

PUBLIC NOTICE

U.S. ARMY
US Army Corps
of Engineers
New England District

Comment Period Begins: May 14, 2024

Comment Period Ends: May 29, 2024

File Number: NAE-2023-00723

In Reply Refer to: Stephanie Morrison, Regulatory Division

Phone: (978) 318-8003

Email: stephanieann.prokopmorrison@usace.army.mil

The District Engineer, U.S. Army Corps of Engineers, New England District (USACE), has received a permit application, file number NHDES 2023-01406 to conduct work in waters of the United States from ADL 325 Little Harbor Road Trust, Stephen Roberts. This work is proposed in the Piscataqua River at 325 Little Harbor Road, Portsmouth, NH. The site coordinates are: Latitude 43.064469, Longitude -70.746374.

The work involves the replacement of existing bridge that is currently failing with a new bridge on wooden piles that will span the Piscataqua River. The existing causeway within intertidal water will be removed and the placement of new fill for the south bridge abutment will result in a net increase of 280 square feet of permanent impact that will be mitigated for in addition to 3,443 square feet of permanent impact to adjacent salt marsh. Mitigation for these impacts will be required in the form of a one time In-Lieu Fee payment to the NH Aquatic Resource Mitigation Fund. This project has been designed to minimize impacts to the jurisdictional area. There is no alternative layout that would further reduce the impacts as this is the only point of access to the Island.

The work is shown on the enclosed plans titled Lady Isle Bridge Replacement Permitting Plans on 9 sheets, and dated May 24, 2023.

AUTHORITY

Permits are required pursuant to:

- Section 10 of the Rivers and Harbors Act of 1899
- Section 404 of the Clean Water Act
- Section 103 of the Marine Protection, Research and Sanctuaries Act.
- Section 14 of the Rivers and Harbors Act of 1899 (33 USC 408)

The decision whether to issue a permit will be based on an evaluation of the probable impact of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which may reasonably accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered, including the cumulative effects thereof; among those are: conservation, economics, aesthetics, general environmental concerns, wetlands, cultural value, fish and wildlife values, flood hazards, flood plain value, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food production and, in general, the needs and welfare of the people.

The USACE is soliciting comments from the public; federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. The USACE will consider all comments received to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an environmental assessment and/or an environmental impact statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

ESSENTIAL FISH HABITAT

The Magnuson-Stevens Fishery Conservation and Management Act, as amended by the Sustainable Fisheries Act of 1996 (Public Law 104-267), requires all federal agencies to consult with the National Marine Fisheries Service on all actions, or proposed actions, permitted, funded, or undertaken by the agency, that may adversely affect Essential Fish Habitat (EFH). Essential Fish Habitat describes waters and substrate necessary for fish for spawning, breeding, feeding or growth to maturity.

This project will impact 0.085 acres of EFH. This habitat consists of inter-tidal unconsolidated muddy shoreline and inter-tidal emergent salt marsh. Loss of this habitat may adversely affect species that use these waters and substrate. However, the District Engineer has made a preliminary determination that the site-specific adverse effect will not be substantial. Further consultation with the National Marine Fisheries Service regarding EFH conservation recommendations is being conducted and will be concluded prior to the final decision.

NATIONAL HISTORIC PRESERVATION ACT

Based on our initial review of the proposed project and coordination with the State Historic Preservation Officer and the Tribal Historic Preservation Officer for the Wampanoag Tribe of Gay Head (Aquinnah), no historic properties were affected within the permit area. Additional review and consultation to fulfill requirements under Section 106 of the National Historic Preservation Act of 1966, as amended, will be ongoing as part of the permit review process.

ENDANGERED SPECIES CONSULTATION

The USACE is reviewing the application for the potential impact on federally-listed threatened or endangered species and their designated critical habitat pursuant to

CENAE-R
File No. NAE-2023-00723

section 7 of the Endangered Species Act as amended. Our review will be concluded prior to the final decision.

OTHER GOVERNMENT AUTHORIZATIONS

The states of Connecticut, Maine, Massachusetts, New Hampshire and Rhode Island have approved Coastal Zone Management Programs. Where applicable, the applicant states that any proposed activity will comply with and will be conducted in a manner that is consistent with the approved Coastal Zone Management Program. By this public notice, we are requesting the state concurrence or objection to the applicant's consistency statement.

The following authorizations have been applied for, or have been, or will be obtained:

- (X) Permit, license or assent from State.
- (X) Permit from local wetland agency or conservation commission.
- (X) Water Quality Certification in accordance with Section 401 of the Clean Water Act.

COMMENTS

The Corps of Engineers is soliciting comments from the public; Federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity. People submitting comments are advised that all comments received will be available for public review in their entirety and will be considered a matter of public record.

Comments should be submitted in writing by the above date. If you have any questions, please contact Stephanie Morrison, Regulatory Division, at stephanieann.prokopmorrison@usace.army.mil, (978) 318-8003, (800) 343-4789 or (800) 362-4367.

Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider the application. Requests for a public hearing shall specifically state the reasons for holding a public hearing. The USACE holds public hearings for the purpose of obtaining public comments when that is the best means for understanding a wide variety of concerns from a diverse segment of the public.

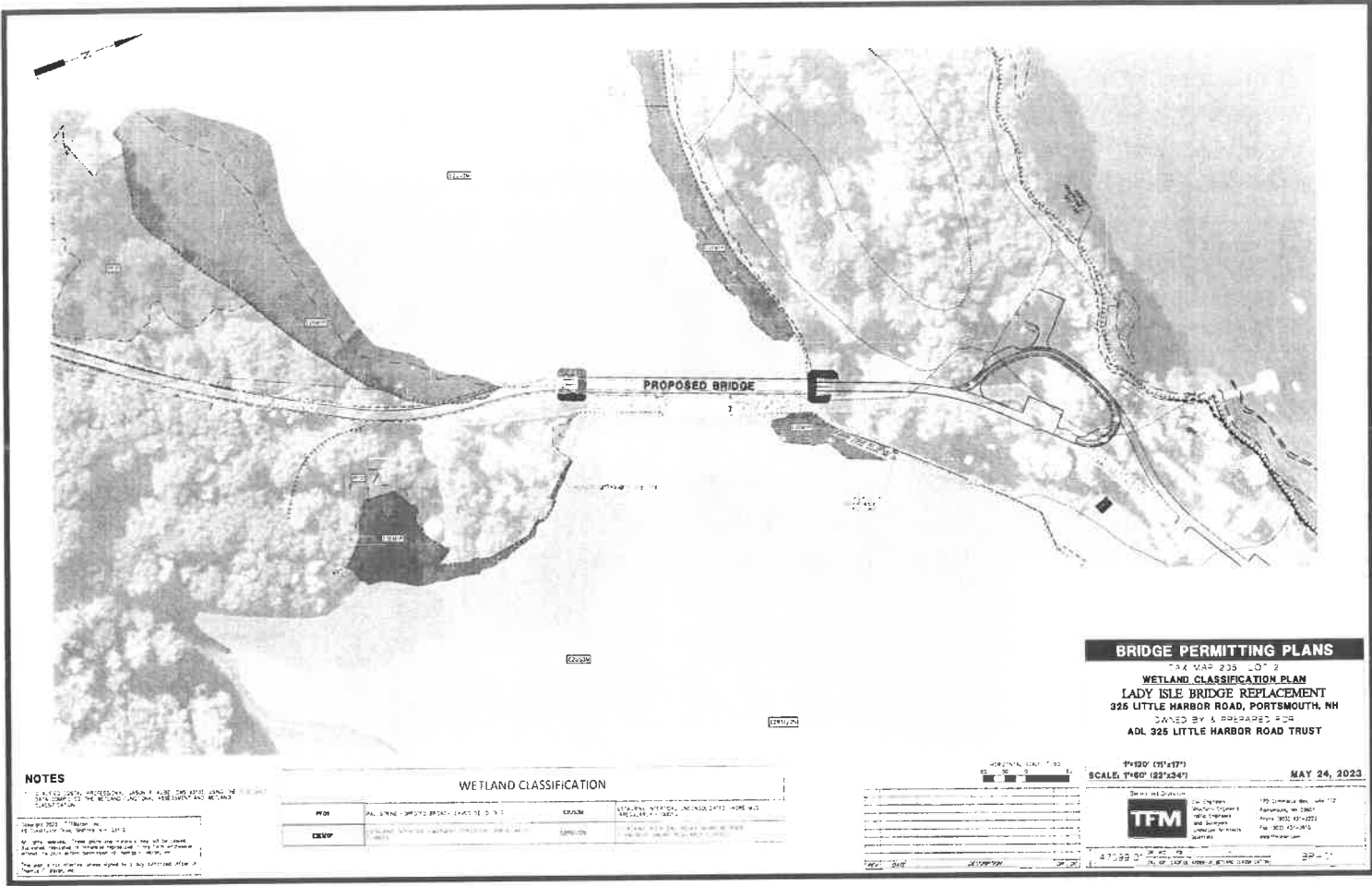
CENAE-R
File No. NAE-2023-00723

The initial determinations made herein will be reviewed in light of facts submitted in response to this notice. Copies of letters of objection will be forwarded to the applicant who will normally be requested to contact objectors directly in an effort to reach an understanding.

THIS NOTICE IS NOT AN AUTHORIZATION TO DO ANY WORK.

Frank J Del
Giudice
Frank J. Del Giudice
Chief, NH & VT Section
Regulatory Division

Please contact Ms. Tina Chaisson at bettina.m.chaisson@usace.army.mil or (978) 318-8058 if you would like to be removed from our public notice mailing list.



BRIDGE PERMITTING PLANS
 104 MAP 235 LOT 2
WETLAND CLASSIFICATION PLAN
LADY ISLE BRIDGE REPLACEMENT
 326 LITTLE HARBOR ROAD, PORTSMOUTH, NH
 OWNED BY & PREPARED FOR
AOL 326 LITTLE HARBOR ROAD TRUST

NOTES
 1. ALL FIELD DATA REPRESENTS VISUAL AND INTERPRETED DATA OF DATA COLLECTED THE WETLAND AND LAND USE SURVEY AND WETLAND CLASSIFICATION.
 2. THIS PLAN IS A PRELIMINARY PLAN AND IS SUBJECT TO CHANGE WITHOUT NOTICE.
 3. THE DATE OF THIS PLAN IS THE DATE OF THE SURVEY AND CLASSIFICATION.
 4. THIS PLAN IS THE PROPERTY OF TFM AND IS NOT TO BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM, WITHOUT THE WRITTEN PERMISSION OF TFM.

WETLAND CLASSIFICATION

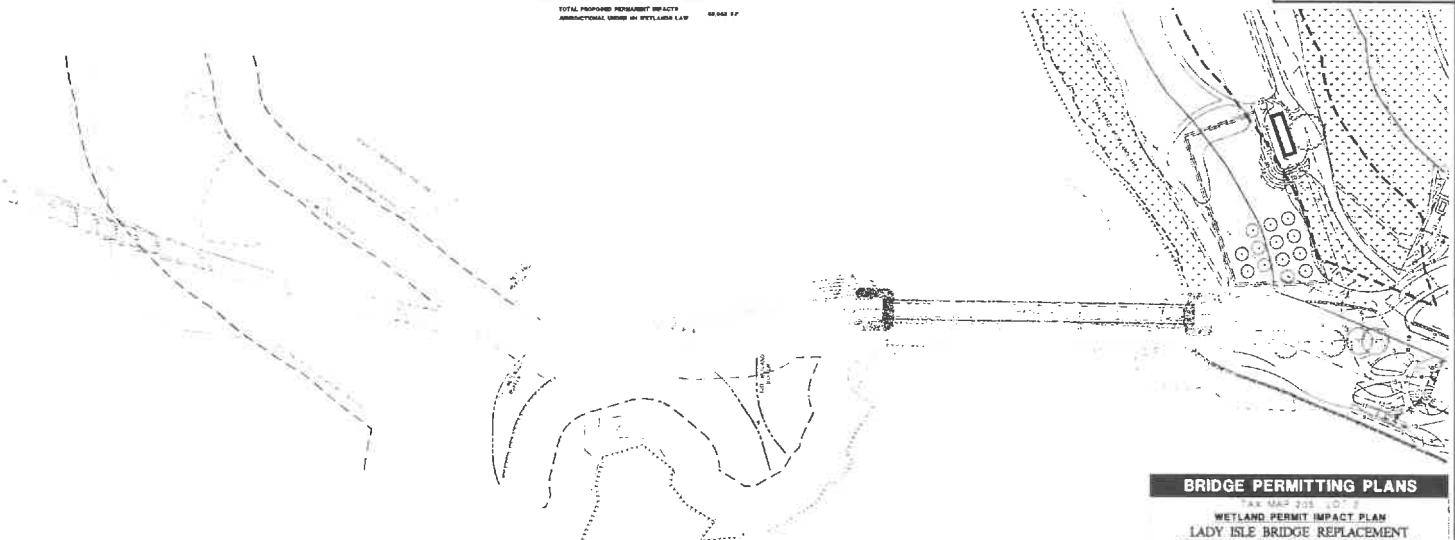
PROJ	DATE	DESCRIPTION	CLASS	AREA (SQ FT)	PERCENT OF TOTAL
000000	05/24/23	WETLAND CLASSIFICATION	SWAMP	1,234,567	12.34%
000000	05/24/23	WETLAND CLASSIFICATION	SHRUB SWAMP	567,890	5.67%
000000	05/24/23	WETLAND CLASSIFICATION	EMERSON	987,654	9.87%
000000	05/24/23	WETLAND CLASSIFICATION	WATER	2,345,678	23.45%
000000	05/24/23	WETLAND CLASSIFICATION	UPPER	3,456,789	34.56%
000000	05/24/23	WETLAND CLASSIFICATION	WATER	4,567,890	45.67%

HORIZONTAL SCALE: 1" = 100'
 SCALE: 1" = 60' (21" x 34")
 DATE: MAY 24, 2023

TFM
 TFM CONSULTANTS
 175 Commercial Street, Suite 110
 Portsmouth, NH 03801
 Phone: 603.437.4222
 Fax: 603.437.4223
 www.tfm.com



PROPOSED PERMANENT IMPACTS WITHIN THE DEVELOPED UPLAND TOTAL BUFFER ZONE	0.0000 EA
PROPOSED PERMANENT IMPACTS BEYOND THE BUFFER ZONE	0.0000 EA
PROPOSED PERMANENT IMPACTS FOR THE PURPOSE OF ADDING MATERIAL TO DRAINAGE THE WETLANDS (WETLAND IMPROVEMENT)	0.0000 EA
PROPOSED PERMANENT IMPACTS FOR THE PURPOSE OF ADDING MATERIAL TO DRAINAGE THE WETLANDS (WETLAND IMPROVEMENT)	0.0000 EA
TOTAL PROPOSED PERMANENT IMPACTS	0.0000 EA

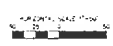


BRIDGE PERMITTING PLANS
 TAX MAP 305 LOT 2
WETLAND PERMIT IMPACT PLAN
LADY ISLE BRIDGE REPLACEMENT
 325 LITTLE HARBOR ROAD, PORTSMOUTH, NH
 OWNED BY: 325 LITTLE HARBOR ROAD TRUST
 ADL 325 LITTLE HARBOR ROAD TRUST

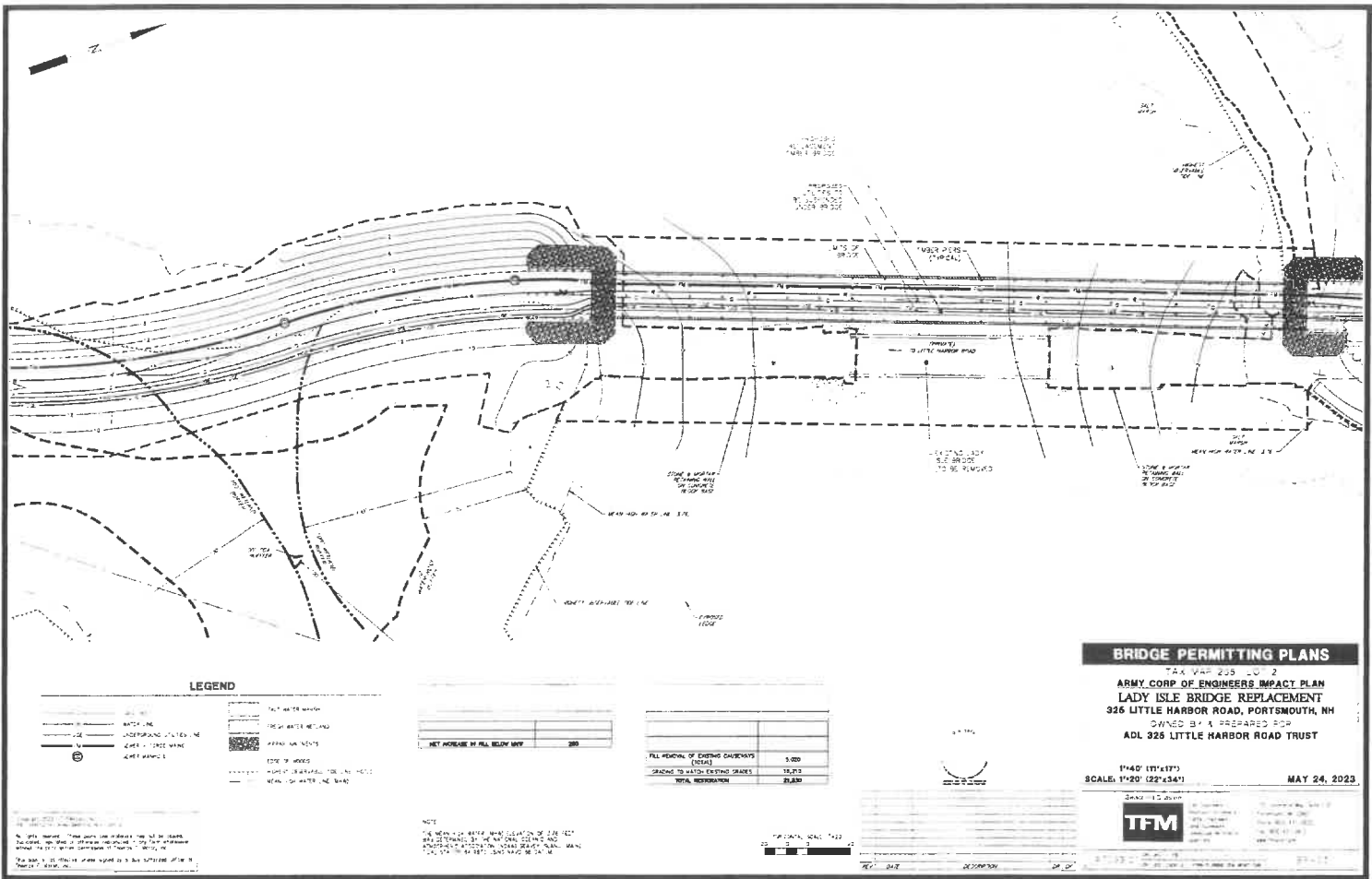
1"=900' (11'x17")
 SCALE: 1"=900' (22'x34")
 MAY 24, 2023

TFM
 Technical Services
 1000 North Main Street
 Portsmouth, NH 03801
 Phone: 603.431.1111
 Fax: 603.431.1112
 www.tfm.com

Project No. 2023-001
 Date: 05/24/23
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NO.	DESCRIPTION	DATE	BY
1	ISSUED FOR PERMITTING	05/24/23	J. BROWN



LEGEND

- [Symbol] EXISTING
- [Symbol] PROPOSED
- [Symbol] EXISTING WATER MAIN
- [Symbol] PROPOSED WATER MAIN
- [Symbol] EXISTING SEWER
- [Symbol] PROPOSED SEWER
- [Symbol] EXISTING ELECTRICAL
- [Symbol] PROPOSED ELECTRICAL
- [Symbol] EXISTING TELEPHONE
- [Symbol] PROPOSED TELEPHONE

NET INCREASE IN FILL BELOW MHW	200
--------------------------------	-----

FILL REMOVAL OF EXISTING DRIVEWAYS (CUL)	1,000
GRADING TO MATCH EXISTING GRADES	15,000
TOTAL REMOVAL	21,000

NOTE:
THE NEW BRIDGE SHALL BE LOCATED IN THE EXISTING
ALIGNMENT AND SHALL BE APPROXIMATELY 200 FEET
LONGER THAN THE EXISTING BRIDGE. ALL DIMENSIONS
SHOWN ON THIS PLAN SHALL BE AS NOTED.

BRIDGE PERMITTING PLANS

TAK VAP 203-002 2
ARMY CORP OF ENGINEERS IMPACT PLAN
LADY ISLE BRIDGE REPLACEMENT
326 LITTLE HARBOR ROAD, PORTSMOUTH, NH
OWNED BY & PREPARED FOR
ADL 326 LITTLE HARBOR ROAD TRUST

SCALE: 1"=20' (22'x34')
MAY 24, 2023

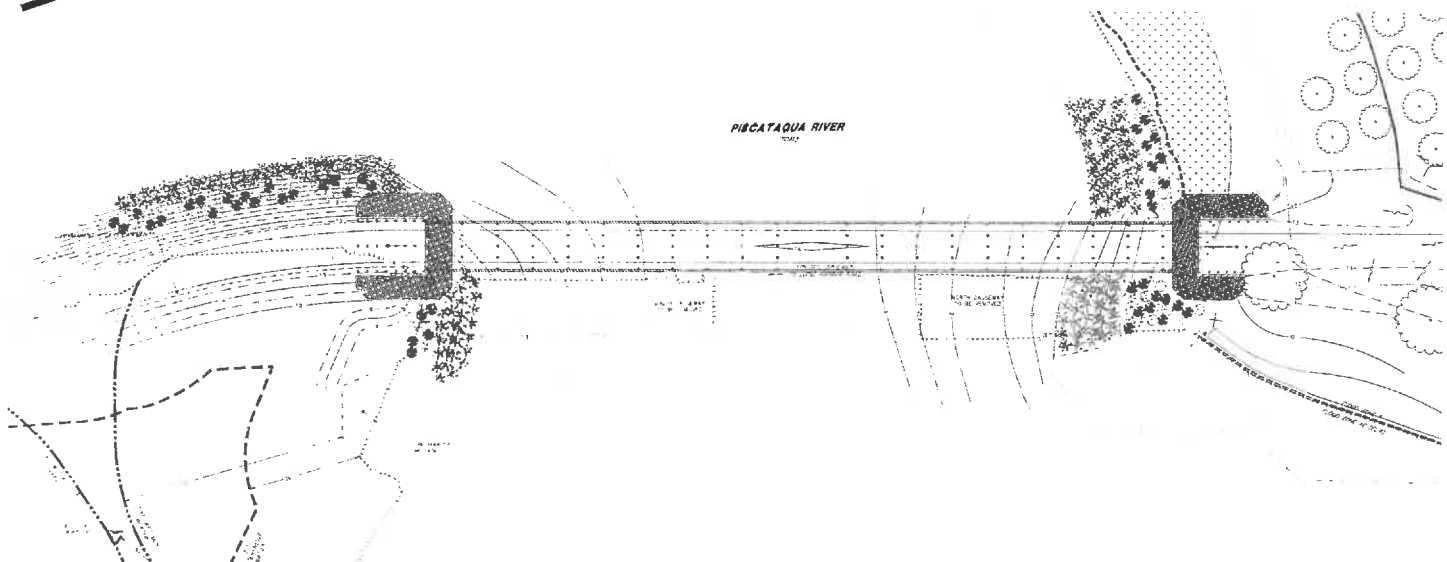
SCALE: 1"=20'



DATE: 5/24/23
DRAWN BY: J. SMITH
CHECKED BY: [Name]
APPROVED BY: [Name]



PISCATAQUA RIVER



PLANTING LEGEND - LOW MARSH

SYMBOL	PLANTING LEGEND - LOW MARSH	PLANTING LEGEND - HIGH MARSH
	HIGH SALT MARSH (Spartina patens)	

PLANTING LEGEND - HIGH MARSH

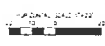
SYMBOL	PLANTING LEGEND - HIGH MARSH	PLANTING LEGEND - LOW MARSH
	SALT MEADOW (Spartina patens)	46
	SALT GRASS (Spartina patens)	43
	BLACK GRASS (Spartina patens)	27

BRIDGE PERMITTING PLANS
 TAX MAP 295 LOT 2
TIDAL AREA RESTORATION PLAN
LADY ISLE BRIDGE REPLACEMENT
 326 LITTLE HARBOR ROAD, PORTSMOUTH, NH
 OWNED BY & PREPARED FOR
 ADL 325 LITTLE HARBOR ROAD TRUST

DATE: 05/24/23
 SCALE: 1"=20' (32"x34")
 MAY 24, 2023

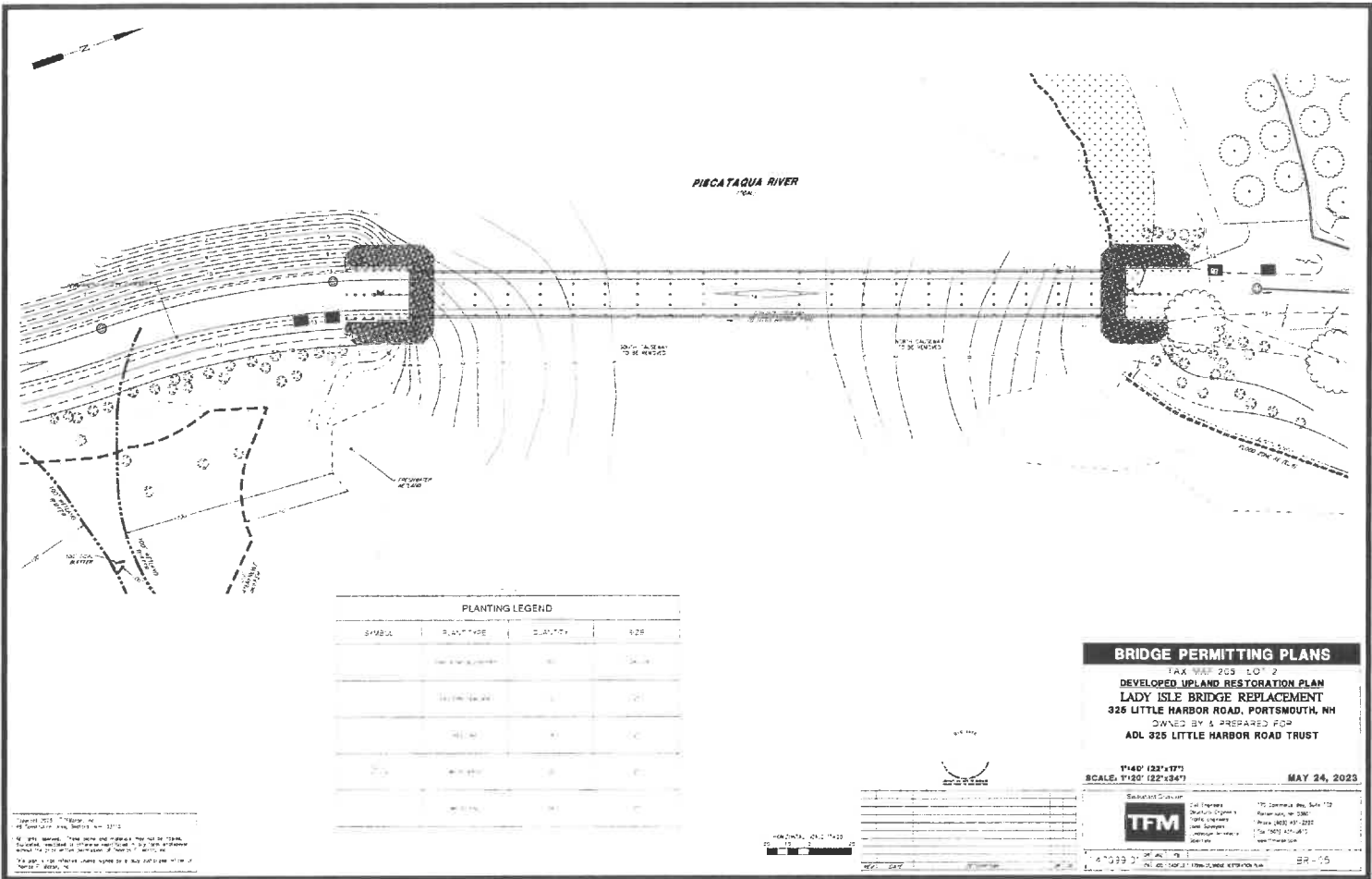
TFM
 Tidal Flow Management
 175 DUNNING BLVD. SUITE 102
 PORTSMOUTH, NH 03801
 PHONE: 603-879-2222
 FAX: 603-879-2612
 WWW.TFMNH.COM

DATE: 05/24/23
 SCALE: 1"=20' (32"x34")
 MAY 24, 2023



NO.	DESCRIPTION	DATE
1	ISSUED FOR PERMITTING	05/24/23

47039 01
 BR - 04



PLANTING LEGEND			
SYMBOL	PLANT TYPE	QUANTITY	NOTE
(Symbol)	Plant Type	Quantity	Note
(Symbol)	Plant Type	Quantity	Note
(Symbol)	Plant Type	Quantity	Note
(Symbol)	Plant Type	Quantity	Note
(Symbol)	Plant Type	Quantity	Note

BRIDGE PERMITTING PLANS

PROJECT 203 - 107-2
 DEVELOPED UPLAND RESTORATION PLAN
 LADY ISLE BRIDGE REPLACEMENT
 325 LITTLE HARBOR ROAD, PORTSMOUTH, NH
 OWNED BY & PREPARED FOR
 ADL 325 LITTLE HARBOR ROAD TRUST

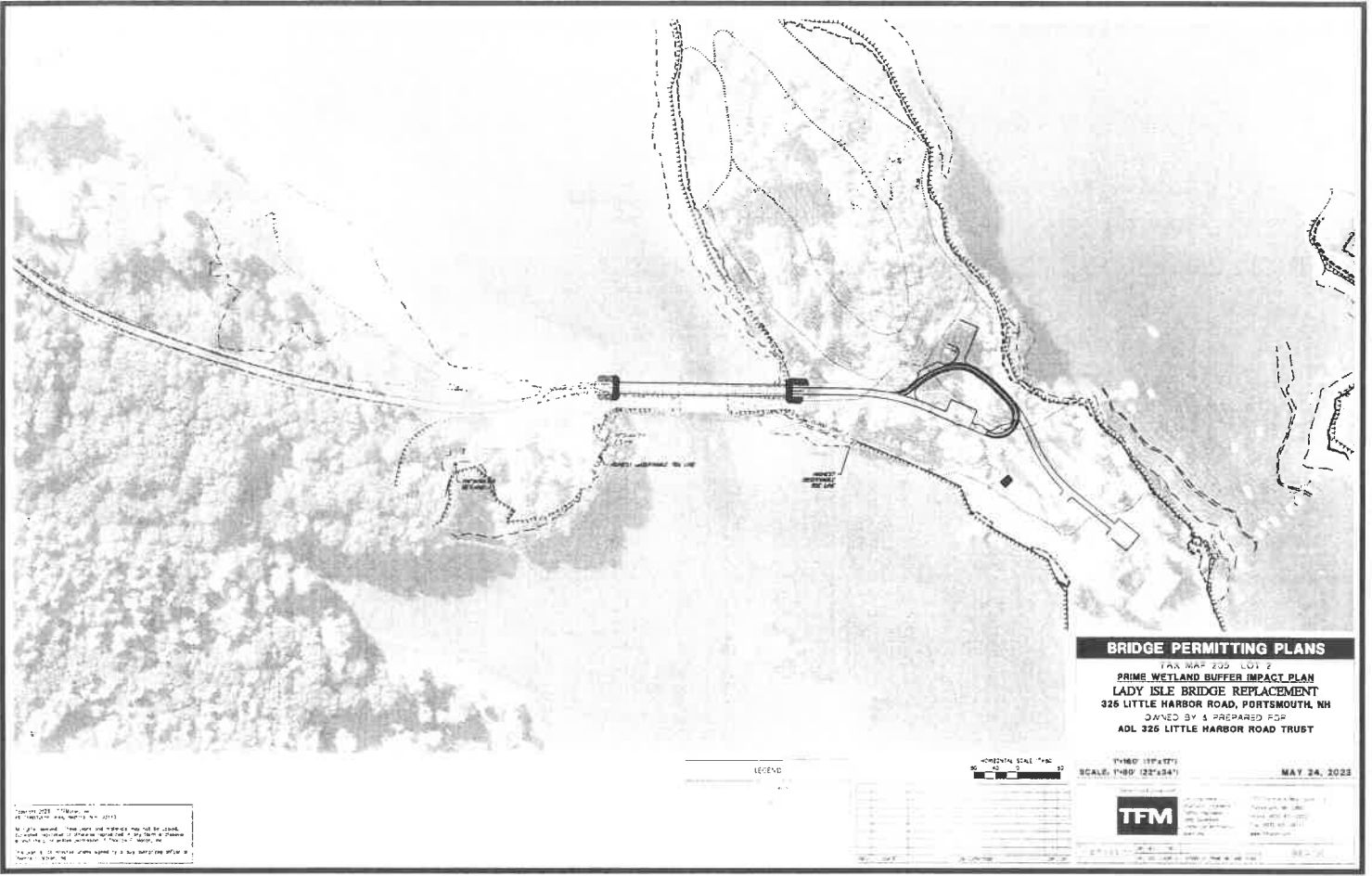
SCALE: 1"=20' (22'x34")
 MAY 24, 2023

Submitted To: [Blank]
 TFM
 75 Commercial Ave, Suite 102
 Portsmouth, NH 03801
 Phone: (603) 437-2222
 Fax: (603) 437-8117
 Website: www.tfm.com

1. The date of this plan is May 24, 2023.
 2. All rights reserved. This plan and material may not be copied, reproduced, or transmitted in any form or by any means, electronic or mechanical, including photocopying, recording, or by any information storage and retrieval system, without the prior written permission of TFM, Inc.
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NO.	DATE	DESCRIPTION



BRIDGE PERMITTING PLANS
 TAX MAP 205 LOT 2
PRIME WETLAND BUFFER IMPACT PLAN
LADY ISLE BRIDGE REPLACEMENT
 326 LITTLE HARBOR ROAD, PORTSMOUTH, NH
 OWNED BY & PREPARED FOR
 ADL 326 LITTLE HARBOR ROAD TRUST

MAY 24, 2023

TH80 (10'x47')
 SCALE: TH80 (23'x54')



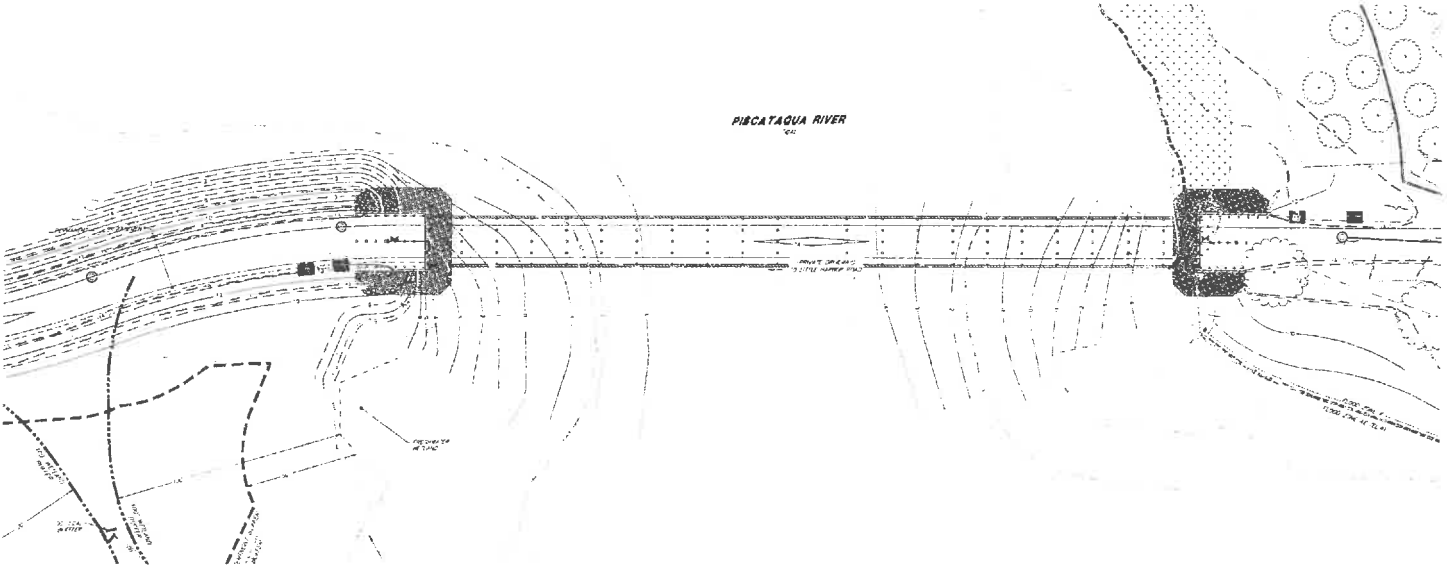
TFM
 1000 North Main Street
 Portsmouth, NH 03801
 Tel: 603.431.1111
 Fax: 603.431.1112
 www.tfm.com

LEGEND

HORIZONTAL SCALE 1"=60'

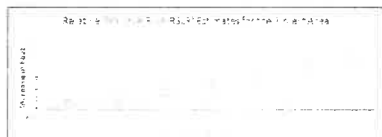
10/20/2023 11:00 AM
 10' WETLAND BUFFER IMPACT PLAN
 ALL RIGHTS RESERVED. THESE PLANS AND SPECIFICATIONS MAY NOT BE COPIED,
 REPRODUCED, OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC
 OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION
 SYSTEMS, WITHOUT PERMISSION IN WRITING FROM THE ENGINEER.

PIECATAQUA RIVER



TIKAL ELEVATIONS

TIKAL	ELEVATION
1	100.00
2	100.00
3	100.00
4	100.00
5	100.00
6	100.00
7	100.00
8	100.00
9	100.00
10	100.00
11	100.00
12	100.00
13	100.00
14	100.00
15	100.00
16	100.00
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91	100.00
92	100.00
93	100.00
94	100.00
95	100.00
96	100.00
97	100.00
98	100.00
99	100.00
100	100.00



NONMENTAL RELATIVE SEA LEVEL FOR THE PROJECT AREA BASED ON TIDE GAUGE DATA FROM THE NEAREST TIDE GAUGE TO THE PROJECT AREA.



NONMENTAL RELATIVE SEA LEVEL FOR THE PROJECT AREA BASED ON TIDE GAUGE DATA FROM THE NEAREST TIDE GAUGE TO THE PROJECT AREA. ELEVATION OF 4.5' IS OBTAINED BY THE DESIGN AND CONSTRUCTION OF THE BRIDGE AND SHALL BE MAINTAINED THROUGHOUT THE PROJECT.

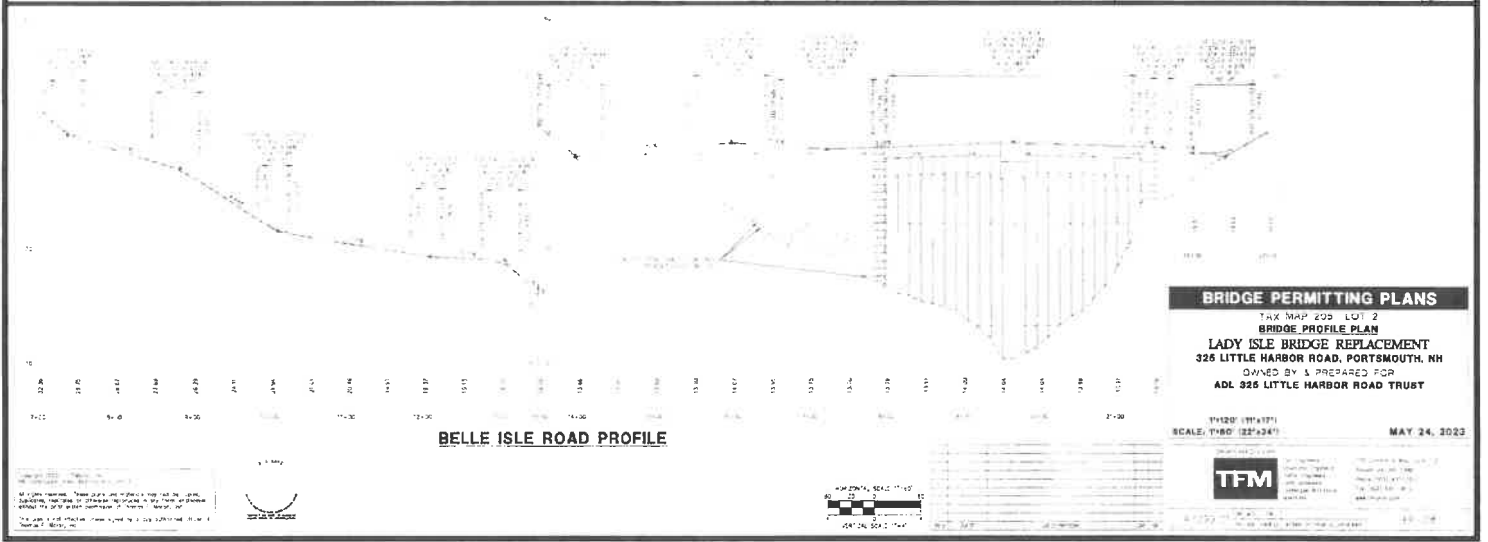
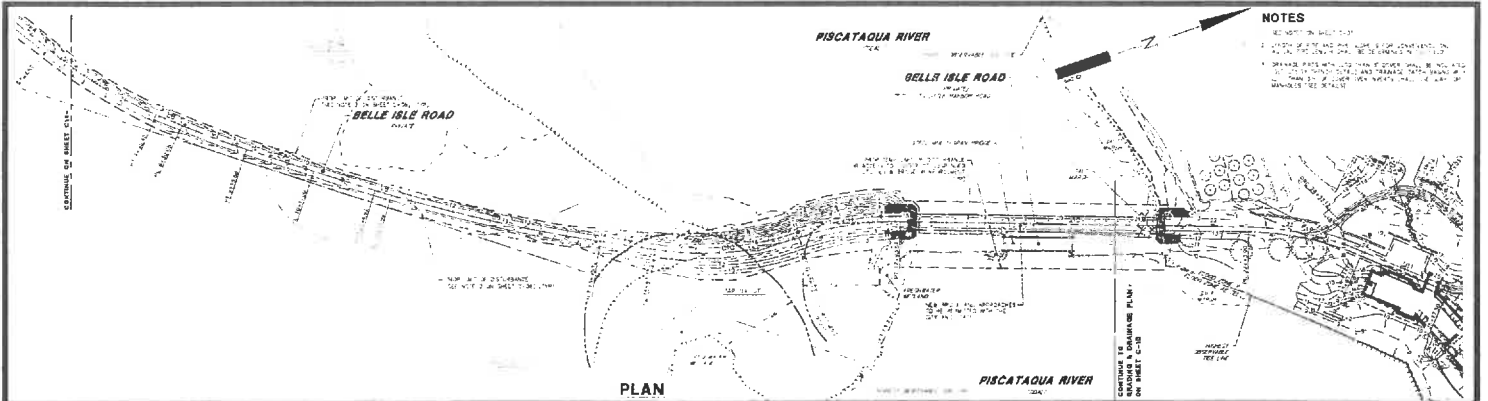
BRIDGE PERMITTING PLANS
 AS MAP 225 107 E
VULNERABILITY ASSESSMENT PLAN
LADY ISLE BRIDGE REPLACEMENT
 326 LITTLE HARBOR ROAD, PORTSMOUTH, NH
 OWNED BY AND MAINTAINED FOR
 ADL 326 LITTLE HARBOR ROAD TRUST

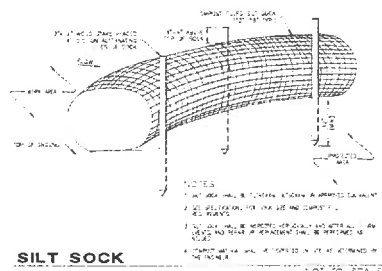
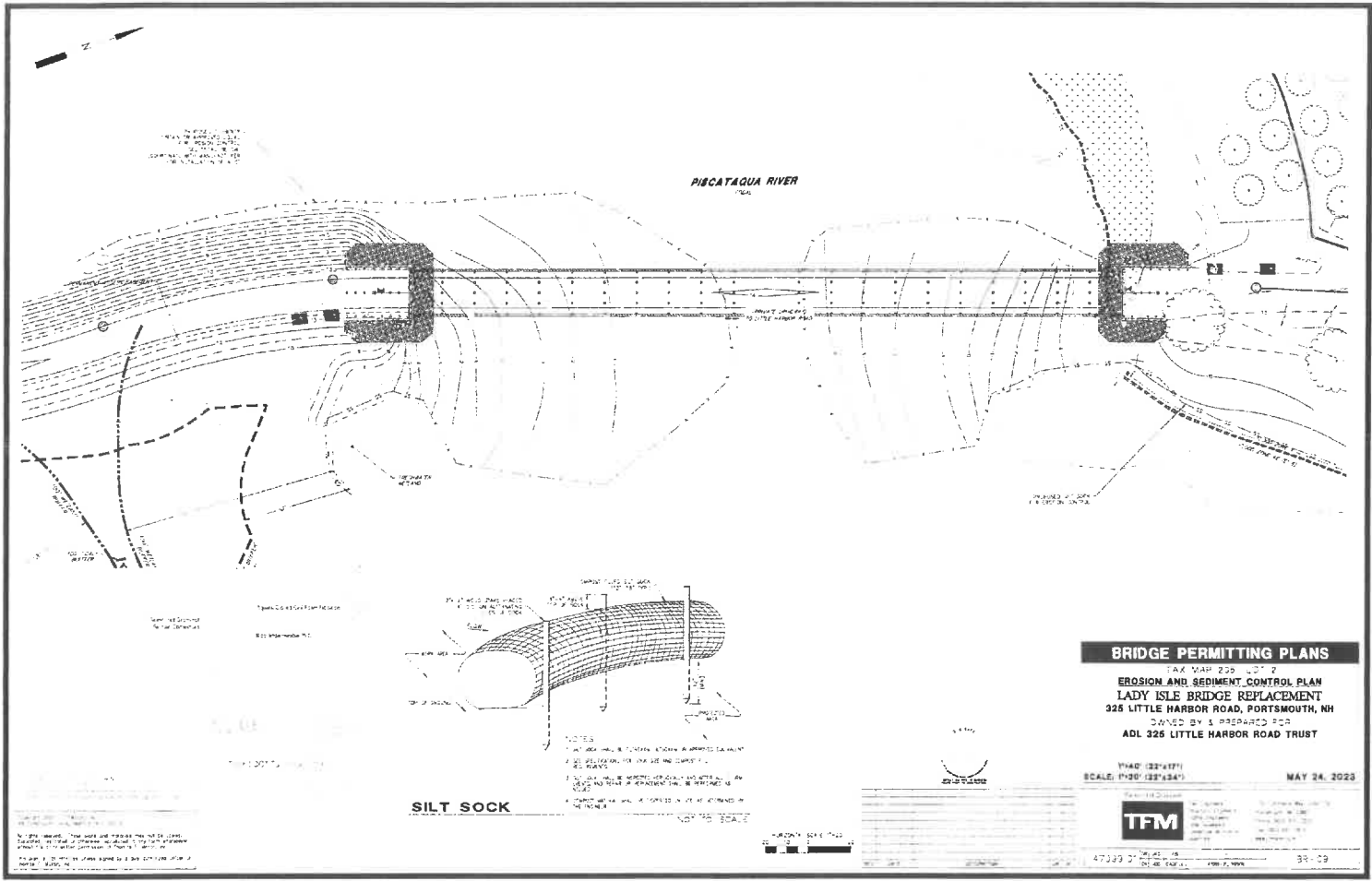
1"=40' (22'x17")
 SCALE: 1"=20' (22'x14")
 MAY 24, 2023

DATE: 05/24/23
 DRAWN BY: J. B. BROWN
 CHECKED BY: J. B. BROWN
 PROJECT NO.: 22-001
 SHEET NO.: 1 OF 1

NO.	DESCRIPTION	DATE
1	DESIGN	05/24/23
2	CHECK	05/24/23
3	APPROVE	05/24/23

TFM
 TECHNICAL FIELD MANUAL
 1000 ROUTE 101
 PORTSMOUTH, NH 03801
 TEL: 603.886.1000
 FAX: 603.886.1001
 WWW.TFM.COM





SILT SOCK

- NOTES**
1. ALL WORK SHALL BE DONE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE NEW ENGLAND BRIDGE ENGINEERING HANDBOOK.
 2. ALL DIMENSIONS SHALL BE AS SHOWN UNLESS OTHERWISE NOTED.
 3. ALL DIMENSIONS SHALL BE MEASURED TO THE CENTERLINE OF THE STRUCTURE UNLESS OTHERWISE NOTED.
 4. ALL DIMENSIONS SHALL BE MEASURED TO THE CENTERLINE OF THE STRUCTURE UNLESS OTHERWISE NOTED.

VERTICAL SCALE



HORIZONTAL SCALE

BRIDGE PERMITTING PLANS

TAX MAP 200, LOT 2
EROSION AND SEDIMENT CONTROL PLAN
LADY ISLE BRIDGE REPLACEMENT
 325 LITTLE HARBOR ROAD, PORTSMOUTH, NH
 OWNED BY: PREPARED FOR
 ADL 325 LITTLE HARBOR ROAD TRUST

PROJECT NO: 18-001
 SCALE: 1"=30' (30'x45')

MAY 24, 2023



47333 2' 18 39 09

Vertical Scale: 1"=10'
 Horizontal Scale: 1"=30'
 Date: 5/24/23
 Project: 18-001
 Scale: 1"=30' (30'x45')



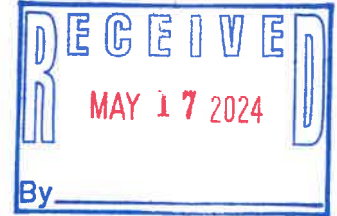
The State of New Hampshire
Department of Environmental Services



Robert R. Scott, Commissioner

NOTICE OF ACCEPTANCE OF PERMIT APPLICATION
LAND RESOURCES MANAGEMENT
ALTERATION OF TERRAIN BUREAU

May 8, 2024



PORTSMOUTH MUNICIPAL CLERK
1 JUNKINS AVE
PORTSMOUTH NH 03801

Re: Alteration of Terrain (AoT) Bureau Permit Application (RSA 485-A:17); NHDES File Number: 240507-093
Project Name: PROPOSED MIXED USE DEVELOPMENT
Subject Property: Tax Map# 123, Lot# 10,12,13,14

Dear Sir or Madam:

Pursuant to RSA 541-A:39, please be advised that the New Hampshire Department of Environmental Services (NHDES) AoT Bureau accepted an application on May 8, 2024 for the permit program and subject property referenced above. The application requests a permit to disturb approximately 110,528 square feet of earth at the subject property.

Pursuant to Env-Wq 1503.05 (f), the applicant is required to provide a copy of the application and plans to the municipality. If you have not received the required information, please contact the agent: **TIGHE & BOND C/O NEIL HANSEN, 177 CORPORATE DR, PORTSMOUTH NH 03801.**

If you wish to comment on the application, please submit your comments by **MAY 16 2024**. All comments should reference the NHDES file number, and mailed to the following address: **NHDES ALTERATION OF TERRAIN BUREAU, PO BOX 95, CONCORD NH 03302-0095.**

Please provide a copy of this notice to all interested departments, boards and commissions. Also note that under current state law and regulations, NHDES is not authorized to consider local zoning and regulatory issues pertaining to a project; these must be addressed at the local level.

If you have any questions, please contact the NHDES Alteration of Terrain Bureau at (603) 271-3568.

Sincerely,

Alteration of Terrain Bureau
Land Resources Management

cc: NORTH MILL POND HOLDINGS LLC EBEN TORMEY
TIGHE & BOND NEIL HANSEN

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

31 RAYNES LLC C/O PORTSMOUTH CHEVROLET, 203 MAPLEWOOD AVENUE LLC
ONE RAYNES AVE LLC, 299 VAUGHAN ST LLC C/O CHATHARTES PRIVATE INVESTMENTS

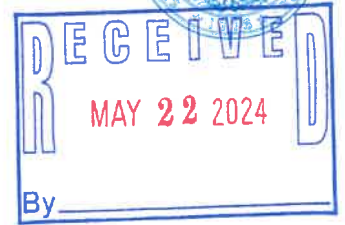




The State of New Hampshire
Department of Environmental Services

Robert R. Scott, Commissioner

May 15, 2024



KIMBERLEY S/THOMAS P LYNG
333 NEW CASTLE AVE
PORTSMOUTH NH 03801

Re: Request for More Information – Standard Dredge and Fill Wetlands Permit Application (RSA 482-A)
NHDES File Number: 2024-00792
Subject Property: 333 New Castle Ave, Portsmouth, Tax Map #207, Lot #2

Dear Applicant:

On May 15, 2024, the New Hampshire Department of Environmental Services (NHDES) Wetlands Bureau reviewed the above-referenced Standard Dredge and Fill Wetlands Permit Application (Application). Pursuant to RSA 482-A:3, XIV(a)(2) and Rules Env-Wt 100 through 900, NHDES Wetlands Bureau determined the following additional information is required to complete its evaluation of the Application:

1. Please provide a statement from the Pease Development Authority Division of Ports and Harbors (“DP&H”) chief harbormaster, or designee, for the subject location relative to the two proposed structures’ impact on navigation in accordance with Env-Wt 603.09(a).

Please submit the required information as soon as practicable. Pursuant to RSA 482-A:3, XIV(a)(2), **the required information must be received by NHDES Wetlands Bureau within 60 days of the date of this request (no later than July 14, 2024), or the Application will be denied.** Should additional time be necessary to submit the required information, an extension of the 60-day time period may be requested. Requests for additional time must be received prior to the deadline in order to be approved. In accordance with applicable statutes and regulations, the applicant is also expected to provide copies of the required information to the municipal clerk and all other interested parties. Pursuant to RSA 482-A:3, XIV(a)(3), NHDES Wetlands Bureau will approve or deny the Application within 30 days of receipt of all required information, or schedule a public hearing, if required by RSA 482-A or associated rules.

If you have any questions, please contact me at Alexander.D.Feuti@des.nh.gov or (603) 271-2917.

Sincerely,

Alexander Feuti
Wetlands Specialist, Wetlands Bureau
Land Resources Management, Water Division

Copied: Jaqueline Boudreau, Haley Ward Inc
Municipal Clerk/Conservation Commission

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The State of New Hampshire
Department of Environmental Services



Robert R. Scott, Commissioner

May 15, 2024



CITY OF PORTSMOUTH
C/O PETER RICE
680 PEVERLY HILL RD
PORTSMOUTH NH 03801

Re: Approved Standard Dredge and Fill Wetlands Permit Application (RSA 482-A)
NHDES File Number: 2023-02503
Subject Property: Maplewood Ave, Portsmouth, Tax Map/Block/Lot(s): 123/no block/ROW

Dear Owner:

On May 15, 2024, the New Hampshire Department of Environmental Services (NHDES) Wetlands Bureau approved the above-referenced application to dredge and fill 1,291 square feet (SF) of tidal waters and impact 2,763 SF of the previously developed upland tidal buffer zone to rehabilitate an existing culvert by applying a 4.5-inch thick, spray-on geopolymer lining, remove 206 SF of the existing culvert footings to maintain hydraulic capacity of the crossing, replace riprap in-kind, and replace stormwater outfalls. Temporarily impact 18,665 SF of tidal waters and 8,405 SF of previously developed upland tidal buffer zone for construction access and erosion and sediment controls.

Permanent Waiver Granted: Permanently reduce the tree score within three waterfront buffer grid segments below the requirement per RSA 483-B:9, V, (a)(2)(D)(iv) for the purposes of rehabilitating an existing bridge.

Temporary Waiver Granted: Temporarily reduce the tree score within six waterfront buffer grid segments below the requirement per RSA 483-B:9, V, (a)(2)(D)(iv) for the purposes of rehabilitating an existing bridge. Restoration planting required to replace the points to meet RSA 483-B:9, V(a)(2)(D)(iv) within six waterfront buffer grids.

In accordance with RSA 482-A:10, RSA 21-O:14, and Rules Ec-Wet 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, May 15, 2024.** 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://www.nhec.nh.gov/wetlands-council/about>. For appeal related issues, contact the Council Appeals Clerk at (603) 271-3650.

In accordance with RSA 482-A:3, II(a) and Env-Wt 313.02(b), as your project is a major project located in a great pond or in public waters of the state, your application must also be approved by the Governor and the Executive Council. Upon expiration of the appeal period, a redacted copy of the file is submitted to the Governor and the Executive Council for their consideration. Information about the Governor and the Executive Council is available at <https://www.nh.gov/council/>.

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FILE #2023-02503
CITY OF PORTSMOUTH
PORTSMOUTH

DECISION DATE:
May 15, 2024

DECISION:

Dredge and fill 1,291 square feet (SF) of tidal waters and impact 2,763 SF of the previously developed upland tidal buffer zone to rehabilitate an existing culvert by applying a 4.5-inch thick, spray-on geopolymer lining, remove 206 SF of the existing culvert footings to maintain hydraulic capacity of the crossing, replace riprap in-kind, and replace stormwater outfalls. Temporarily impact 18,665 SF of tidal waters and 8,405 SF of previously developed upland tidal buffer zone for construction access and erosion and sediment controls.

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Temporary Waiver Granted: Temporarily reduce the tree score within six waterfront buffer grid segments below the requirement per RSA 483-B:9, V, (a)(2)(D)(iv) for the purposes of rehabilitating an existing bridge. Restoration planting required to replace the points to meet RSA 483-B:9, V(a)(2)(D)(iv) within six waterfront buffer grids.

CONDITIONS:

1. All work shall be done in accordance with approved plan sheets dated December 2023, and revised through April 2024, by Hoyle, Tanner, & Associates, Inc., and received by the NH Department of Environmental Services (NHDES) on December 21, 2023, and April 25, 2024, and the approved revegetation plan dated April 2024, by Hoyle, Tanner, & Associates, Inc, received by the NH Department of Environmental Services (NHDES) on April 25, 2024, in accordance with Env-Wt 307.16.
2. In accordance with Env-Wt 307.07, all development activities associated with any project shall be conducted in compliance with applicable requirements of RSA 483-B and Env-Wq 1400 during and after construction.
3. In accordance with Env-Wt 307.12(h), any trees cut in an area of authorized temporary impacts shall be cut at ground level with the shrub and tree roots left intact, to prevent disruption to the wetland soil structure and to allow stump sprouts to revegetate the work area.
4. All waterfront buffer planting as shown on the approved plans shall be completed prior to final construction demobilization at the site as required to ensure compliance with RSA 483-B:9, V(a)(2)(D)(i) through (iv).
5. The plantings shall be inspected at the beginning and end of the growing season for a period of 3 years after initial plantings have been completed during which time any failed plantings shall immediately be replaced by the City of Portsmouth as required to ensure compliance with RSA 483-B:9, V(a)(2)(D)(i) through (iv).
6. At the completion of the 3 year monitoring period, the City of Portsmouth shall submit a report including photographs of the planted buffer to the Department as required in order to ensure compliance with RSA 483-B:9, V(a)(2)(D)(i) through (iv).
7. Work on stream crossings that requires any work in areas that are subject to flowing water shall maintain normal flows and prevent water quality degradation during the work by using best management practices, such as temporary by-pass pipes, culverts, or cofferdams in accordance with Env-Wt 904.02(b).
8. In-stream work shall be done only when the tide is seaward of the work area in accordance with Env-Wt 904.02(a)(2).
9. In accordance with Env-Wt 307.03(f)(1), a cofferdam or other turbidity control shall be used to enclose a dredging project conducted in or along the shoreline of a stream, river, creek, or any other surface water, provided that a coffer dam shall not be installed during periods of high flow.
10. In accordance with Env-Wt 307.03(f)(2), a coffer dam or other turbidity control shall be removed after work within the coffer dam or other turbidity control is completed, the contained water has returned to background clarity, and when removing the structure will not cause or contribute to a violation of Env-Wt 307.03(c)(6).
11. No activity shall be conducted in such a way as to cause or contribute to any violation of surface water quality standards per Env-Wt 307.03(a).

12. All work including management of soil stockpiles, shall be conducted so as to minimize erosion, minimize sediment transfer to surface waters or wetlands, and minimize turbidity in surface waters and wetlands per Env-Wt 307.03(b).
13. 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.
14. In accordance with Env-Wt 307.03(c)(1), water quality control measures shall be selected and implemented based on the size and nature of the project and the physical characteristics of the site, including slope, soil type, vegetative cover, and proximity to jurisdictional areas.
15. In accordance with Env-Wt 307.10(c), turbidity controls shall be installed prior to construction and maintained during construction such that no turbidity escapes the immediate dredge area; and remain in place until suspended particles have settled and water at the work site has returned to normal clarity.
16. 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.
17. 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.
18. 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.
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 307.05(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).
21. In accordance with Env-Wt 307.11(b), limits of fill shall be clearly identified prior to commencement of work and controlled in accordance with Env-Wt 307.03 to ensure that fill does not spill over or erode into any area where filling is not authorized.
22. In accordance with Env-Wt 307.11(a), fill shall be clean sand, gravel, rock, or other material that meets the project's specifications for its use; and does not contain any material that could contaminate surface or groundwater or otherwise adversely affect the ecosystem in which it is used.
23. Wetlands and surface waters 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 in accordance with Env-Wt 307.11(j) and Env-Wt 307.12(i).
24. In accordance with Env-Wt 307.11(c), slopes shall be immediately stabilized to prevent erosion into adjacent wetlands or surface waters.
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 307.15(a), heavy equipment shall not be operated in any jurisdictional area unless specifically authorized by this permit.
27. 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.

28. 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.
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(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.

FINDINGS:

1. This project is classified as a major impact project per Rule Env-Wt 903.01(g)(3)(b), for a project to rehabilitate a tier 4 stream crossing.
2. On September 13, 2023, the Department received correspondence from the NH Fish and Game Department (NHF&G) dated June 9, 2022, stating that "[NHF&G] do not expect impacts to [the protected anadromous fish species] as a result of this project."
3. NHDES finds that the project as approved and conditioned will not have an unreasonable adverse impact on the value of such areas as sources of nutrients for finfish, crustacea, shellfish and wildlife of significant value, nor will it damage or destroy habitats and reproduction areas for plants, fish and wildlife of importance.
4. No comments were received by NHDES from the Portsmouth Conservation Commission about this application.
5. On December 19, 2023, the applicant obtained a statement from the Pease Development Authority, Division of Ports and Harbors regarding the projects impact on navigation and passage stating, "[w]e examined the proposed site and found that the structure will have no negative effect on navigation in the channel," per Rule Env-Wt 603.09.
6. Per Rule Env-Wt 313.01(a)(5), and as required by RSA 482-A:11, II, this permit for work to dredge or fill will not 'infringe on the property rights or unreasonably affect the value or enjoyment of property of abutting owners'.
7. In accordance with RSA 483-B:9, V, (i) the commissioner shall have the authority to grant waivers from the minimum standards of this section. Such authority shall be exercised if the commissioner deems that strict compliance with the minimum standards of this section will provide no material benefit to the public and have no material adverse effect on the environment or the natural resources of the state.
8. In accordance with RSA 483-B:9, V(a)(2)(D)(v), the department shall not approve any application that would result in a combined vegetation score of less than the minimum score required where the segment initially meets the minimum score or would result in any reduction of the point score where the segment does not initially meet the minimum score.
9. The project as proposed would result in the removal of trees in nine waterfront buffer grid segments, reducing the point score below the minimum point score required by RSA 483-B:9, V(a)(2)(D)(iv), to install riprap for erosion protection adjacent to the bridge footings, replace a stormwater outfall, and to construct a temporary construction laydown and access area.
10. The Applicant requested a permanent waiver of RSA 483-B:9, V(a)(2)(D)(v) to reduce a waterfront buffer segment point score in three waterfront buffer grids within the right of way such that it will permanently fail to meet the minimum point score.
11. Granting a permanent waiver of RSA 483-B:9, V(a)(2)(D)(v) would have no significant adverse effects on the environment or the natural resources of the state.
12. The Applicant requested a temporary waiver of RSA 483-B:9, V(a)(2)(D)(v) to reduce a waterfront buffer segment point score in six waterfront buffer grids such that they will temporarily fail to meet the minimum point score.

13. The Applicant has proposed planting of 1-5 replacement trees in each of the waterfront grids segments up to the minimum point score that will result in no net reduction of points each segment, and to replace the existing shrubs and ground covers in-kind in order to comply with RSA 483-B:9, V(a)(2)(D)(iv).
14. Granting a temporary waiver of RSA 483-B:9, V(a)(2)(D)(v) would have no significant adverse effects on the environment or the natural resources of the state.
15. Permit conditions include monitoring the plantings for 3 years with a report submitted to the Department and the requirement that any plants lost shall be replaced by the permittee.
16. The strict compliance with the minimum standards of this section will not provide material benefit to the public and will have no material adverse effect on the environment or the natural resources of the state and therefore, the requirements for a permanent and temporary waiver to RSA 483-B:9, V(a)(2)(D)(v).
17. NHDES finds that the requirements for a public hearing, as established in RSA 482-A, do not apply as the project will not have a significant environmental impact, as defined in New Hampshire Administrative Rule Env-Wt 104.19, on the resources protected by RSA 482-A, and, is not of substantial public interest, as defined in New Hampshire Administrative Rule Env-Wt 104.32.
18. The Department finds that the project as proposed and conditioned meets the requirements of RSA 482-A and the Wetlands Program Code of Administrative Rules Chapters Env-Wt 100-1000.



The State of New Hampshire
Department of Environmental Services

Robert R. Scott, Commissioner

May 17, 2024



EVERSOURCE ENERGY
C/O KURT NELSON
13 LEGENDS DR
HOOKSETT NH 03106

Re: Request for More Information – Standard Dredge and Fill Wetlands Permit Application (RSA 482-A)
NHDES File Number: 2024-00559
Subject Property: 3171/3111, 339, And T13 Right Of Ways, Greenland & Portsmouth

Dear Applicant:

On May 17, 2024, the New Hampshire Department of Environmental Services (NHDES) Wetlands Bureau reviewed the above-referenced Standard Dredge and Fill Wetlands Permit Application (Application). Pursuant to RSA 482-A:3, XIV(a)(2) and Rules Env-Wt 100 through 900, NHDES Wetlands Bureau determined the following additional information is required to complete its evaluation of the Application:

- 1- Classification of Wetlands. Please update your plans and impact tables to include separately identify the federal Cowardin classification for each wetland. Currently, several classes are grouped together. NHDES is required to track and report impacts per each separate Cowardin classes (PFO, PSS, etc.).
- 2- Protected Shoreland. Per Env-Wt 311.09 (d)(1), please confirm that no part of the project overlaps with the protected shoreland as defined by RSA 483-B. If there is overlap, please delineate the reference line on your plans and send NHDES the updated plans showing compliance with RSA 483-B.
- 3- Tidal areas. Per Env-Wt 311.09(a), please confirm that no project overlaps with the tidal buffer zone or tidal limits under RSA 482-A:4 or Env-Wt 600. Where any portion of the project is in tidal waters, the tidal buffer zone, or other coastal resources, please ensure all plans, resource specific assessments, and information are included as required by Env-Wt 600. Here are some examples: NH Online Forms System - Coastal Resource Worksheet. Version 2.0; NH Online Forms System - Protected Tidal Zone Project-Specific Worksheet for Standard Application. Version 1.1. Based on plan sheet 1 of 9, your project is crossing through Tier 4 Stream Pickering Brook.
- 4- Avoidance and Minimization: Based on the current information and in accordance with Env-Wt 521.05(a)(2), Env-Wt 521.03(c), Env-Wt 311.07, Env-Wt 313.03 and Env-Wt 311.07(b)(3), please demonstrate that potential impacts to jurisdictional areas have been avoided to the maximum extent practicable and that any unavoidable impacts have been minimized by specifically addressing the following:
 - a. PRA: Per Env-Wt 311.07(b), please clarify whether your project can be located away from the Floodplain wetland adjacent to a Tier 3 or away from the tidal river PRA.
 - b. On plan page 1, is it possible to remove the access path between proposed structure 4 and 5 on the 3171, and access each structure from opposite directions, to avoid impacts to Pickering Brook, Floodplain wetland, Tidal waters, and Prime Wetlands identified as GW-1?
 - c. According to the Wetland Permit Planning Tool, NHDES has found that *all* matting from structure 19 to 26 on the 3111-distribution line appear to be in Very Poorly Drained Soils. Please provide a statement

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addressing the delineation report and how your CWS concluded that this area of the project did not meet the criteria for Very Poorly Drained Soils.

- d. Please provide updated communication with Department of Transportation (DOT) as entrance from Spaulding Turnpike to project location appears to require confirmation from their department.
- e. On plan page 5, around structure 33 on the 3171 line, is all the matting necessary in the northern corner of the work envelope? Please explain the rationale.
- f. On plan page 8, is it possible to shift the mats around structures 3 and 4 on the 339 line outside of wetland identified as PW-6, as there is documented scarring around those structures.
 - i. Additionally, please see the two aerial views below from 2022 and 2023. Please provide NHDES with records of past permits for permanent wetlands impacts and identify compensatory mitigation where appropriate for these areas. Also, please review the methods and success measures for past restoration approaches. Where permanent impacts have been documented, please include a full restoration plan with plantings and schedule to restore these areas.





- g. On plan page 9, is it possible to access structure 9 on the T13 line via the access path from structure 10, to avoid further impacts to wetland identified as PW-12, rather than gaining access from structure 8?
- 5- Removal of existing lines T-13 and removal of the Resistance Substation: Please clarify whether removal of Line T-13 and Removal of the Resistance Substation are within jurisdictional wetlands or coastal resource areas. If so, please include the specific impacts and methods for restoration in these areas.
- 6- Prime Wetlands: Please know pursuant to RSA 482-A, the department shall not grant a permit with respect to any project to be undertaken in an area mapped, designated and files as a prime wetland pursuant to RSA 482-A: 15, or within 100 feet of any prime wetlands where a 100 foot buffer, unless the department is able to find clear and convincing evidence on the *basis of all information considered by the department, that the proposed project, either alone or in conjunction with other human activity, will not result in the significant net loss of any of the values set forth in RSA 482-A:1.* Please specifically explain what on-site protective measures will be taken to protect the Municipally Designated prime wetlands functions and values. Please review the prime wetlands report filed by the City of Portsmouth and provide this information to NHDES in your proposal to identify protective measures for proposed impacts to Portsmouth Designated prime wetland functions and values.
- 7- Mitigation: Per Env-Wt 313.04, once permanent impacts are proposed within a Priority Resource Area (PRA), the applicant must mitigate for all remaining permanent impacts throughout the entire project. In your application under Section 11 it indicates a total of 825 SF permanent impacts, all impacts need to be included in your mitigation calculations. For prime wetlands mitigation, per Env-Wt 704.03, the applicant shall obtain concurrence from the local Conservation Commission regarding proposed mitigation plans for Prime Wetlands. Per Env-Wt 801.03(b), please confirm whether the municipality specifically concurred on the use of the in-lieu fee payment as a form of mitigation.
- 8- Fish and Game/NHB coordination: In accordance with Env-Wt 521.06(a)(4), please provide communication with

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New Hampshire Fish & Game (NHF&G) for the City of Portsmouth, including correspondence and their finalized BMP recommendations.

- 9- **Public Hearing:** Please note that pursuant to RSA 482-A:8, the department is required to hold a public hearing for projects with significant impact on the resources protected by this chapter or of substantial public interest. Per Env-Wt 104.19 "Significant environmental impact" includes a project that impacts more than one acre of non-tidal wetlands.

Please submit the required information as soon as practicable. Pursuant to RSA 482-A:3, XIV(a)(2), **the required information must be received by NHDES Wetlands Bureau within 60 days of the date of this request (no later than July 16, 2024), or the Application will be denied.** Should additional time be necessary to submit the required information, an extension of the 60-day time period may be requested. Requests for additional time must be received prior to the deadline in order to be approved. In accordance with applicable statutes and regulations, the applicant is also expected to provide copies of the required information to the municipal clerk and all other interested parties.

Based on NHDES review your project has 5,000 square feet or greater of non-tidal wetlands impacts. To ensure that you obtain permitting under the Clean Water Act, please contact the U.S. Army Corps of Engineers (USACE) at 1-978-318-8832, 1-978-318-8295, or by email at cenae-r-nh@usace.army.mil to see if additional mitigation may be required from the USACE.

Pursuant to RSA 482-A:3, XIV(a)(3), NHDES Wetlands Bureau will approve or deny the Application within 30 days of receipt of all required information, or schedule a public hearing, if required by RSA 482-A or associated rules.

If you have any questions, please contact me at MaryAnn.Tilton@des.nh.gov or (603) 271-2147.

Sincerely,



Mary Ann Tilton
Assistant Bureau Administrator, Wetlands Bureau
Land Resources Management, Water Division

Copied: Conor Madison, GZA
Greenland Municipal Clerk/Conservation Commission
Portsmouth Municipal Clerk/Conservation Commission