



The State of New Hampshire
Department of Environmental Services



Robert R. Scott, Commissioner

November 02, 2022

NH DEPT OF TRANSPORTATION
ATTN: TIMOTHY DUNN
7 HAZEN DR
CONCORD NH 03302

Re: Approved Standard Dredge and Fill Wetlands Permit Application – Required Payment to Aquatic Resource Mitigation Fund (RSA 482-A)
NHDES File Number: 2022-01959
Subject Property: NH Rte 16, Cambridge, Tax Map #ROW, Lot #ROW

Dear Applicant:

On November 02, 2022, the New Hampshire Department of Environmental Services (NHDES) Wetlands Bureau approved the above-referenced Standard Dredge and Fill Wetlands Permit Application to Dredge and fill a total of 255,405 square feet / 1,610 linear feet of permanent and temporary impacts to jurisdictional areas to construct a roadway improvement project including replacement of two existing undersized culverts with more compliant culverts along a 1.3-mile segment of NH Route 16 (NH 16) located in Cambridge, New Hampshire (NHDOT 16304B).

Compensatory mitigation for the proposed impacts including 225,953 square feet (SF) of permanent palustrine wetland impacts, 17,032 SF of temporary palustrine wetland impacts, 4,016 SF / 568 linear feet (LF) of permanent stream channel impacts, and 1,990 SF / 225 LF of temporary stream channel impacts shall consist of conserving 2,717 acres in Shelburne, NH through funds provided to the Society for the Protection of New Hampshire Forests for fee acquisition of a parcel located at the southern end of the Androscoggin watershed or a one-time payment of \$1,422,479.69 to the NHDES Aquatic Resource Mitigation ("ARM") Fund.

This approval is contingent on the following conditions being met:

1. In accordance with Env-Wt 307.16, all work shall be done in accordance with the plans for the New Hampshire Department of Transportation, Federal Aid Project X-A004(699), NH Project No. 16304B, NH Route 16, Town of Cambridge, NH dated April 1, 2022, as received by the NH Department of Environmental Services (NHDES) on August 11, 2022.
2. The permit is contingent on compensatory mitigation in accordance with the Mitigation Plan 33CFR 332(c) (2) through (14), NHDOT Dummer-Cambridge-Errol, 16304B, NH Route 16 to conserve 2,717 acres in Shelburne, NH through funds provided to the Society for the Protection of New Hampshire Forests for fee acquisition of a parcel located at the southern end of the Androscoggin watershed or a one-time payment of \$1,422,479.69 to the NHDES Aquatic Resource Mitigation ("ARM") Fund by the applicant as calculated per Env-Wt 803.07 and RSA 482-A:30.
3. In accordance with Env-Wt 807.01(b), confirmation of the parcel conservation, or the one-time payment, shall be received by NHDES within 120 days from the approval decision or NHDES will deny the application.
4. This permit is contingent on the issuance and compliance with the Section 401 Water Quality Certification.
5. In accordance with Env-Wt 803.08(c), as this project requires a federal permit from the US Army Corps of Engineers (US ACE) under section 404 of the Clean Water Act, the applicant shall consult with the US ACE relative to whether additional mitigation will be required to satisfy federal mitigation requirements.

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NHDES Main Line: (603) 271-3503 • Subsurface Fax: (603) 271-6683 • Wetlands Fax: (603) 271-6588

TDD Access: Relay NH 1 (800) 735-2964

6. The 5-foot wide x 4-foot high concrete box culvert, embedded in the stream bed at a depth of one foot in order to provide a natural stream channel substrate through the structure shall be installed prior to the backfill and resurfacing of the stream crossing at Stream E as required by Env-Wt 904.
7. The 6-foot-wide by 6-foot-high box culvert, embedded one foot in the stream bed at a depth of one foot in order to provide a natural stream channel substrate through the structure shall be installed prior to the backfill and resurfacing of the stream crossing at Stream L as required by Env-Wt 904.
8. In accordance with Env-Wt 527.05(a), in addition to complying with all applicable conditions in Env-Wt 307, the permit shall be contingent on review and approval by the department of final stream diversion and erosion control plans that detail the timing and method of stream flow diversion during construction and show temporary siltation, erosion, and turbidity control measures to be implemented.
9. In accordance with Env-Wt 314.03, (a) the permittee shall notify the department in writing at least one week prior to commencing any work under the permit.
10. This permit is not valid until the permittee executes all necessary property acquisitions and executes all necessary easements, as applicable, per RSA 482-A:11 II. and Env-Wt 311.11(d). The permittee shall submit a copy of each recorded deed and/or easement, as applicable, to the NHDES Wetlands Bureau prior to construction.
11. 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 as required pursuant to RSA 483-B:3.
12. 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; ambient groundwater quality standards established under RSA 485-C; limitations on activities in a sanitary protective area established under Env-Dw 302.10 or Env-Dw 305.10; or any provision of RSA 485-A, Env-Wq 1000, RSA 483-B, or Env-Wq 1400 that protects water quality.
13. In accordance with Env-Wt 527.05(b), the contractor responsible for completion of the work shall use techniques described in Env-Wq 1504.06, Env-Wq 1504.16, Env-Wq 1505.02, Env-Wq 1506, and Env-Wq 1508.
14. In accordance with Env-Wt 904.02(a)(1), in-stream work shall be done only during low flow or dry conditions, in non-tidal areas.
15. 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).
16. In accordance with Env-Wt 307.11(a), fill shall be clean sand, gravel, rock, or other material that meets the project's specifications for its use; and does not contain any material that could contaminate surface or groundwater or otherwise adversely affect the ecosystem in which it is used.
17. In accordance with Env-Wt 514.05(a), materials used to emulate a natural channel bottom shall be consistent with materials identified in the reference reach.
18. In accordance with Env-Wt 307.03(c)(4), water quality control measures shall be capable of minimizing erosion; collecting sediment and suspended and floating materials; and filtering fine sediment.
19. In accordance with Env-Wt 307.03(c)(3), 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.
20. In accordance with Env-Wt 307.03(c)(5), water quality control measures shall be maintained so as to ensure continued effectiveness in minimizing erosion and retaining sediment on-site during and after construction.
21. In accordance with Env-Wt 307.03(c)(6), water quality control measures shall remain in place until all disturbed surfaces are stabilized to a condition in which soils on the site will not experience accelerated or unnatural erosion by achieving and maintaining a minimum of 85% vegetative cover using an erosion control seed mix, whether applied in a blanket or otherwise, that is certified by its manufacturer as not containing any invasive species; or placing and maintaining a minimum of 3 inches of non-erosive material such as stone.
22. In accordance with Env-Wt 307.03(d), any sediment collected by water quality control measures shall be removed with sufficient frequency to prevent the discharge of sediment; and placed in an upland location in a manner that prevents its erosion into a surface water or wetland.

23. In accordance with Env-Wt 307.03(c)(7), temporary water quality control methods shall be removed upon completion of work when compliance with Env-Wt 307.03(c)(6) is achieved.
24. In accordance with Env-Wt 307.03(h), equipment shall be staged and refueled outside of jurisdictional areas (unless allowed) and in accordance with Env-Wt 307.15.
25. 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 wetlands vegetation after 2 growing seasons, the area shall be replanted or reseeded, as applicable.
26. 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.
27. 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.
28. 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 wetlands vegetation after 2 growing seasons, the area shall be replanted or reseeded, as applicable.
29. In accordance with Env-Wt 307.03(g)(1), the person in charge of construction equipment shall inspect such equipment for leaking fuel, oil, and hydraulic fluid each day prior to entering surface waters or wetlands or operating in an area where such fluids could reach groundwater, surface waters, or wetlands.
30. In accordance with Env-Wt 307.03(g)(2), the person in charge of construction equipment shall repair any leaks prior to using the equipment in an area where such fluids could reach groundwater, surface waters, or wetlands.
31. In accordance with Env-Wt 307.03(g)(3) and (4), the person in charge of construction equipment shall maintain oil spill kits and diesel fuel spill kits, as applicable to the type(s) and amount(s) of oil and diesel fuel used, on site so as to be readily accessible at all times during construction; and train each equipment operator in the use of the spill kits.
32. In accordance with Env-Wt 307.03(e), all exposed soils and other fills shall be permanently stabilized within 3 days following final grading.
33. In accordance with Env-Wt 514.06, the owner shall monitor the project and take corrective measures if the area is inadequately stabilized or restored by identifying corrective actions and follow-up plans in accordance with Env-Wt 307; and filing an appropriate application and plans where additional impacts are required.
34. In accordance with Env-Wt 307.18, the following plans and reports shall be submitted to the department within 60 days of the completion of construction and annually for 5 growing seasons, (a) Compensatory mitigation project monitoring reports in accordance with Env-Wt 803.04; (b) A construction monitoring plan with inspection reports, water quality reports, and a wetland planting plan prepared by a CPESC specialist or certified wetland scientist; (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; (d) A report that describes the stability of and status of stream or wetland systems, including a description of any necessary adjustments; and (e) A schedule and description of measures to be taken during construction and after completion of the project.

This approval is based on the following findings:

1. This is a Major Project per New Hampshire Administrative Rule Env-Wt 407.03, Table 407-1 having more than 10,000 square feet of impacts to jurisdictional area.
2. This project is the third and final phase of the affecting approximately 1.3 miles of NH Route 16 intended to improve the condition of the existing roadway pavement and road base, provide for a safe and reliable, continuous corridor and to enhance its long-term sustainability of the roadway by shifting it away from the Androscoggin River, and increase safety for motorists travelling along this segment of the roadway.

3. The applicant provided evidence that after consideration of project alternatives including Reconstructing on Existing Alignment, Partial Alignment shift, Offline Alignment Shift, and the proposed Offline Variation the selected alignment and associated culvert designs were the least impacting solution.
4. The applicant has provided documentation and evidence that the proposed Alternative Design is approvable under Env-Wt 904.10 as it is designed to balance geomorphic improvements while maintaining the upstream hydrology.
5. The New Hampshire Natural Heritage Bureau's (NHB) most recent DataCheck Results Letter (NHB21-2764) indicated that, "It was determined that, although there was a NHB record (e.g., rare wildlife, plant, and/or natural community) present in the vicinity, we do not expect that it will be impacted by the proposed project."
6. Under a previous NHB review (NHB20-0897) a rare plant was identified as being documented in the vicinity of the proposed project. A rare plant survey was completed in July 2020, and no individuals or populations were observed within the proposed project area.
7. The New Hampshire Division of Historical Resources (NHDHR) has reviewed the proposed project and issued a finding of No Historic Properties Affected on February 2, 2020.
8. On September 19, 2022, NHDES held the public hearing. NHDES did not receive comments on the permit application during the public comment period or at the public hearing.
9. The Department finds that the compensatory mitigation in accordance with the Mitigation Plan 33CFR 332(c) (2) through (14), NHDOT Dummer-Cambridge-Errrol, 16304B, NH Route 16 to conserve 2,717 acres in Shelburne, NH through funds provided to the Society for the Protection of New Hampshire Forests for fee acquisition of a parcel located at the southern end of the Androscoggin watershed or a one-time payment of \$1,422,479.69 to the NHDES Aquatic Resource Mitigation ("ARM") Fund by the applicant as calculated per Env-Wt 803.07 and RSA 482-A:30 will be sufficient to meet the mitigation requirements of RSA 482-A.

Pursuant to RSA 482-A:28, this approval is contingent on compensatory mitigation in accordance with the Mitigation Plan 33CFR 332(c) (2) through (14), NHDOT Dummer-Cambridge-Errrol, 16304B, NH Route 16 to conserve 2,717 acres in Shelburne, NH through funds provided to the Society for the Protection of New Hampshire Forests for fee acquisition of a parcel located at the southern end of the Androscoggin watershed or a one-time in-lieu mitigation payment of \$1,422,479.69 to the NHDES Aquatic Resource Mitigation ("ARM"). NHDES recommends delaying payment until after the 30-day reconsideration period ending December 2, 2022. In accordance with Env-Wt 803.11(c)(2) and Env-Wt 807.01(b), if NHDES has not received the compensatory mitigation within 120 days of this letter, or by **March 2, 2023**, NHDES will deny the application. Please include a copy of this letter with the payment.

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, November 02, 2022.** 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://nhec.nh.gov/wetlands/index.htm>. For appeal related issues, contact the Council Appeals Clerk at (603) 271-6072.

If you have any questions, please contact me directly at Karl.Benedict@des.nh.gov or (603) 271-4194.

Sincerely,



Karl D. Benedict
Public Works Supervisor, Wetlands Bureau
Land Resources Management, Water Division

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cc: Property Owner
Agent
Municipal Clerk/Conservation Commission

ec: Property Owner
Agent