

BUREAU OF ENVIRONMENT CONFERENCE REPORT

SUBJECT: NHDOT Monthly Natural Resource Agency Coordination Meeting

DATE OF CONFERENCE: June 18, 2008

LOCATION OF CONFERENCE: John O. Morton Building

ATTENDED BY:

NHDOT

Jon Evans
Kevin Nyhan
Cathy Goodmen
Alex Vogt
Bob Aubrey
John Corrigan
Mike Dugas

NHDES

Arlene Allen
Gino Infascelli
Lori Sommer

NH Fish and Game

Kim Tuttle
Mike Marchand

**NH Natural Heritage
Bureau**

Melissa Coppola

EPA

Mark Kern

Army Corps of Engineers

Rich Roach

**NH Attorney General's
Office**

Lynmarie Cusack

CMA Engineers

Roch Larochelle

Jo LLC

John O'Neil

Other

Q. Peter Nash
Sam Tamposi Jr.
Morgan Hollis

(When viewing these minutes online, click on an attendee to send an e-mail)

PRESENTATIONS/ PROJECTS REVIEWED THIS MONTH:

(minutes on subsequent pages)

Finalization of May 21, 2008 Meeting Minutes.....	2
Bedford-Manchester-Londonderry, DPR-F-0047(001), 11512	2
Kingston, 14973 (Non-Federal)	4
Rye, MGS-BRF-X-T-0221(010), 13269	5
Gorham, X-A000(700), 15337	6
Alton, STP-X-000S(308), 12894.....	6
Amherst, 14893 (Non-Federal)	6

(When viewing these minutes online, click on a project to zoom to the minutes for that project)

NOTES ON CONFERENCE:

Finalization of May 21, 2008 Meeting Minutes

The May 21, 2008 meeting minutes were finalized.

Bedford-Manchester-Londonderry, DPR-F-0047(001), 11512

This project involves the construction of the Manchester-Boston Regional Airport Access Road. Ballinger Properties has notified the Department that one property owner (Tamposi-Nash, parcels 1069 and 5002) would like to create two detention ponds within the conservation easement that the Department purchased to mitigate wetland impacts associated with the access road construction.

The following minutes for this project were provided by attorney Morgan A. Hollis:

The meeting began at 9:05 a.m. The meeting was called for purpose of allowing the property owner to identify to the Resource Agencies two areas of proposed improvements within the Conservation Easement Area. The two areas identified were located on Parcel #1069 and Parcel #5002.

The property owner's attorney, Morgan A. Hollis, presented on behalf of the owner. Attorney Hollis explained that the two proposals deal with the addition of detention basins within the Conservation Easement Area. The owner desires to perform certain work on Parcel #5002 creating a new detention basin, and on Parcel #1069 enlarging an existing basin and creating a berm and storm water treatment swale running from the outflow of an existing detention basin outside of the easement area through a portion of the easement area to the existing detention basin.

Attorney Hollis read the language of the Declaration of Taking as to Parcel #5002, which imposed the restriction that detention basins are not permitted. While there was a reserved right to the property owner to maintain existing storm water systems, new systems were expressly not permitted. However, Attorney Hollis represented that the owner understood this, but was hoping to present the facts and circumstances surrounding the particular area of easement of Parcel #5002 and the proposed location of the detention basin and demonstrate that permitting such construction in the particular area as proposed would not be contrary to the purposes of the easement. Attorney Hollis further explained that he was presenting with the hopes of receiving input from the agencies on the original purposes and intent of the easement and a reaction as to the proposed uses and whether they would be contrary.

Attorney Hollis outlined the construction proposed on Parcel #5002, its location, and the fact that when constructed, there will still be sufficient area for wildlife to transit through the corridor.

Attorney Hollis presented the proposed expansion and improvements required in Parcel #1069, explaining that this was a continuation of the existing outfall from the existing detention basin, outside of the easement. He also indicated that these impacts are necessary for the transportation of the outflow water across lands within the easement into the existing detention basin system,

within the easement, so as to prevent uncontrolled flow from the outflow across the easement area onto private property.

Questions were raised with regard to the exact easement language, and the easement language for both areas were read into the record. Existing detention basins may remain and be enlarged in Parcel #1069 with approval of the State.

Mr. Roach spoke to the original purpose of the easements to allow wildlife to move within a corridor. Mr. Roach recognized that some improvements were already complete prior to the creation of the wildlife corridor, but the purpose of the creation of the easement corridor was to leave a natural riparian system and sufficient area for a wildlife corridor function from one end to the other. Mr. Roach expressed a concern that the owner was asking the State to accommodate development which was not the original intent of the easement. He specifically requested that the owner outline the necessity for the detention in the corridor, and why it could not be maintained outside of the corridor. Further, he requested whether approving the request would help achieve the goals of the mitigation area and raised the concern that there already were impositions within the mitigation area, whether they existed prior to the taking or not, that had adverse impacts on the goals. He indicated that perhaps the owner might be willing to consider addressing some of these preexisting elements as part of its application.

Ms. Sommer indicated that she felt that the restrictions imposed by the taking were a deed restriction, and that the Agency should not compromise on the original goal of maintaining no structures within the mitigation area. Ms. Sommer outlined the background of the identification of the corridor area and the purpose of preserving the area for the greater environmental benefit.

Attorney Hollis outlined the history of the property involving EPA permitting and planning by the property owner's engineer for future development, which required the design of storm water treatment systems such that storm water runoff from the property owner's property which was outside of the mitigation area needed to ultimately work its way through the mitigation area to the existing waterways and that maintaining the detention basins outside of the mitigation area created a number of problems. Attorney Hollis explained that relocating preplanned and designed detention ponds outside the easement substantially impacted the owner and that the closer the detention basins were to the existing brook in Parcel #5002, the better the infiltration. Attorney Hollis explained the topography of the area and pointed out the existing features of the Conservation Easement in Parcel #5002 where the proposed detention basin would be constructed. Attorney Hollis also indicated the existing structures immediately outside of the mitigation area on Parcel #1069 and the importance to allow the outflow water to traverse to the existing detention basins, and the need for enlargement of the existing detention basin to accommodate emergency overflow spillage so as not to create a problem further downstream.

There was additional discussion by Agency members with regard to the need to see the property in the field and conduct a site walk. John O'Neill, engineer for the property owner, also addressed the Agencies with regard to the engineering details of the proposed request and the hydrology considerations involved in requesting encroachment within the mitigation easement area, as well as the need to allow control of drainage within the easement.

Both Mr. Vogt of the DOT and Attorney General Lyn Cusack explained the current status of the taking matter before the Board of Tax and Land Appeals and the benefit to receiving some feedback from the Agency as to the purpose and intent of the easement, language and restrictions to be imposed not only on Parcels #5002 and #1069, but all of the easement areas, so that proper future planning and proper evaluation of future requests of what might be permitted within the easement area would be easier.

It was agreed that a site walk would be arranged and that this matter would be continued to the August coordination meeting.

This project was previously reviewed on the following dates: 11/14/96, 4/16/97, 5/28/97, 8/20/97, 12/16/98, 1/20/99, 10/20/99, 12/15/99, 2/16/00, 3/22/00, 6/14/00, 3/21/01, 4/18/01, 1/16/02, 8/21/02, 6/18/03, 3/24/04, 7/21/04, 9/15/04, 10/20/04, 12/15/04, [9/21/05](#), [3/15/06](#), [5/17/06](#), [8/23/06](#) & [3/19/08](#).

Kingston, 14973 (Non-Federal)

This Municipally Managed project involves the replacement of an existing red-listed bridge located on New Boston Road over the Powwow River (Br. No. 116/113). The current crossing consists of badly deteriorated twin 9.5'x5.5' corrugated arch culverts which are exhibiting severe rust and section loss at the water line. The bridge is currently posted at 10 tons, which has caused distress for local business, trucking and school bus routes. CMA Engineers, Inc. has been retained by the Town to design the project and is now in the beginning phases of the Engineering Study seeking input on area resources.

Roch Larochelle of CMA Engineers presented the project using a USGS map of the subject area along with a set of photos and large scale colored plan depicting the existing conditions and pertinent features of the site. The Existing 24-foot wide paved roadway and associated embankment generally act as a causeway bounding the Powwow River from the Powwow Pond and it is understood that the existing culvert crossing was completely reconstructed by Town forces in the early 70's who excavated the roadway/causeway and placed the arch structures on concrete footings. The Pond reflects a natural impoundment, which is controlled on either side of the causeway by dams (Great Pond Dam upstream/Trickling Falls Dam downstream). The pond is drawn-down annually from September 15th through May.

The proposed project will likely involve approximately 400-500 feet of roadway approach work including new guardrail and a single concrete replacement structure. Several alternative bridge/culvert designs are to be evaluated as part of the Engineering Study however through previous feasibility studies completed for the Town, the preferred alternative will likely consist of a 30-foot wide embedded box-culvert with natural materials placed in the base. The exact size of the new culvert has not yet been determined however no significant profile modifications are anticipated as part of this project and a Minor Wetland Permit is anticipated with impacts under 3,000 SF. The Town is hoping to complete the project by the spring of 2009 with possible construction through the winter.

No contact letters have been sent out yet to any of the resource agencies, nor have wetlands been flagged since the project is still in the very early stages of development pending contract approval. However, based on recent coordination with the NH Natural Heritage Bureau, there are two species that have been identified in the project area including Eastern Pond Mussels and Banded Sunfish.

Kim Tuttle of NHF&G did not have any specific concerns of impacts to any specific species and noted that the replacement of the existing culverts with a larger single structure would help to enhance recreational boater passage from the Powwow River to the Powwow Pond.

Gino Infascelli of NHDES had no immediate concerns with the embedded box culvert as proposed.

Rich Roach with the Army Corps of Engineers commented that the project did not raise any concerns so long as the overall footprint of the causeway does not expand and that as presented this project would qualify for coverage under the NH PGP. He stated that there would be no need to see the project so long as the overall footprint does not expand.

This project has not been previously discussed at a Monthly Natural Resource Agency Coordination Meeting.

Rye, MGS-BRF-X-T-0221(010), 13269

This project consists of the replacement of the NH Route 1A timber bridge over Seavey Creek in Rye.

After a site visit by Rich Roach and Mike Johnson, NOAA/NMF, it was determined that this project will impact salt marsh, requiring mitigation and an Individual Corps permit. Bob Aubrey showed the location of the impacts on a project plan and calculated it to be approximately 2,000 square feet of impact to salt marsh. Those present agreed that mitigation could consist of an in-lieu-fee contribution to the DES Aquatic Resources Mitigation (ARM) Fund.

B. Aubrey also noted that the Town of Rye Conservation Commission had requested some additional gravel for a footpath on the western side of the telephone pole on the Town of Rye land, to aid boaters bringing their small boats to the water. Cheri Patterson and Melissa Coppola requested that no additional gravel be placed within the mudflat/tidal area, beyond what is there now. B. Aubrey confirmed that the proposed gravel would be in an area that already has gravel and will not extend into the mud flats. The Department will attempt to re-vegetate the slopes with native, salt tolerant species. Several attendees noted that since the re-vegetation would not be done within tidal waters, seasonal construction restrictions would not be necessary. In addition, the Department would need to monitor the slopes to ensure that the re-vegetation survived. NHDOT agreed with the in-lieu-fee contribution to the ARM fund. After the meeting, this was calculated to be \$14,216.22.

This project was previously reviewed on the following dates: 4/18/01, [1/24/07](#), [3/21/07](#) & [2/20/08](#).

Gorham, X-A000(700), 15337

Kevin Nyhan introduced a new Federally funded program for the Department: Safe Routes to Schools (SRTS). He introduced John Corrigan, the program administrator. The program works much like the Transportation Enhancement (TE) program with competition for limited funding. There are two types of possible projects: infrastructure and non-infrastructure. The non-infrastructure projects include efforts like education in schools. The infrastructure improvements include projects similar to the subject Gorham project.

This project involves the construction of a sidewalk on the grounds of the Edward Fenn School from the building entrance to Main Street. Kevin Nyhan stated that even though there are no environmental impacts, and no environmental permits needed for this project, he wanted to review this first infrastructure project. More will be coming in the upcoming months.

No one had any concerns with the project.

This project has not been previously discussed at a Monthly Natural Resource Agency Coordination Meeting.

Alton, STP-X-000S(308), 12894

This project, which widened NH Route 28 in Alton from the traffic circle north approximately 4.0 miles, was constructed in 2004. Mitigation was required, however it was deferred at that time. To date, it has not been completed. At the time, the Department proposed incorporating the mitigation into the Alton-Gilford project, however that project has since been removed from the 10-Year Plan. Lori Sommer indicated that an in lieu fee payment would mitigate the impacts. After subtracting out what she could determine to be impacted ditches with replaced functionality, the mitigatable impacts are approximately 43,986 sf. This amounts to an in lieu fee payment of approximately \$131,766.47.

Rich Roach indicated that the project should be finally mitigated within one year. Kevin Nyhan stated that although an in lieu fee payment is possible, he could not take other options off the table without contacting the DOT Front Office. K. Nyhan asked R. Roach if he would buy into the mitigation if the State were amendable to a proposal. He indicated that the Corps is focusing on in lieu fee payments as mitigation.

When mitigation is proposed by DOT the project will be reviewed again. K. Nyhan will review the plans to confirm the mitigatable impacts as evaluated by L. Sommer.

This project was previously reviewed on the following dates: 12/19/01, 9/17/02 & 12/18/02.

Amherst, 14893 (Non-Federal)

Jon Evans introduced this project, which is located on NH Route 101 in Amherst near the intersections of Old Manchester Road and Pine Road. The project involves relocating Old

Manchester Road so that its intersection with NH Route 101 will be directly across from Pine Road to provide a dedicated left turn lane into each roadway. It is anticipated that this project will be constructed using NHDOT Highway Maintenance forces.

J. Evans indicated that the project would require the Department to acquire a strip of right-of-way owned by the Town of Amherst along the southern side of NH Route 101 for the relocation of Old Manchester Road. J. Evans noted that an initial search of the NH GRANIT GIS database indicated that the subject property contained a conservation easement. An abstract of the property was subsequently conducted by the Bureau of Right-of-Way to determine the extent of any conservation easements within the project area. The Bureau of Right-of-Way did not find any conservation easements on record with the Hillsborough County Registry of Deeds and therefore it is assumed that this project will not have an effect on any registered conservation properties. J. Evans also indicated that it is not anticipated that this project will have any impacts to wetlands, endangered/threatened species or impaired waters. No concerns were expressed by anyone present.

This project has not been previously discussed at a Monthly Natural Resource Agency Coordination Meeting.