

**BUREAU OF ENVIRONMENT
CONFERENCE REPORT**

SUBJECT: NHDOT Monthly Natural Resource Agency Coordination Meeting

DATE OF CONFERENCE: May 18, 2022

LOCATION OF CONFERENCE: Virtual meeting held via Zoom

ATTENDED BY:

NHDOT

Andrew O’Sullivan
Matt Urban
Jon Evans
Joshua Brown
Arin Mills
Tim Boodey
Kerry Ryan
Mike Dugas
Amanda Zatecka

ACOE

Absent

EPA

Jean Brochi

NHDES

Karl Benedict
Lori Sommer
Christian Williams
Eben Lewis
Kevin Lucey

NHB

Jessica Bouchard

NH Fish & Game

John Magee

Federal Highway

Jamie Sikora

The Nature Conservancy

Pete Steckler

**Consultants/ Public
Participants**

Christine Perron
Mark Debowski
Tim Whitney

PRESENTATIONS/ PROJECTS REVIEWED THIS MONTH: *(minutes on subsequent pages)*

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Finalize Meeting Minutes

Finalized and approved the April 20, 2022 meeting minutes.

Shelburne, 42619 (Non-fed):**Presenters: Tim Boodey, Arin Mills**

The state executed and funded project to repair bridge 079/122 which carries North Road over Leadmine Brook. Leadmine Brook flows approx. 3.3 miles from headwaters in Mahoosuc Range from Page Pond. Leadmine Brook flows from the site approx. 150' into Androscoggin River backwater, downstream of the Shelburne hydro dam. The existing bridge was constructed in 1960 to replace a previous crossing, and was widened in 1986. It is unknown when the toe walls were installed, although prior to 1986 widening and were not extended during the widening. The project location is in a rural area with no conservation lands identified adjacent. Photos were shown of the existing conditions of the site.

Tim provided an overview of the project to include removal of the existing toe wall along the western abutment and installation of stone (rip rap) within the stream channel to protect the western abutment and prevent scour. The eastern abutment toe wall will be patched. Stone will be added to the existing rip rap located in front of all four wings, where needed. Tim described the rip rap within the stream will be along the bottom of the streambed and will be constructed of a gradation of stone to protect the structure from scour. Rip rap in the corners will add to existing stone and will be comprised of a gradation of stone to protect the crossing. A draft impact plan and impact table were shown.

Tim described the overall construction sequence to install perimeter controls and sedimentation basin and installation of stone (rip rap) within the stream channel along the western abutment to address scour and protect the existing infrastructure. A sandbag cofferdam will be installed along the western abutment and the existing toe wall will be removed and patching of the exposed abutment will be performed, as needed. The crossing does not have a history of flooding, and passes the 100-year storm event with free board under the bridge deck. The proposed project does not change the ability of the structure to pass the 100-year storm event.

Arin provided an overview of the environmental resources: Leadmine Brook at crossing is 3rd order stream, a Tier 3 crossing (2,679 ac drainage), no designated river, no previous permit identified. The brook is a documented coldwater stream with Eastern Brook Trout (EBT), no impacts anticipated her NHB DataCheck (NHB22-1148), no Priority Resource Area impacts, within 100-year floodplain, WAP Highest Ranked Habitat adjacent and not in project area, no identified wildlife corridor. USFWS identified potential Northern log-eared bat and 4(d) consistency letter generated, no impacts to Canada lynx with no habitat in project area and Section 106 complete as bridge is post 1945 bridge type.

Karl B noted the scour evident, and the least impacting alternative is with placement of rip rap. He asked a cross section be included with the application to show both existing and proposed conditions, Tim concurred. Karl asked if stream simulation will be used, Tim stated a gradation of material will be used and existing streambed material will be re-used where possible.

Lori stated no mitigation is required for protection of existing infrastructure.

John M asked about the timing of the project and Tim stated likely fall/early winter. John said based on the photos and existing site conditions (areas of scour and deep water) it is unlikely EBT would spawn in the area where work is proposed, and a time-of-year restriction is not warranted. He concurred a cross section would be beneficial in the application. A discussion related to EBT spawning, and John stated ideally to protect EBT spawning it is best if the work be done before October 1st or exclusion of the work area is installed in the stream, such as silt boom or cofferdam, ahead of spawning to prevent eggs from being laid in the streambed. Also, to allow for passage of spawning fish a portion of the stream remain free flowing is preferred during spawning (Oct 1st to March 31st).

Jeanie Brochi had no comments.

Jessica Bouchard was not present.

Pete provided an explanation of the wildlife corridor data, and how the 'coarseness' of the data used to develop corridors may not definitively depict all corridors and connections of highest ranked habitat in the WAP. He does not have concerns relating to corridor connectivity for this project.

Troy, 43900 (Non-fed):

Kerry Ryan, NHDOT Environmental Manager gave an overview of the project which is a state funded bridge maintenance project located at br. No. 101/088 which carries Mill Street over the South Branch Ashuelot River in Troy. The existing structure is a 10' high x 24' wide x 28' long single span concrete slab bridge located in the village center. This bridge is located at the mill tail race associated with the former Troy Blanket Mill. The crossing was described as a tier 3 crossing. The history of the bridge was described as being constructed in 1936 and widened in 1991. Photos of the project area were shown and included views from the roadway, inlet, outlet, and former Troy Blanket Mill.

Tim Boodey, NHDOT Bridge Maintenance Senior Engineer, described the purpose of the proposed project as being to protect the existing abutments from scour, replace the existing concrete bridge deck, repoint the existing stone abutments, and install rip rap in front of the existing abutments. He stated the bridge will not be widened and will be installed on the existing footprint. Wetland impact plans showing permanent and temporary impacts, wetland impact table, construction sequence, and hydraulics were described.

K. Ryan described resources in the area as being a tier 3 crossing with no previous permits identified, not in a designated river buffer, having a PRA in the area which will not be impacted, not identified as highest ranked habitat or supporting landscape on the Wildlife Action Plan, no conservation land in the area, in a FEMA 100-year floodplain, not a documented cold water stream, no species identified on the NHB report, not essential habitat, no potential to cause effects on cultural resources, and not a wildlife crossing.

Karl Benedict, NHDES, stated a cross section should be included in the application, the length of proposed linear feet on the wetland impact plan should be confirmed as the impact table shows 26 LF but there are impacts at both abutments, temporary impacts for access and pipe staging should be shown, flood plain fill (of any) should be considered, hydraulics details should be included, and to address invasive species management. T. Boodey said the temporary impacts are shown on the plan. Matt Urban, NHDOT, confirmed that when measuring LF of channel, even though impacts are shown on both sides, it is still just one channel which should not be counted twice and therefore just one length should be measured. K. Benedict stated that is a fair calculation but just to confirm the number.

Lori Sommer, NHDES, stated the rip rap is going to protect existing infrastructure so no mitigation would be required.

John Magee, NHFG, had no comments and that this is a warm water stream at this location.

Jessica Bouchard, NHB, had no comments.

Jeanie Brochi, EPA, asked if Section 106 historic review would be done because the mill was used previously and there could be artifacts and that this is more a of Corps. related comment. T. Boodey stated that due to the widening in the 1990's, this area has already been disturbed.

- Note: The project complies with the Section 106 Programmatic Agreement included elsewhere in this application.

Pete Steckler, NC, had no comments

Hampton-Portsmouth, 26485 (X-A003(355)):

Christine Perron reviewed the project, which involves improvements to a rail trail and is funded under the Federal CMAQ (Congestion Mitigation & Air Quality Improvement) Program. The project was first introduced at the September 2021 Natural Resource Agency Meeting. The purpose of today's meeting was to provide a summary of preliminary wetland impacts and to obtain input on mitigation requirements and other resource concerns.

The corridor consists of just under 10 miles of the Hampton Branch Rail Corridor, recently purchased by NHDOT from Pan Am Railways, beginning at the southern terminus about 1,000 feet north of Drakeside Road in Hampton and continuing north-northeast to the northern terminus at Barberry Lane in Portsmouth. The project is being designed by Greenman-Pedersen Inc (GPI), and McFarland Johnson Inc (MJ) is completing the environmental review. At the September 2021 meeting, there was discussion about the potential for the Department to split the corridor into two separate projects due to more design time needed to address drainage issues in Hampton. That split has now been approved, with the first project being 8.1 miles north of the Hampton-North Hampton town line, and the second project consisting of the portion in Hampton. The focus of today's discussion will be only for Segment 1.

The first project, segment 1 of the corridor, is currently scheduled to advertise in early November 2022. The wetland permit application will be submitted within the next month. Segment 1 will be

constructed 2023 through 2024. The permit application for the second project, segment 2, is expected to be submitted this winter, with construction on that segment expected to begin at the end of 2023 and wrapping up at the end of 2024.

An overview of anticipated improvements was provided: removal of any remaining rail ties, reconstructing and regrading the trail, clearing vegetation, excavating knotweed, drainage improvements, cross culvert rehab/replacement, and installation of beaver deterrent devices. Work on stream crossings will now entail the rehabilitation of just one culvert, with the beaver deterrent devices installed at several stream crossings.

Typical sections were reviewed for the following scenarios along the trail: simple fill section, simple cut section, and reconstruction areas. The trail will be 12 feet wide with a 2-foot shoulder on each side. The corridor originally consisted of two RR lines. The trail alignment will be set roughly 2 feet inside the existing railroad ties, which puts the proposed edge of shoulder about 2-2.5ft in from the end of the existing ties that remain. In sections that won't require much reconstruction, creating the trail will consist of some regrading, placing 4" crushed gravel, then geotextile fabric for weed control, then 4 inches of stone dust. Portions of the trail will require more extensive reconstruction, consisting of clearing, grubbing, removing the rail ties, removing 12 inches or so of soggy material, then placing 12 to 36 inches of gravel (depending on how much the trail needs to be raised), then the 4 inches crushed gravel, then a geotextile fabric for weed control, then 4 inches of stone dust. There are also areas of knotweed that are encroaching on the trail. These will be excavated down to 6 feet below the surface, and the material will be transported offsite and disposed of appropriately. The knotweed excavation limits will be anything between outside of trailside ditch to outside of trailside ditch.

Much of the corridor travels through large wetland complexes with a history of beaver activity that results in plugged cross pipes and flooding. Two types of beaver deterrent are being considered: protective fencing and beaver deceivers.

Wetland impacts along Segment 1 will occur in three towns. Proposed impacts are primarily the result of trail reconstruction. There are areas where the delineated wetland extends into the rail bed, which has resulted in impacts being much higher than anticipated. Within the areas in question, the boundary between the natural wetland and artificial fill material was not easily discernible based on field conditions. The Army Corps manual does allow for jurisdictional determinations to be made when there is artificial fill material present, unless that fill was previously authorized or exempt, and there is a lot of gray area here given how long the fill has been in place. Based on standard RR line widths, it is safe to assume the existing ballast extends about 5 feet from the end of the ties, which would be about 7 feet from the edge of the proposed shoulder. Impact areas were reviewed for the corridor, with those areas located on ballast called out. Input was requested on the jurisdictional status of these wet areas located on ballast.

In North Hampton, impacts will occur at an unnamed perennial stream for the installation of a beaver deterrent device. Additional impacts will result from trail reconstruction and slope work, with approximately 14,565 sq ft of impact to delineated wetland located on ballast. In Greenland, impacts will occur at Berry's Brook for the installation of a beaver deterrent device. Additional impacts will result from trail reconstruction and slope work, with approximately 19,850 sq ft of impact to delineated wetland located on ballast. In Portsmouth, impacts will occur at an unnamed

Pickering Brook for the installation of a beaver deterrent device and to reset granite blocks to repair the box culvert. These impacts are the only proposed impacts within the prime wetlands located in Portsmouth.

The preliminary total permanent impacts consist of 39,500 SF of impact in palustrine wetlands (of which 34,415 SF is located over RR ballast) and 35 SF (3 linear feet) in stream channel. Of the impacts to palustrine wetlands, 245 SF is located in prime wetland. If impacts to wetlands located on ballast will require mitigation, the total in-lieu fee would be 236,000. If the decision is that these wet areas are in fact jurisdictional, then input is requested on the need to mitigate these impacts. Municipalities along the corridor were asked to provide input on potential mitigation properties but none of replied to this request.

A slide was reviewed showing the Portsmouth Prime Wetlands and 100-foot buffer. Approximately 8,000 linear feet of trail travels through upland prime wetland buffer. Input was requested regarding the need to show the proposed trail work within the buffer as an impact. Doing so would equate to roughly 150,000 SF of additional impact, which would technically be a permanent impact (regrading/reconstruction).

A slide summarizing rare species and exemplary natural communities was reviewed. There are a number of rare plants and communities in the vicinity of Great Bog in Portsmouth. Additionally, there is a record of slender blue iris near the corridor in North Hampton, as well as records of spotted turtle and Blanding's turtle in the vicinity of the project. Input was requested on the need for rare plant surveys.

The following is a summary of questions and comments from attendees:

Karl Benedict (DES)

- Noted that AOT compliance would need to be addressed in the wetland permit application
- Suggested a site visit with DES and Corps to discuss the questions about jurisdiction of wetlands located on RR ballast.

Eben Lewis (DES)

- Prime wetland mapping is usually based on aerial interpretation so it's not always accurate; for permitting purposes, the wetland boundary should be delineated; the Wetlands Bureau will discuss internally if a prime wetland buffer waiver should be requested for this project.
- Agreed that a field meeting was needed.

Andy O'Sullivan (DOT)

- Should such a waiver be common practice, such as when a road is in a prime wetland buffer? Eben replied that DES has issued waivers for previously disturbed areas within the buffer.

Lori Sommer (DES)

- Are prime wetlands located along the Hampton segment? Subsequent to the meeting, C. Perron confirmed that there are no prime wetlands located along the corridor in Hampton.

- Why will the corridor be split into two projects? C. Perron responded that the portion of the corridor in Hampton has complicated drainage issues that will require more time to address in design and the proposed solution may require impacts outside the existing right-of-way. The northern portion of the corridor was split into a separate project in order to utilize existing funding and ensure that the momentum of the project was maintained. L. Sommer noted that the Army Corps was not present at today's meeting and she would like to hear the Corps thoughts on splitting into two projects. C. Perron stated that splitting the corridor into two separate projects was discussed at the September 2021 meeting. The Corps was in attendance at that time and the general consensus was that splitting was fine as long as cumulative impacts for the two segments were considered.
- Who owns the trail now and who would be responsible for maintenance? C. Perron said that NHDOT owns the 9.6-mile corridor and has municipal agreements in place that address maintenance responsibilities. Lori noted that these agreements should be included in the permit application package.
- Are the beaver deterrent devices turtle-friendly? This is a big concern given that there are species of concern in this area. If there is potential for turtles to get caught in the devices, this will need to be covered in the management and stewardship plan.
- The permit application should include any responses from communities on mitigation, and these responses should also be discussed with Lori.
- Where and how will knotweed be disposed of? C. Perron noted that those details are still being worked out because this will also need to also to take concerns with contamination into account.
- Agree that a site visit would be helpful.
- Will discuss the delineation with Karl and Eben, but currently leaning toward assuming that impacts to wetlands on ballast would need to be considered "new" impact that require mitigation.
- The beaver deterrent devices will require monitoring due to the presence of prime wetlands and species of concern.

Chris Williams (NHDES Coastal Program)

- No comments at this point for federal consistency; if the project requires an individual permit or utilizes certain federal dollars, should speak offline regarding the need for consistency review.

Kevin Lucey (NHDES Coastal Program)

- No feedback on the questions asked as part of the presentation; interested in future phases of the rail trail that will impact tidal wetlands.

John Magee (NHFG)

- Coordinated with Kim Tuttle, who requested that a natural or organic tackifier be used; even better, straw could be used with no tackifier.
- Beaver deterrent devices are not a problem for turtles given the location on a trail rather than a road. Turtles are not known to get stuck in these devices.

Matt Urban (DOT)

- There is a state law regarding beaver deceiver installation without a permit (RSA 210:9)

- Did the delineated wetlands located on ballast have hydric soils? C. Perron noted that the soil that has accumulated over the ballast did have hydric soil characteristics.

Jessica Bouchard (NHB)

- State botanist reassessed natural community boundaries in Great Bog last year, and many of the communities have been removed from the tracking list or have reduced boundaries. The database has not been updated yet but updated information for this project was sent to MJ via email.
- A list of species requiring survey will also be emailed to MJ.
- There is a new plant record in the project area for American reed. This information will be included in the email.

Jamie Sikora (FHWA)

- Previously coordinated on splitting the corridor into two projects and agreed that it was acceptable as long as each project has independent utility.
- The project will need to address Section 106 and Section 4(f).
- Have any state or local trail groups been involved to date?
- At grade crossings should be addressed in the NEPA document.

Jean Brochi (EPA)

- Prefer that the corridor is not split into two projects; regardless, cumulative impacts need to be addressed.
- At the next meeting, please discuss overall project (both segments).
- Should have a separate meeting to discuss mitigation and jurisdictionality of wetlands.
- Given the very aggressive timeline that is proposed, a site visit would be helpful.
- Which town has most wetland impacts? C. Perron noted that she would need to confirm but Greenland appears to have the most impacts.

Pete Steckler (TNC)

- Asked if Lori thought that the assessment protocol for turtle passage could be tested on the crossings with beaver deceivers to determine if they are passable by turtles.

Jon Evans (DOT)

- Is the corridor in its current condition considered a recreational resource under Section 4(f)? Jamie Sikora responded that, unless it is already formally designated for recreational use, it would not be protected under 4(f).

Submitted by:

Christine Perron
McFarland Johnson, Inc.