



The State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES



Thomas S. Burack, Commissioner

April 25, 2014

NH Dept. of Transportation
PO Box 483
Concord, NH 03302-0483

RE: NH Dept. of Transportation - File # 2013-02883 - Durham

Tax Map/Lot # Right-of-Way

Dear Mr. Urban:

Attached please find Wetlands Permit # 2013-02883 to modify the existing Route 108 roadway that currently has 12 ft. lanes to be 11 ft. travel lanes and 4 ft. shoulders to improve bicycle, pedestrian and vehicular safety along with providing several bus pull-off areas impacting 66,606 sq. ft. (21,114 sq. ft. temporary) of palustrine, riverine and lacustrine wetlands. Mitigation for the proposed impacts includes culvert upgrades, turtle sustainability improvements and through a payment into the Aquatic Resource Mitigation Fund.

NHDOT project #13080

Request a waiver of rule Env-Wt 806.05(b), the mitigation in lieu fee payment requirement be extended from 120 days of the approval to be 240 days.

The decision to approve this application was based on the following findings:

1. This is a major impact project per Administrative Rule Env-Wt 303.02(c), alteration of more than 20,000 sq. ft. of nontidal wetlands, surface waters and banks.
2. The need for the proposed impacts to improve bicycle, pedestrian and vehicular safety has been demonstrated by the applicant per Env-Wt 302.01.
3. The applicant has provided evidence which demonstrates that this proposal is the alternative with the least adverse impact to areas and environments under the department's jurisdiction per Env-Wt 302.03.
4. The applicant has demonstrated by plan and example that each factor listed in Env-Wt 302.04(a), Requirements for Application Evaluation, has been considered in the design of the project.
5. The project was discussed and coordinated through discussions on seven occasions from 2002 to 2013 at the monthly Natural Resource Agency Meeting held at the NH Dept. of Transportation.
6. At the Natural Resource Agency Meeting held on July 17, 2013 the NHDOT presented the draft mitigation proposal to show the costs of mitigation and to clarify how the impacts would be calculated as they related to the Aquatic Resource Mitigation fund (ARM fund).
7. On Oct. 21, 2013, the Department of Environmental Services Wetlands Bureau (DES) received an application to: Modify the existing Route 108 roadway that currently has 12 ft. lanes to be 11 ft. travel lanes and 4 ft. shoulders to improve bicycle, pedestrian and vehicular safety along with providing several bus pull-off areas impacting 66,606 sq. ft. (21,114 sq. ft. temporary) of palustrine, riverine and lacustrine wetlands. Mitigation for the proposed impacts is through a payment into the Aquatic Resource Mitigation Fund.

DES Web site: www.des.nh.gov

P.O. Box 95, 29 Hazen Drive, Concord, New Hampshire 03302-0095

Telephone: (603) 271-3503 • Fax: (603) 271-6588 • TDD Access: Relay NH 1-800-735-2964

8. On Nov. 18, 2013 the DES received comments from the Lamprey Rivers Advisory Committee noting the Erosion Control Plans are too general, oil/water separators and best management practices for salt application should be considered along with prompt re-vegetation with native species.
9. On Dec. 10, 2013 the DES received comments from the Durham Boat Company, Inc. noting concerns of flooding and providing a detailed history of the area.
10. On Dec. 24, 2013 the DES received comments from Roger Lamson noting concerns with drainage, flow and possible road failure.
11. On Jan. 12, 2014 the DES received an e-mail from the Durham Conservation Commission noting their concerns of flooding and the project altering the natural hydrology although see some positive benefits. It was noted there were two attachments.
12. On Feb. 4, 2014 the DES received modified plan sheets 15 and 16 changing drainage design including up sizing a proposed culvert outlet from 15 in. to 24 in.
13. On Feb. 11, 2014 the DES responded to the Durham Conservation Commission stating that their e-mail attachments could not be opened and any information should be printed and mailed to be placed in the file.
14. On Feb. 14, 2014 the DES received a letter of concern relative to flooding from Stephan Burns.
15. On Feb. 14, 2014 the DES received a full size plan set including the modified plan sheets 15 and 16 along with half scale plans of cross sections.
16. On March 28, 2014 the DES received a report from the Newmarket Conservation Commission noting no objection to the application.
17. On March 28, 2014 the DES received a summary of a meeting held on Feb. 20, 2014 regarding hydraulic modeling and project timelines from the NHDOT.
18. In accordance with RSA 482-A:8, DES found the project was of substantial public interest and held a public hearing on March 28, 2014.
19. At the public hearing on March 28, 2014 numerous persons testified and submitted information relative to the concerns of flooding.
20. On April 4, 2014 the DES, along with a representative from the US Army Corps of Engineers, inspected numerous locations along the project to assess the information in the record.
21. On April 16, 2014 the DES received a memo from the NHDOT with a Drainage Summary Table and an additional memo on the Lamprey River Hydraulic Model attached. The memo summarizes the history of the project design, the mitigation measures and the need to raise the profile in order to install larger culverts. The NHDOT states "that the raise in profile, in conjunction with the proposed culvert upgrades, will have no adverse effects on the operation and effectiveness of the Floodplain, and will result in no increase of water on abutting properties."
22. On April 22, 2014 the DES received a copy of the letter to the NHDOT dated April 22, 2014 from the Federal Highway Administration concurring that the subject project qualifies for both the Programmatic Wetlands Finding and Programmatic Floodplain Finding.

Mitigation Findings:

23. The request to waive Rule Env-Wt 806.05 (b), requiring payment within 120 days, is waived as the applicant has met the criteria required per rule Env-Wt 204.04 as the request will not result in an adverse impact to the natural environment and granting the request is consistent with the intent and purpose of the rule.
24. The applicant has reviewed and provided some on-site options for mitigation. The department has determined that this project is acceptable for payment to the Aquatic Resource Mitigation (ARM) Fund for the remaining portion of the mitigation.

25. The payment calculated for the proposed wetland loss equals \$139,996.25.
26. The Department decision is issued in letter form and upon receipt of the ARM fund payment, the Department shall issue a posting permit in accordance with Env-Wt 803.08(f).
27. The payment into the ARM fund shall be deposited in the DES fund for the Salmon Falls - Piscataqua Rivers watershed per RSA 482-A:29.

Any person aggrieved by this decision may appeal to the N.H. Wetlands Council ("Council") by filing an appeal that meets the requirements specified in RSA 482-A:10, RSA 21-O:14, and the rules adopted by the Council, Env-WtC 100-200. The appeal must be filed **directly with the Council within 30 days** of the date of this decision and must set forth fully **every ground** upon which it is claimed that the decision complained of is unlawful or unreasonable. Only those grounds set forth in the notice of appeal can be considered by the Council.

Information about the Council, including a link to the Council's rules, is available at <http://nhec.nh.gov/> (or more directly at <http://nhec.nh.gov/wetlands/index.htm>.) Copies of the rules also are available from the DES Public Information Center at (603) 271-2975.

Your permit must be signed, and a copy must be posted in a prominent location on site during construction.

If you have any questions, please contact our office at (603) 271-2147.

Sincerely,



Rene J. Pelletier
Environmental Programs Administrator
DES Land Resources Management Program

cc: Durham Conservation Commission/ Durham Municipal Clerk
Newmarket Conservation Commission
Durham Boat Company
CHA Inc.
Roger Lamson
Stephan Burnes
Lamprey River LAC



The State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES



Thomas S. Burack, Commissioner

WETLANDS AND NON-SITE SPECIFIC PERMIT 2013-02883

Permittee: NH Dept. of Transportation
PO Box 483
Concord, NH 03302-0483

Project Location: NH Route 108, Durham
Durham Tax Map/Lot No. N/A / N/A

Waterbody: Lamprey River

**NOTE--
CONDITIONS**

APPROVAL DATE: 04/24/2014 EXPIRATION DATE: 04/24/2019

Based upon review of the above referenced application, in accordance with RSA 482-A and RSA 485-A:17, a Wetlands Permit and Non-Site Specific Permit was issued. This permit shall not be considered valid unless signed as specified below.

PERMIT DESCRIPTION: Modify the existing Route 108 roadway that currently has 12 ft. lanes to be 11 ft. travel lanes and 4 ft. shoulders to improve bicycle, pedestrian and vehicular safety along with providing several bus pull-off areas impacting 66,606 sq. ft. (21,114 sq. ft. temporary) of palustrine, riverine and lacustrine wetlands. Mitigation for the proposed impacts includes culvert upgrades, turtle sustainability improvements and through a payment into the Aquatic Resource Mitigation Fund. NHDOT project #13080

Request a waiver of rule Env-Wt 806.05(b), the mitigation in lieu fee payment requirement, be extended from 120 days of the approval to be 240 days.

**THIS APPROVAL IS SUBJECT TO THE FOLLOWING PROJECT SPECIFIC
CONDITIONS:**

1. All work shall be in accordance with plans by NHDOT Bureau of Highway Design noting Wetland Impact Plans date October 2, 2013 and sheets 15 and 16 noting Wetland Impact Plans date February 3, 2014, as received by the Department on February 14, 2014.
2. At least 48 hours prior to the start of construction, a pre-construction meeting shall be held with NHDES Land Resources Management Program staff at the project site, at the NHDES Office in Concord, N.H. or NHDOT Office in Concord, N.H. to review the conditions of this wetlands permit.
3. It shall be the responsibility of the permittee to schedule and coordinate the pre-construction meeting providing at least 5-day notice to the NHDES Wetlands Bureau and / or other Land Resources Management Program staff, and the meeting shall be attended by the permittee, the contract administrator(s), wetlands scientist(s), erosion control monitor, and the contractor(s) responsible for performing the work.

4. Dredged material shall be placed out of the DES Wetlands Bureau jurisdiction.
5. Cofferdams shall not be installed during periods of high flow, whether due to seasonal runoff or precipitation. Once a cofferdam is fully effective, confined work can proceed without restriction.
6. Prior to commencing work on a substructure located within surface waters, a cofferdam shall be constructed to isolate the substructure work area from the surface waters.
7. Temporary cofferdams shall be entirely removed immediately following construction.
8. Construction equipment shall not be located within surface waters.
9. Discharge from dewatering of work areas shall be to sediment basins that are: a) located in uplands; b) lined with hay bales or other acceptable sediment trapping liners; and c) set back as far as possible from wetlands and surface waters, in all cases with a minimum of 20 feet of undisturbed vegetated buffer.
10. Appropriate turbidity controls shall be installed prior to construction, shall be maintained during construction such that no turbidity escapes the immediate dredge area, and shall remain in place until suspended particles have settled and the water at the work site has returned to normal clarity.
11. Within three days of the last activity in an area, all exposed soil areas, where construction activities are complete, shall be stabilized by seeding and mulching during the growing season, or if not within the growing season, by mulching with tack on slopes steeper than 3:1 or netting /matting and pinning on slopes steeper than 2:1.
12. Where construction activities have been temporarily suspended within the growing season, all exposed soil areas shall be stabilized within 14 days by seeding and mulching or if temporarily suspended outside the growing season, all exposed areas shall be stabilized within 14 days by mulching, mulching with tack on slopes steeper than 3:1 and stabilized by matting and pinning on slopes steeper than 2:1.
13. The contractor responsible for completion of the work shall utilize techniques described in the New Hampshire Stormwater Manual, Volume 3, Erosion and Sediment Controls During Construction (December 2008).
14. Extreme precautions to be taken within riparian areas to limit unnecessary removal of vegetation during road construction and areas cleared of vegetation to be re-vegetated as quickly as possible.
15. There shall be no further alteration to wetlands or surface waters without amendment of this permit.
16. Standard precautions shall be taken to prevent import or transport of soil or seed stock from nuisance, invading species such as purple loosestrife or Phragmites.
17. All activity shall be in accordance with the Shoreland Water Quality Protection Act, RSA 483-B.
18. The mitigation shall be as stated in the Inter-Department memo dated July 18, 2013 as received on July 25, 2013.
19. This approval is contingent on receipt by DES of a onetime payment of \$139,996.25 to the DES Aquatic Resource Mitigation (ARM) Fund. The payment shall be received by DES within 240 days of the date of the approval letter or the application will be denied.

GENERAL CONDITIONS THAT APPLY TO ALL DES WETLANDS PERMITS:

1. A copy of this permit shall be posted on site during construction in a prominent location visible to inspecting personnel;
2. This permit does not convey a property right, nor authorize any injury to property of others, nor invasion of rights of others;
3. The Wetlands Bureau shall be notified upon completion of work;
4. This permit does not relieve the applicant from the obligation to obtain other local, state or federal permits, and/or consult with other agencies as may be required (including US EPA, US Army Corps of Engineers, NH Department of Transportation, NH Division of Historical Resources (NH Department of Cultural Resources), NHDES-Alteration of Terrain, etc.);
5. Transfer of this permit to a new owner shall require notification to and approval by DES;
6. This permit shall not be extended beyond the current expiration date.
7. This project has been screened for potential impacts to **known** occurrences of rare species and exemplary natural communities in the immediate area. Since many areas have never been surveyed, or have received only cursory inventories, 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.
8. Review enclosed sheet for status of the US Army Corps of Engineers' federal wetlands permit.

APPROVED: _____



Rene Pelletier
Environmental Programs Administrator
DES Land Resources Management Programs

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BY SIGNING BELOW I HEREBY CERTIFY THAT I HAVE FULLY READ THIS PERMIT AND AGREE TO ABIDE BY ALL PERMIT CONDITIONS.

OWNER'S SIGNATURE (required)

CONTRACTOR'S SIGNATURE (required)