



DEPARTMENT OF THE ARMY
NEW ENGLAND DISTRICT, CORPS OF ENGINEERS
696 VIRGINIA ROAD
CONCORD MA 01742-2751

February 4, 2022

Regulatory Division
CENAE-R-PEC
Permit Number: NAE-2021-02947

NH Dept. of Transportation
Attn: Andrew O'Sullivan
P.O. Box 483
Concord, NH 03302

Project No. 13761D
Andrew.Osullivan@dot.nh.gov

Dear Applicant:

This is to inform you that we have reviewed your application to conduct activities as described on the attached New Hampshire Approval Letter No. 2021-02109, dated 11/12/2021.

Based on the information you provided to the New Hampshire Wetlands Bureau, we have determined that your project, which may include a discharge of dredged or fill material into waters or wetlands, will have only minimal individual or cumulative environmental impacts on waters of the United States, including wetlands. Therefore, this work is authorized under General Permit No(s). 23 of the referenced Federal permit known as the Department of the Army General Permits for the State of New Hampshire (GPs). This work must be performed in accordance with the terms and conditions of the GPs and the following Special Condition(s):

Special Condition No. 1: Compensatory mitigation shall consist of purchasing 0.2381 wetland credits from the State of New Hampshire Aquatic Resource Mitigation Fund for impacts to palustrine forested, emergent, and riverine wetlands in the Merrimack River Service Area 5. The permittee shall purchase 0.2381 wetland credits (\$61,696.16) from the State of New Hampshire Aquatic Resource Mitigation Fund to offset impacts associated with federally regulated resources. This amount may only be valid for a period of one year from the date on the authorization letter, therefore the fee is subject to change. No discharge authorized by this permit may be conducted until the receipt of payment has been received from the New Hampshire Department of Environmental Services.

You are responsible for complying with all of the GP's requirements. Please review the referenced GPs carefully to familiarize yourself with its contents. You should ensure that whoever does the work fully understands the requirements and that a copy of the permit document is at the project site throughout the time the work is underway. Also, see a copy of the GPs at:

<http://www.nae.usace.army.mil/Missions/Regulatory/StateGeneralPermits/NewHampshireGeneralPermit.aspx>

This authorization expires August 18, 2022, unless the GPs are modified, suspended, or revoked before that. You must complete the work authorized herein by that date. If you do not, you must contact this office to determine the need for further authorization before continuing the activity. We recommend that you contact us *before* this authorization expires to discuss a time extension or reissuance of the authorization.

If you change the plans or construction methods for work within our jurisdiction, please contact us immediately to discuss modification of this authorization. This office must approve any changes before you undertake them.

This authorization requires you to complete and return the enclosed Compliance Certification Form within one month following the completion of the authorized work.

This authorization presumes that the work as described above and as shown on your plans noted above is in waters of the U.S. Should you desire to appeal our jurisdiction, please submit a request for an approved jurisdictional determination in writing to this office.

This permit does not obviate the need to obtain other Federal, state or local authorizations required by law, including those listed in the GPs. Performing work not specifically authorized by this determination or failing to comply with all the terms and conditions of the GPs may subject you to the enforcement provisions of Corps regulations.

We continually strive to improve our customer service. In order for us to better serve you, we would appreciate your completing our Customer Service Survey located at http://www.nae.usace.army.mil/reg/Customer_Service_Survey.pdf.

If you have questions concerning this, please contact Michael Hicks of my staff at (978) 318-8157, (978) 318-8335/8338, (800) 343-4789, or, if calling from within Massachusetts, (800) 362-4367.

Sincerely,

Frank J. DelGiudice
Chief, Permits & Enforcement Branch
Regulatory Division

Enclosures

Copies Furnished:

Mary Ann Tilton, NH DES; MaryAnn.Tilton@des.nh.gov

Linda Lester, NHDES; linda.lester@des.nh.gov

COMPLIANCE CERTIFICATION FORM

Permit Number: NAE-2021-02947

Project Manager Michael Hicks

Name of Permittee: NHDOT 13761D

Permit Issuance Date: 02/04/2022

Please sign this certification and return it to the following address upon completion of the activity and any mitigation required by the permit. You must submit this after the mitigation is complete, but not the mitigation monitoring, which requires separate submittals.

* MAIL TO: U.S. Army Corps of Engineers, New England District *
* Permits and Enforcement Branch C *
* Regulatory Division *
* 696 Virginia Road *
* Concord, Massachusetts 01742-2751 *

Please note that your permitted activity is subject to a compliance inspection by an U.S. Army Corps of Engineers representative. If you fail to comply with this permit you are subject to permit suspension, modification, or revocation.

I hereby certify that the work authorized by the above referenced permit was completed in accordance with the terms and conditions of the above referenced permit, and any required mitigation was completed in accordance with the permit conditions.

Signature of Permittee

Date

Printed Name

Date of Work Completion

() _____
Telephone Number

() _____
Telephone Number



The State of New Hampshire
Department of Environmental Services



Robert R. Scott, Commissioner

November 12, 2021

NH DEPT OF TRANSPORTATION
PO BOX 483
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: 2021-02109
Subject Property: F. E. Everett Turnpike Right-of-way, Bedford, Tax Map #ROW, Lot #ROW

Dear Applicant:

On November 12, 2021, 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 14,440 square feet (SF) of palustrine forested, emergent, and riverine wetlands for NHDOT Project 13761D to widen the existing two-lane portions of the F.E. Everett Turnpike roadway to three lanes in each direction with the addition of a northbound and southbound travel lane in Bedford, New Hampshire. The project begins north of the Exit 13 (Bedford toll plaza) interchange and continues north for approximately 1.3 miles through the I-293/NH Route 101 interchange. Impacts include 10,370 SF of permanent impacts to palustrine wetlands associated with the roadway widening and the required grading, and 4,070 SF of temporary palustrine wetland impacts associated with construction access and installation of erosion and sediment controls. Stream channel impacts include 29 SF/10 LF of temporary channel impacts to an intermittent stream. Compensatory mitigation includes a one-time payment of \$61,696.16 dollars into the Aquatic Resource Mitigation Fund ("ARM").

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 NHDOT NH Project No. 13761D, F.E. Everett Turnpike Widening-Northern Segment, Town of Bedford, NH dated October 5, 2021, and revised mitigation narrative dated October 11, 2021, as received by the NH Department of Environmental Services (NHDES) on October 14, 2021.
2. The permit is contingent on submittal of a check in the amount of \$61,696.16 to the Aquatic Resource Mitigation 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), the payment shall be received by NHDES within 120 days from the approval decision or NHDES will deny the application.
4. 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.
5. 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.
6. If Blanding's turtles are found laying eggs in a work area, please contact Melissa Doperalski (603-479-1129 cell) or Josh Megyesy (cell 978-578-0802) for further instructions.

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

7. All observations of Eastern Hognose Snake must be immediately reported to the NHFG Department (Melissa Doperalski 603-479-1129 cell) or Brendan Clifford 603-944-0885). Please attempt to photograph for species verification.
8. The applicant shall contact NH Audubon (Chris Martin) regarding avoiding potential impacts to nesting peregrine falcons in the project vicinity prior to construction activities. The Bald Eagle Management Plan should be referenced during construction to avoid impacting this species.
9. 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.
10. In accordance with Env-Wt 307.03(c)(2), water quality control measures shall be comprised of wildlife-friendly erosion control materials if erosion control blankets are utilized; a protected species or habitat has been documented; the proposed work is in or adjacent to a priority resource area (PRA); if specifically requested by Natural Heritage Bureau of the NH DNCR (NHB) or NH Fish and Game Department (NHF&G); or any if combination of the above conditions apply.
11. 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.
12. In accordance with Env-Wt 307.11(g), authorized temporary fill other than swamp mats, construction mats, and corduroy shall be placed on geotextile fabric laid on preconstruction wetland grade.
13. 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).
14. 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.
15. 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.
16. 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.
17. 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.
18. 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.
19. 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.
20. 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.
21. 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).
22. Restoration of all temporary impacts shall meet all of the conditions listed in Rule Env-Wt 307.12(a) through (i).
23. 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.
24. 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.

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 307.18(c), within 60 days of completion of construction, the applicant shall submit to the department 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.

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. The purpose of the project is to provide improved mobility, congestion relief, and improved safety along the project corridor.
3. The proposed NHDOT 13761D project is part of the larger 13761 project that involves widening three (3) segments of the existing two-lane portions of the F.E. Everett Turnpike in Nashua, Merrimack, and Bedford, New Hampshire. The 13761 project has been divided into five (5) separate contracts. Based on prior discussions and agreements with NHDES and the U.S. Army Corps of Engineers (Corps), each contract will be permitted separately, and cumulative impacts will be tracked for the entire project. The 13761D contract includes the northernmost segment located in the Town of Bedford. The project begins north of the Exit 13 (Bedford toll plaza) interchange and continues north for approximately 1.3 miles through the I-293/NH Route 101 interchange. The 13761D project proposes to widen the roadway from two to three lanes in each direction with the addition of a northbound and southbound travel lane. Existing travel lanes will receive a mill and overlay pavement treatment. There are minor modifications to the ramps at the I-293/NH Route 101 interchange required to accommodate the widening. There are no stream crossings proposed.
4. The proposed project will require 10,371 SF of permanent impacts to palustrine wetlands associated with the roadway widening and the required grading. The project will also involve approximately 4,070 SF of temporary palustrine wetland impacts associated with construction access and installation of erosion and sediment controls.
5. The NHDOT applicant has determined that the project includes drainage improvements that will meet Alteration of Terrain requirements to the extent practical based on the on the July 8, 2011 Memorandum of Agreement (MOA) between Departments. NH Department of Transportation (NHDOT) internal controls for design, maintenance and construction of projects were determined to be substantially equivalent to AOT requirements. Consistent with practices and design approaches outlined in Stipulation II of the MOA, the NHDOT determined appropriate on-site minimization and water quality protection measures to prevent direct discharge to surface waters and wetlands (WOTUS). The NHDOT determined the design has incorporated appropriate protective practices which are substantially equivalent to the requirements established by DES under the terrain alteration statute, and implementing rules: RSA 485-A: 17, Chapter Env-Wq 1500 and Chapter Env-Wq 1700.

6. The NH Natural Heritage (NHB20-2699) ("NH NHB") database has been checked which identified multiple species within the flagged project area. The New Hampshire Fish & Game (NHFG) project recommendations have been included as permit conditions. The applicant has completed surveys for rare plants and has provided documentation of coordination with NH NHB.
7. The applicant has confirmed that there were no vernal pools, exemplary natural communities, or State listed species known to occur in the project area. The applicant has assessed the wetland functions and values and determined the proposed impact areas of forested and emergent wetlands were not determined to be of high ecologic integrity.
8. The project was reviewed at the February 21, 2018 and October 21, 2020 Natural Resource Agency Meetings.
9. This approval is contingent on receipt by DES of a one-time payment of \$61,696.16 dollars into the Aquatic Resource Mitigation Fund ("ARM").

Pursuant to RSA 482-A:28, **this approval is contingent on receipt of a one-time in-lieu mitigation payment of \$61,696.16 to the NHDES Aquatic Resource Mitigation (ARM) Fund.** NHDES recommends delaying payment until after the 30-day reconsideration period ending March 12, 2022. In accordance with Env-Wt 803.11(c)(2) and Env-Wt 807.01(b), if NHDES has not received the in-lieu mitigation payment within 120 days of this letter, or by March 12, 2022, 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 12, 2021.** 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) 271-4188.

Sincerely,



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

cc: Property Owner
Agent
Municipal Clerk/Conservation Commission
ec: Andrew O'Sullivan; NHDOT Bureau of Environment