



The State of New Hampshire
Department of Environmental Services



Robert R. Scott, Commissioner

WETLANDS AND NON-SITE SPECIFIC PERMIT 2023-03176

NOTE CONDITIONS

PERMITTEE: NH DEPT OF TRANSPORTATION
ANDREW O'SULLIVAN
PO BOX 483
CONCORD NH 033020483

PROJECT LOCATION: F E EVERETT TURNPIKE, NASHUA
TAX MAP #ROW, LOT #ROW

WATERBODY: PENNICHUCK BROOK/BOWER'S POND

APPROVAL DATE: MARCH 19, 2024 **EXPIRATION DATE:** MARCH 19, 2029

Based upon review of permit application 2023-03176 in accordance with RSA 482-A and RSA 485-A:17, the New Hampshire Department of Environmental Services (NHDES) hereby issues this Wetlands and Non-Site Specific Permit. To validate this Permit, signatures of the Permittee and the Principal Contractor are required.

PERMIT DESCRIPTION:

Dredge and fill a total of 67,626 square feet (SF) of palustrine wetlands, lacustrine surface waters, and banks (Pennichuck Brook/Bower's Pond) for NHDOT Project 13761A to widen the roadway from two to three lanes in each direction with the addition of a northbound and southbound travel lane. Wetland impacts are associated with the roadway widening, and bridge replacement along the F.E. Everett Turnpike in Nashua-Merrimack, New Hampshire. The project begins just north of the Tinker Road overpass at Exit 8 in Nashua, and continues north for approximately 2.2 miles, ending approximately 400' north of the Industrial Drive overpass at Exit 10 in Merrimack. There are 39,246 SF of permanent impacts and 28,380 SF of temporary impacts for the project. Compensatory mitigation includes a total payment of \$177,057.95 dollars into the Aquatic Resource Mitigation Fund ("ARM").

THIS PERMIT IS SUBJECT TO THE FOLLOWING PROJECT-SPECIFIC CONDITIONS:

1. In accordance with Env-Wt 307.16, all work shall be done in accordance with the Wetlands Impact Plans for State of New Hampshire Department of Transportation, NH Project No. 13761A, F.E Everett Turnpike Corridor Widening Project Wetland Impact Plans dated November 10, 2023, and with Miscellaneous Details and Site Plan and Profile as received by NHDES on February 22, 2024.
2. Work shall be performed in accordance with the Nashua-Merrimack-Bedford, 13761A; F.E. Everett Turnpike Widening Project: Southern Segment; Turbidity Mixing Zone Designation-Approval with Conditions dated February 9, 2024.
3. The permit is contingent on submittal of a check in the amount of \$177,057.95 to the Aquatic Resource Mitigation Fund by the applicant as calculated per Env-Wt 803.07 and RSA 482-A:30 for the amendment impacts.
4. 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 in order to satisfy federal mitigation requirements.
5. In accordance with Env-Wt 314.03, (a) The permittee shall notify the department Wetlands program in writing at least one week prior to commencing any work under the permit.

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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 permit shall be contingent on review and approval by NHDES of final stream diversion plans that detail the timing and method of stream flow diversion during construction and show temporary siltation, turbidity control and perimeter control measures to be implemented.
7. All development activities associated with this project shall be conducted in compliance with applicable requirements of RSA 483-B and N.H. Code Admin. Rules Env-Wq 1400- Shoreland Protection during and after construction.
8. Management of impacted areas of rare, threatened, or endangered plant species shall be in accordance with Natural Heritage Bureau (NHB) consultation recommendations for transplanting of the impacted population to a new location between Populations 1 and 2. A transplanting protocol will be prepared based on NHB's recommendations for transplanting protocol to be included in the construction contract.
9. All manufactured erosion and sediment control products, with the exception of turf reinforcement mats, utilized for, but not limited to, slope protection, runoff diversion, slope interruption, perimeter control, inlet protection, check dams, and sediment traps shall not contain plastic, or multifilament or monofilament polypropylene netting or mesh with an opening size of greater than 1/8 inches.
10. All observations of threatened or endangered species on the project site shall be reported to the NHFG nongame and endangered wildlife environmental review program by phone at 603-271-2461 and by email at NHFGreview@wildlife.nh.gov, with the email subject line containing the NHB DataCheck tool results letter assigned number, the project name, and the term Wildlife Species Observation.
11. Photographs of the observed species and nearby elements of habitat or areas of land disturbance shall be provided to NHFG in digital format at the above email address for verification, as feasible.
12. In the event a threatened or endangered species is observed on the project site during the term of the permit, the species shall not be disturbed, handled, or harmed in any way prior to consultation with NHFG and implementation of corrective actions recommended by NHFG.
13. Site operators shall be allowed to relocate wildlife encountered if discovered within the active work zone if in direct harm from project activities. Wildlife shall be relocated in close proximity to the capture location but outside of the work zone and in the direction the individual was heading. NHFG shall be contacted immediately if this action occurs.
14. NH Fish and Game, including its employees and authorized agents, shall have access to the property during the term of the permit. The NHDOT's Contract Administrator or Environmental Coordinator for the project shall be contacted in advance to coordinate safe access to the site. In case of the need for emergency site access, contact Kevin Nyhan at 603-271-3226.
15. The Pennichuck brook crossing is not identified by the NHFG Nongame and Endangered Species program as a hotspot for road mortalities for rare wildlife. However, the crossing may be a more important element for more common wildlife species, as animals tend to use river edges as travel corridors throughout the landscape.
16. Invasive plant species management shall be performed to ensure the project conforms to Env-Wt 307.05 and the NHDOT "Best Management Practices for the Control of Invasive and Noxious Plant Species".
17. 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.
18. 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.
19. 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.
20. 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.
21. 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.

22. In accordance with Env-Wt 307.03(h), equipment shall be staged and refueled outside of jurisdictional areas and in accordance with Env-Wt 307.15.
23. 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 conditions as close as practicable to pre-construction conditions.
24. 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.
25. 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.
26. 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.
27. 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.
28. 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.
29. 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.
30. In accordance with Env-Wt 307.03(e), all exposed soils and other fills shall be permanently stabilized within 3 days following final grading.
31. In accordance with Env-Wt 514.05(h), within 60 days of completion of construction, the applicant shall submit a post-construction report that has been prepared by a professional engineer, certified wetland scientist, or qualified professional which 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 in accordance with Env-Wt 307.18(c).

THIS PERMIT IS SUBJECT TO THE FOLLOWING GENERAL CONDITIONS:

1. Pursuant to RSA 482-A:12, a copy of this permit shall be posted in a secure manner in a prominent place at the site of the approved project.
2. In accordance with Env-Wt 313.01(a)(5), and as required by RSA 482-A:11, II, work shall not infringe on the property rights or unreasonably affect the value or enjoyment of property of abutting owners.
3. In accordance with Env-Wt 314.01, a standard permit shall be signed by the permittee, and the principal contractor who will build or install the project prior to start of construction, and will not be valid until signed.
4. 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 this permit.
5. In accordance with Env-Wt 314.08(a), the permittee shall file a completed notice of completion of work and certificate of compliance with the department within 10 working days of completing the work authorized by this permit.
6. In accordance with Env-Wt 314.06, transfer of this permit to a new owner shall require notification to, and approval of, the NHDES.
7. The permit holder shall ensure that work is done in a way that protects water quality per Env-Wt 307.03; protects fisheries and breeding areas per Env-Wt 307.04; protects against invasive species per Env-Wt 307.05; meets dredging activity conditions in Env-Wt 307.10; and meets filling activity conditions in Env-Wt 307.11.

8. This project has been screened for potential impact to known occurrences of protected species and exemplary natural communities in the immediate area. Since many areas have never been surveyed, or only cursory surveys have been performed, unidentified sensitive species or communities may be present. This permit does not absolve the permittee from due diligence in regard to state, local or federal laws regarding such communities or species. This permit does not authorize in any way the take of threatened or endangered species, as defined by RSA 212-A:2, or of any protected species or exemplary natural communities, as defined in RSA 217-A:3.
9. In accordance with Env-Wt 307.06(a) through (c), no activity shall jeopardize the continued existence of a threatened or endangered species, a species proposed for listing as threatened or endangered, or a designated or proposed critical habitat under the Federal Endangered Species Act, 16 U.S.C. §1531 et seq.; State Endangered Species Conservation Act, RSA 212-A; or New Hampshire Native Plant Protection Act, RSA 217-A.
10. In accordance with Env-Wt 307.02, and in accordance with federal requirements, all work in areas under the jurisdiction of the U.S. Army Corps of Engineers (USACE) shall comply with all conditions of the applicable state general permit.

APPROVED:



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

THE SIGNATURES BELOW ARE REQUIRED TO VALIDATE THIS PERMIT (Env-Wt 314.01).

PERMITTEE SIGNATURE (required)

PRINCIPAL CONTRACTOR SIGNATURE (required)