fixed bridge. State of New Hampshire Department of Transportation (NHDOT), N.H. Project No. 15904. Compensatory mitigation includes a one-time payment \$821,349.22 submitted to the Aquatic Resources Mitigation (ARM) fund for impacts to sand dunes, undeveloped 100-foot tidal buffer zone, and tidal waters.

CONDITIONS:

1. All work shall be in accordance with revised plans and construction sequence narrative by the State of New Hampshire Department of Transportation (NHDOT), N.H. Project No. 15904 including:
 - a) Plans dated March 9, 2023, as received by the NH Department of Environmental Services (NHDES) on June 30, 2023; and
 - b) The 'Permittee Responsible Mitigation Plan for State-Listed Plant Impacts' by NHDOT received by NHDES on August 2, 2023.
2. This permit is also contingent upon submittal of a check in the amount of \$821,349.22 into the Aquatic Resource Mitigation fund by the applicant as calculated per Env-Wt 803.07 and RSA 482-A:30 and work is authorized in RSA jurisdiction under this permit once the full ILF payment has been deposited and cleared.
3. This permit shall not be effective until the permittee records this permit at the Rockingham County Registry of Deeds. Any limitations or conditions in the permit so recorded shall run with the land beyond the expiration of the permit. The permittee shall provide the NHDES with a copy of the permit stamped by the registry with the book and page and date of receipt, in accordance with New Hampshire Administrative Rule Env-Wt 314.02(b) and (c).
4. In accordance with Env-Wt 314.03, (a) The permittee shall notify the NHDES in writing at least one week prior to commencing any work under the permit.
5. In accordance with Env-Wt 307.07, all development activities associated with any project shall be conducted in compliance with applicable requirements of RSA 483-B and Env-Wq 1400 during and after construction.
6. In accordance with Env-Wt 307.03(a), no activity shall be conducted in such a way as to cause or contribute to any violation of surface water quality standards specified in RSA 485-A:8 or Env-Wq 1700; or any provision of RSA 485-A, RSA 483-B, or Env-Wq 1400.
7. All work shall be conducted and maintained in such a way as to protect water quality as required by Rule Env-Wt 307.03(a) through (h).
8. In accordance with Env-Wt 611.05(f), water quality control measures shall be installed prior to start of work and in accordance with the manufacturer's recommended specifications or, if none, the applicable requirements of Env-Wq 1506 or Env-Wq 1508.
9. In accordance with Env-Wt 611.05(g), temporary water quality control methods shall be removed upon completion of work when compliance with Env-Wt 307.03(c)(6) is achieved.
10. All dredging activities shall meet all of the conditions listed in Rule Env-Wt 307.10(a) through (n).
11. Dredging and in water work shall occur between November 15 and March 15, in order to protect anadromous fish, in accordance with Env-Wt 307.10(i) and Env-Wt 311.06(g)

12. In accordance with Env-Wt 307.05(e), to prevent the use of soil or seed stock containing nuisance or invasive species, the contractor responsible for work shall follow Best Management Practices for the Control of Invasive and Noxious Plant Species (Invasive Plant BMPs).
13. Restoration of all temporary impacts shall meet all of the conditions listed in Rule Env-Wt 307.12(a) through (i).
14. In accordance with Env-Wt 611.05(k), the project shall not disturb any sand dune vegetation growing on adjacent properties.
15. In accordance with Env-Wt 611.05(j), no non-native ornamental plants shall be introduced to or used on the property.
16. In accordance with Env-Wt 611.05(e), work shall be done in a time and manner so as to not disturb migratory waterfowl breeding and nesting areas.
17. In accordance with Env-Wt 611.05(h), any American Beachgrass (*Ammophila breviligulata*) that would be disturbed by a project shall be offered to NH Sea Grant for reuse.
18. In accordance with Env-Wt 609.10(b)(4), all work on the shoreline for stabilization purposes shall be done at low tide when the work area is fully exposed.
19. In accordance with Env-Wt 307.12(f), if any temporary impact area that is stabilized with seeding or plantings does not have at least 75% successful establishment of vegetation after 2 growing seasons, the area shall be replanted or reseeded, as applicable.
20. In accordance with Env-Wt 307.12(i), wetland areas where permanent impacts are not authorized shall be restored to their pre-impact conditions and elevation by replacing the removed soil and vegetation in their pre-construction location and elevation such that post-construction soil layering and vegetation schemes are as close as practicable to pre-construction conditions.
21. In accordance with Env-Wt 307.12(a), within 3 days of final grading or temporary suspension of work in an area that is in or adjacent to surface waters, all exposed soil areas shall be stabilized by seeding and mulching, if during the growing season; or mulching with tackifiers on slopes less than 3:1 or netting and pinning on slopes steeper than 3:1 if not within the growing season.
22. In accordance with Env-Wt 307.03(e), all exposed soils and other fills shall be permanently stabilized within 3 days following final grading.
23. In accordance with Env-Wt 307.18(b), a construction monitoring plan with inspection reports, and water quality reports prepared by a certified professional erosion and sediment control specialist (CPESC) or certified wetland scientist shall be submitted to the department upon completion of the project.
24. In accordance with Env-Wt 307.18(c), a report that describes the monitoring conducted and date(s) of inspections, and includes photos showing the extent of jurisdictional impacts, areas of restoration, and progress of any plantings shall be submitted to the department upon completion of the project.

FINDINGS:

1. This is classified as a major project per Rule Env-Wt 607.10(a), for all forms of dredging in tidal waters, that exceed the criteria listed in Env-Wt 607.10(b).
2. Per Rule Env-Wt 204.05(a), the NHDES has granted a waiver to the requirement established in Rule Env-Wt 202.01(b) for conducting a public hearing. Granting the waiver will not result in an avoidable adverse impact on the environment or natural resources of the state, including but not limited to jurisdictional areas and protected species or habitat, an avoidable adverse impact on public health or public safety, an impact on abutting properties that is more significant than that which would result from complying with the rule and statutory requirement being waived, and any benefit to the public or the environment from complying with the rule is outweighed by the operational or economic costs to the applicant.
3. Per Rule Env-Wt 202.01(b) and as required by RSA 482-A:8, NHDES finds that the requirements for a public hearing do not apply as the project will not have a significant environmental impact, as defined in Env-Wt 104.19, on the resources protected by RSA 482-A, or, is not of substantial public interest, as defined in Env-Wt 104.32.

4. There is no reasonable/practicable method of replacing the Hampton Seabrook bridge without impacts to sand dunes.
5. Per Rule Env-Wt 311.06(h), the Hampton Conservation Commission (HCC) provided supportive comments on the proposed project on April 26, 2023, stating, "the HCC voted not to oppose the granting of this NHDES Standard Dredge and Fill permit."
6. NHDOT has addressed questions raised by the HCC relative to flooding and erosion impacts and mitigation benefits through the final design details of their approved plans, details, and narratives provided in the application and responses to the Request for More Information received by NHDES on June 29, 2023.
7. Per Rule Env-Wt 311.06(h), the Seabrook Conservation Commission did not provide comments on the proposed project.
8. Per Rule Env-Wt 311.01(b), the applicant coordinated with the NH Fish and Game Department (NHF&G) and the Natural Heritage Bureau (NHB) to determine how to avoid and minimize project-related impacts on rare or protected animal species and habitat, and on protected plants or exemplary natural communities.
9. The public highway project meets all approval criteria established in Env-Wt 527.02.
10. Per Rule Env-Wt 603.09(a), the applicant submitted a statement from the Pease Development Authority Division of Ports and Harbors ("DP&H") Chief Harbormaster, or designee, for the subject location relative to the proposed structure's impact on navigation.
11. Per Rule Env-Wt 604.03(b), the project has been evaluated by the applicant and meets all criteria listed in Env-Wt 604.03(b)(1) through (7).
12. NHDES has determined that the one-time in-lieu mitigation fee payment of \$821,349.22, into the dedicated ARM fund for the Salmon Falls - Piscataqua Rivers watershed per RSA 482-A:29, will provide for adequate compensatory mitigation to offset the project's impacts to tidal surface waters, tidal wetlands, the tidal buffer zone, and sand dunes as required per Env-Wt 605.03(a) and Env-Wt 803.
13. Per Rule Env-Wt 607.02(d), the dredging project has been screened to avoid shellfish beds, submerged aquatic vegetation and essential fish habitat.
14. Per Rule Env-Wt 314.07(a) and subject to Env-Wt 314.07(b), the permittee has requested an amendment to the issued permit to correct impact amounts and clarify conditions.