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John F. Bisson
Admitted in NH and ME

October 13, 2026

VIA EMAIL TO appeals@des.nh.gov and U.S. Mail

Water Council
Attn: Appeals Clerk
NH Attorney General's Office
1 Granite Place – South
Concord, NH 03301

Re: Petition for Appeal of Gosport Realty Trust
Docket No. 26-25 WtC

Dear Appeals Clerk:

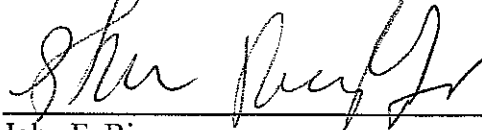
Please accept this letter as my Appearance on behalf of Gosport Realty Trust to be entered in the above referenced matter. My contact information is as follows:

John F. Bisson, Esq. (NHBA #10481)
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722 Chestnut Street
Manchester, NH 03104
Tel: (603) 624-4333
Email: jbisson@cbzlaw.com

Thank you for your assistance.

Sincerely yours,
CRONIN, BISSON & ZALINSKY P.C.

By:


John F. Bisson

for John Bisson

JFB:lma

cc: Service list follows this page.

October 13, 2026

Page 2

Via Email Only:

Gosport Realty Trust

Shawn R. Dunphy, Esq.

Rene Pelletier, Director, Water Division

Robert Scott, Commissioner, NHDES

Matthew Cardin, Cardin Environmental Consulting and Permitting

Portsmouth Conservation Commission



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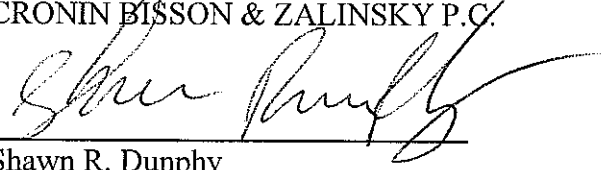
Please accept this letter as my Appearance on behalf of Gosport Realty Trust to be entered in the above referenced matter. My contact information is as follows:

Shawn R. Dunphy, Esq. (NHBA #276325)
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Thank you for your assistance.

Sincerely yours,
CRONIN BISSON & ZALINSKY P.C.

By:


Shawn R. Dunphy

SRD:lma

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October 13, 2026

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Portsmouth Conservation Commission

STATE OF NEW HAMPSHIRE

WETLANDS COUNCIL

Docket No. 26-25 WtC

APPEAL OF GOSPORT REALTY TRUST

**NOTICE OF APPEAL OF DEPARTMENT OF ENVIRONMENTAL
SERVICES PERMIT WETLANDS BUREAU FILE 2025-00558**

NOW COMES Gosport Realty Trust (the “Appellant”), by and through its attorneys, Cronin, Bisson & Zalinsky, P.C. and hereby appeals the New Hampshire Department of Environmental Services Wetlands Bureau (“DES”) denial of the Appellant’s Standard Dredge and Fill Wetlands Permit Application and Wetlands Rule Waiver or Dwelling Over Water Waiver Request Form, stating as follows:

1. **Filing requirement of Ec-Wet 201.01(a)(1) and (2).** This filing shall be submitted electronically to appeals@des.nh.gov and a copy in paper form shall be hand-delivered or sent by first-class mail to “Wetland Council, Attention: Appeals Clerk.”
2. **Contact Information of Appellant’s Counsel.**

John F. Bisson, Esq. (Bar ID # 10481)
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jbisson@cbzlaw.com

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(603) 624-4333
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3. **Appellant.**

Gosport Realty Trust
255 Gosport Road
Portsmouth, New Hampshire 03801
(857) 264-1210
JB@torprops.com

4. **Department Decision Being Appealed.**

July 30, 2026 denial of the Standard Dredge and Fill Wetlands Permit Application, File 2025-00558. A copy of the decision is attached to this appeal.

5. Property Address

255 Gosport Road
Portsmouth, New Hampshire 03801

6. Facts and Law Statement

Please see the attached narrative.

7. Certification of Service

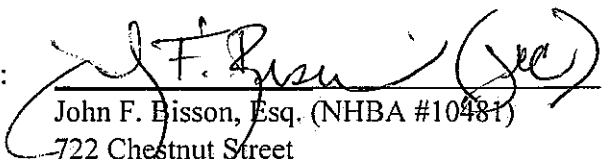
I hereby certify that of this notice of appeal has been served upon all parties as required under Ec-Wet 201.03 and Ec-Wet 203.01(d).

8. Signatures

Gosport Realty Trust
By its attorneys,
CRONIN BISSON & ZALINSKY, P.C.

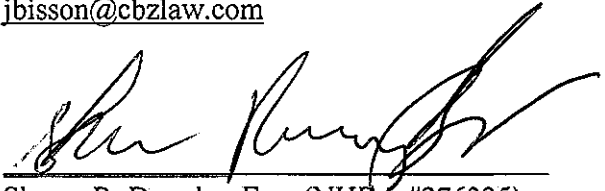
Dated: October 13, 2026

By:


John F. Bisson, Esq. (NHBA #10481)
722 Chestnut Street
Manchester, NH 03104
(603) 624-4333
jbisson@cbzlaw.com

Dated: October 13, 2026

By:


Shawn R. Dunphy, Esq. (NHBA #276325)
722 Chestnut Street
Manchester, NH 03104
(603) 624-4333
sdunphy@cbzlaw.com

STATEMENT OF FACTS AND LAW

I. Facts

1. The Appellant owns 255 Gosport Road, Portsmouth, New Hampshire (the “Property”).
2. The Property is a 1.5-acre parcel improved with a single-family residence.
3. The Property has approximately 120 feet of frontage along Sagamore Creek (Piscataqua River).
4. On March 10, 2025, the Appellant filed a Standard Dredge and Fill Wetlands Permit Application to install a permanent pier with seasonal ramp and float at the Property.
5. The docking structure would be a 6’ x 200’ permanent pier, a 4’ x 30’ seasonal gangway, and a 10’ x 40’ seasonal float secured by anchors and chains and a 6’ x 15’ permanent access ramp having an overall structure length of 230’ from the highest observable tide line.
6. The proposed structure would extend from a previously disturbed tidal buffer zone and be a total of 270 feet in length.
7. The pier would be supported by seventeen bents each containing two timber piles.
8. The gangway and float would be seasonal.
9. The Appellant’s representatives designed the docking structure to be greater than 1:1 ratio and sited along the riparian zone to minimize impact to the salt marsh.
10. The docking structure would require 969 square feet of permanent impact to tidal wetland, 247 square feet of impact to freshwater wetland, 620 square feet of seasonal impact to tidal wetland and 55 square feet of permanent impact to previously developed 100-foot Tidal Buffer Zone (“TBZ”).

11. The Appellant's expert, Matthew Cardin, CSW determined that the proposed docking structure will not impact the functions or values of tidal wetland, the freshwater wetland, or the 100-foot TBZ.

12. The proposal would not contribute to stormwater or pollution.

13. The Appellant proposed significant mitigation including temporary construction protections and permanent mitigation.

14. Additionally, the Appellant filed a Wetlands Rule Waiver or Dwelling Over Water Waiver Request Form on February 21, 2025.

15. The Waiver was required because Env.Wt 606.07(c) states that "[t]he maximum overall structure length including pier, ramp and float, measured seaward from the HOTL, shall not exceed the greater of 200 feet or the length needed to reach water of sufficient depth to allow the terminal section of the dock to be floating at mean low water."

16. The Appellant requested 230 feet in order to access navigable waters in Sagamore Creek.

17. The Appellant explained that there is no reasonable alternative to wharf to a navigable portion of Sagamore Creek from the Property.

18. The proposed plan would provide access to Sagamore Creek beyond the vegetated salt marsh.

19. The Appellant submitted applications for both requests.

20. On April 10, 2025, the Portsmouth Conservation Commission provided DES with its review of the application and recommendation to deny the application.

21. On April 29, 2025, DES issued a Request for More Information (“RMI”) to the Appellant which included a request for response to the Portsmouth Conservation Commission’s comments and additional mitigation information.

22. The Appellant provided a response to the RMI on May 26, 2026 which included a wetland mitigation proposal.

23. DES requested additional information in an RMI on June 24, 2026 which was responded to June 29, 2026.

24. Subsequently, DES denied the applications on July 30, 2026.

25. DES made the following findings:

- 1) The project fails to meet Env-Wt 606.06 (j) (5) as the proposed pier is over 200 feet long spanning the salt marsh and constitutes a boardwalk over tidal marsh to reach a dock. Therefore, pursuant to Env-Wt 313.01, (a), (4), NHDES shall not approve the application.
- 2) The project fails to meet Env-Wt 606.07 (c) as the proposed docking structures will be 230 feet from the HOTL. Therefore, pursuant to Env-Wt 313.01, (a), (4), NHDES shall not approve the application.
- 3) For the proposed impacts to the designated Prime Wetland 61A, NHDES is unable to specifically find based on clear and convincing evidence 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. The wetland mitigation proposal is not comparable in function to the wetland impacts it is intended to offset and does not provide the functional lift, hydrologic connectivity, or wildlife corridors needed to meet RSA 482-A:11, IV and the standards in Env-Wt 704.03(b) and Env-Wt 805.01. Specifically, the mitigation proposal does not meet rule requirements because it fails to replace the wetland types and functions impacted and does not demonstrate that the mitigation will provide functions and values equal to or greater than those lost, as required by Env-Wt 805.01(a), Env-Wt 803.02(b), RSA 482-A:11, IV(a), Env-Wt 311.10(a)(2), EnvWt 704.02, and Env-Wt 704.03(b).
- 4) Through Env-Wt 704.02, the project fails to meet Env-Wt 701.02 (e) as the project proposes permanent impact to prime wetland and prime wetland buffer that will remain after the project completed which will be a significant net loss meaning a loss that is unlikely to be reversed through

natural processes within one year. Therefore, pursuant to Env-Wt 313.01, (a), (3), NHDES shall not approve the application.

26. On August 31, 2026, the Appellant filed a Preliminary Notice of Appeal and Offer to Enter into Settlement Discussions.

27. DES rejected the offer to enter into settlement discussions on September 9, 2026.

28. This appeal followed.

II. Issues of Law and Fact

1) DES improperly stated that the impacts proposed by the structure would be entirely within the City of Portsmouth's Prime Wetland 61A and duly established 100-foot prime wetland buffer of Prime Wetland 61A.

29. RSA 482-A:2(x) defines "wetlands" as "an area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal conditions does support, a prevalence of vegetation typically adapted for life in saturated soil conditions."

30. In its denial, DES asserted that "[t]he impacts proposed in the Application are entirely within the City of Portsmouth's Prime Wetland 61A and the duly-established 100-foot prime wetland buffer of Prime Wetland 61A."

31. However, the proposed 10' x 20' float, the four chains and helical anchors, and portions of the 3' x 30' gangway are located within the tidal mudflat, which is not included in wetlands.

32. Further, the Prime Wetlands Analysis Report prepared by West Environmental, dated January of 2011 which was the basis for the City's prime wetland designation request, acknowledges that the Prime Wetland 61A boundary was revised because mudflats are not vegetated wetlands.

33. As such, DES's decision is unsupported by the law, factually incorrect and unreasonable.

34. DES's error undermines its analysis under Rulings in Support of Denial 3 and 4.

35. Recognizing that the structure is not located entirely within prime wetlands leads to the proper conclusion that the alleged harm is not as great as DES noted and the mitigation plan is sufficient to address any harm to the environment.

2) The proposed pier is not a boardwalk.

36. Env-Wt 102.26 defines a "Boardwalk" as "an elevated walkway designed for use by pedestrians or non-motorized vehicles, or both, to allow access over wetlands or surface waters, or both, from upland to upland or from upland to navigable frontage generally constructed on a series of widely spaced bents or piers, effectively comprising a series of connected bridges."

37. Here, the proposed docking structure does not connect upland to upland or upland to navigable frontage.

38. Thus, it is not a boardwalk.

39. A "docking structure" is defined as "any structure or combination of structures that can be used to secure watercraft or to load and unload passengers, freight, or other items, or any combination thereof, whether or not any part of the structure is in or over the water. The term includes 'dock' when used as a noun, 'pier', 'wharf', and 'finger'."

40. Thus, the proposed installation is a docking structure which will be used to secure watercraft and allow users of the watercraft to enter and exit.

41. DES's mischaracterization of the structure supported a flawed analysis that is unreasonable and illegal.

3) The alleged impacts to the prime wetland and prime wetland buffer are less than what DES purports them to be.

42. Ruling in Support of Decision 4 states, “[t]hrough Env-Wt 704.02, the project fails to meet Env-Wt 701.02 (e) as the project proposes permanent impact to prime wetland and prime wetland buffer that will remain after the project is completed which will be a significant net loss meaning a loss that is unlikely to be reversed through natural processes within one year. Therefore, pursuant to Env-Wt 313.01, (a), (3), NHDES shall not approve the application.”

43. According to the record as submitted by the Appellant’s expert the proposed mitigation plan will result in a net improvement from the permanent impact from the proposed pier.

44. As the proposed pier will have only minimal impacts within the first year to the prime wetland, the proposed mitigation will significantly improve the overall function of the wetland.

45. Any permanent impacts will be limited to the permanent piles supporting the pier, which occupy only 27 square feet.

46. DES has approved similar structures in Prime Wetland 61A, including at 20 Odiorne Point Road which indicates that there will be no significant net loss to the wetland that is unlikely to be reversed through natural processes within one year.

47. Otherwise, the other similar applications would have been rejected.

48. Further, without the pier, foot-traffic may go through the salt marsh to reach riparian frontage which could lead to vegetation damage and soil compaction beyond the proposed impact caused by the piles resulting in 27 square feet.

49. The proposed pier reduces that risk of harm.

50. As such, DES’s decision was unreasonable.

III. Conclusion

51. For the reasons stated above, DES's denial should be reversed and/or remanded for further consideration.



The State of New Hampshire
Department of Environmental Services

Robert R. Scott, Commissioner



August 14, 2026

Page 1 of 5

GOSPORT REALTY TRUST
255 GOSPORT ROAD
PORTSMOUTH NH 03801

**Re: Denied Non-Compliant Standard Dredge and Fill Wetlands Permit Application (RSA 482-A)
NHDES Wetlands Bureau File 2025-00558, 255 Gosport Road, Portsmouth Tax Map 244 Lot 10-9**

Dear Applicant:

On July 30, 2026, the New Hampshire Department of Environmental Services (NHDES) Wetlands Bureau completed technical review of the above-referenced Standard Dredge and Fill Wetlands Permit Application (Application). Pursuant to RSA 482-A and Env-Wt 313.01, the NHDES Wetlands Bureau determined the Application proposes to impact 1,380 square feet of jurisdictional area to include 60 square feet of upland tidal buffer zone and 1,320 square feet of tidal wetland to construct a new residential tidal dock with a 4 foot by 15 access ramp leading to a 4 foot by 200 foot with Thru-flow decking, with a 4 foot by 30 foot ramp, landing on a 10 foot by 20 foot float secured with helical moorings and chains. The overall length of this docking structure, seaward of the highest observable tide line, is approximately 242.34 feet, on approximately 120 feet of frontage on Sagamore Creek in Portsmouth. Impacts will be mitigated by restoring approximately 2,257 square feet of freshwater wetland and prime wetland buffer does not meet the criteria for approval. Therefore, the Application is denied. This decision is based on the following findings:

A. Standards for Approval:

1. Pursuant to Env-Wt 313.01, Criteria for Approving Standard Permit Applications, (a), (3) NHDES shall not approve an application and issue a permit unless all resource-specific criteria established in Env-Wt 311.09(a), Env-Wt 400, Env-Wt 600, and Env-Wt 700.
2. Pursuant to Env-Wt 313.01, Criteria for Approving Standard Permit Applications, (a), (4) the Department shall not approve an application and issue a permit unless all applicable project-specific criteria established in Env-Wt 600 have been met.
3. Env-Wt 602.23 "Highest observable tide line (HOTL)" means a line defining the farthest landward limit of tidal flow, not including storm events, that can be recognized by indicators such as the presence of a strand line of flotsam and debris, the landward margin of salt-tolerant vegetation, or a physical barrier that blocks inland flow of the tide.
4. Pursuant to Env-Wt 605.02, Additional Requirements for Projects in or Adjacent to Tidal Waters/Wetlands and Tidal Buffer Zones, (b) an applicant for a permit for work in or adjacent to tidal waters/wetlands or the tidal buffer zone shall demonstrate that adverse impacts to the movement of sediments along a shore have been avoided or minimized.
5. Pursuant to Env-Wt 605.03, Impacts Requiring Compensatory Mitigation, subject to Env-Wt 313.04, compensatory mitigation shall be required for all impacts to tidal surface waters, tidal wetlands, the tidal buffer zone, or any combination thereof, that are intended to remain when the proposed project is completed.
6. Env-Wt 603.01 Applicability. The applicant for a project in a coastal area shall provide the information required by this part in addition to the information required by Env-Wt 311 for a standard permit.

www.des.nh.gov

29 Hazen Drive • PO Box 95 • Concord, NH 03302-0095
(603) 271-3503 • Fax: (603) 271-2867 • TDD Access: Relay NH 1-800-735-2964

7. Env-Wt 606.06 Residential Tidal Docks: General Criteria (j) The following shall not be approved for residential tidal docks: (5) Boardwalks over tidal marsh to reach a dock.
8. Env-Wt 606.07 Residential Tidal Docks: Design Standards (c) The maximum overall structure length including pier, ramp, and float, measured seaward from the HOTL, shall not exceed the greater of 200 feet or the length needed to reach water of sufficient depth to allow the terminal section of the dock to be floating at mean low water.
9. Env-Wt 606.07 Residential Tidal Docks: Design Standards (c) (e) For permanent piers: (2) The maximum length shall not exceed 200 feet.
10. Env-Wt 701.01 Purpose. The purpose of this chapter is to establish the criteria and methods to be used to designate, map, and document prime wetlands, which are wetlands that are worthy of extra protection because their uniqueness, fragility, and/or unspoiled character give them significant value.
11. Env-Wt 701.02 Definitions. (c) "Prime wetlands" means "prime wetlands" as defined in RSA 482-A:15, I-a, reprinted in Appendix C.
12. Env-Wt 701.02 Definitions. (d) "Prime wetlands/buffer" means prime wetlands or a duly-established 100-foot buffer or both, as applicable in the context used.
13. Env-Wt 701.02 Definitions. (e) "Significant net loss" means a loss that is unlikely to be reversed through natural processes within one year.
14. Pursuant to RSA 482-A:11, IV(a) and Env-Wt 704.02, a permit for a project proposed in designated prime wetlands shall not be issued unless NHDES is able, specifically, to find clear and convincing evidence on the basis of all information considered by NHDES 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.
15. Env-Wt 704.03 Supplementary Information; Criteria for Compensatory Mitigation. (a) For any project proposed in a prime wetlands/buffer, compensatory mitigation for unavoidable impacts shall meet the requirements of Env-Wt 800, subject to (b) and (c), below. (b) Any applicant proposing a project in a prime wetlands/buffer that requires compensatory mitigation shall undertake on-site mitigation if practicable. (c) The applicant shall obtain concurrence from the local conservation commission, if any, or the local governing body for any proposed mitigation plan for impacts to designated prime wetlands/buffer. (d) If the applicant is not able to obtain concurrence as specified in (c), above, NHDES shall hold a public hearing to receive comments, impact analysis, and wetlands evaluation on the mitigation proposal.
16. Env-Wt 602.44 "Residential tidal dock" means a docking structure in tidal waters/wetlands that serves private residential properties, whether individually or as an association such as a homeowners' association.
17. Env-Wt 602.48 "Special aquatic sites" means inland and tidal wetlands, mud flats, vegetated shallows having submerged aquatic vegetation, sanctuaries and refuges, coral reefs, and riffle and pool complexes.
18. Env-Wt 602.56 "Tidal marsh" means a marsh in which the primary source of water is salt water.
19. Env-Wt 602.59 "Tidal waters/wetlands" means tidal wetlands and tidal surface waters.
20. Env-Wt 602.60 "Tidal wetlands" means wetlands whose vegetation, hydrology, and soils are influenced by periodic inundation of the tides.
21. As defined by Env-Wt 701.02, "significant net loss" means a loss that is unlikely to be reversed through natural processes within one year.
22. Per Env-Wt 104.59, "Wetland restoration" means the re-establishment of a filled, dredged, drained, or otherwise disturbed or disrupted wetlands to its historic condition, so as to restore lost functions to the greatest extent practicable, by removing fill, restoring hydrology, re-establishing native wetlands vegetation, or such other means as are necessary.
23. Per Env-Wt 704.03, to meet the requirement of no significant net loss pursuant to RSA 482-A:11, IV, onsite compensatory mitigation for unavoidable permanent impacts shall meet the requirements of Env-Wt 800.

24. Per Env-Wt 805.01, a compensatory mitigation proposal based on wetland restoration shall replace the types of wetlands to be impacted and the functions affected and, where practicable, include a contiguous aquatic resource buffer.
25. Per Env-Wt 805.01(a), a compensatory mitigation proposal "shall replace the types of wetlands to be impacted and the functions affected."
26. Per Env-Wt 803.02(b), the compensatory mitigation shall include an explanation as to why the mitigation project will result in a resource with overall functions and values equal to or greater than the jurisdictional area(s) impacted by the project.
27. Per Env-Wt 805.01(b), wetland restoration proposal "shall not be accepted as compensatory mitigation for sites at which remediation is required to correct unpermitted activities in jurisdictional areas."

B. Findings of Fact:

1. On December 20, 2011, NHDES accepted Prime Wetland designations for 13 wetlands in the City of Portsmouth pursuant to Env-Wt 702.03. Supporting documentation includes "City of Portsmouth Prime Wetland Analysis prepared by West Environmental, Inc. (WEI) and the City of Portsmouth Planning Department" dated January 11, 2011, as received by NHDES on January 31, 2011, and supplemental materials prepared by WEI entitled "NH Method Wetland Evaluation Forms and Results for Prime Wetland Candidate 006 Sagamore Creek Headwaters, Portsmouth NH" dated July 15, 2011, as received by NHDES on August 15, 2011.
2. WEI conducted a wetland inventory and evaluation of wetlands within the City of Portsmouth with consideration of designated prime wetlands determined that the subject wetland system proposed for impacts, Wetland 61A, is a high-value prime wetland as adopted by the City of Portsmouth and established a duly established 100-foot prime wetland buffer. Per the WEI, Wetland 61A was recommendation for designation with the justifications of largest salt marsh, rare species habitat, and critical fisheries habitat. Wetland 61A was determined to be a 67.46 acre wetland as a tidal estuary (E2EM1P).
3. On March 10, 2025, the New Hampshire Department of Environmental Services Wetlands Bureau ("NHDES") received a Standard Dredge and Fill Application ("the Application") requesting a permit to construct a residential tidal dock on property identified as Lot 10-9 on Portsmouth Tax Map 244 ("the Property") along frontage on salt marsh also known as Portsmouth Prime Wetland 61A contiguous with Sagamore Creek.
4. The Application requests to impact 1,380 square feet of jurisdictional area to include 60 square feet of upland tidal buffer zone and 1,320 square feet of tidal wetland to construct a new residential tidal dock with a 4 foot by 15 access ramp leading to a 4 foot by 200 foot with Thru-flow decking, with a 4 foot by 30 foot ramp, landing on a 10 foot by 20 foot float secured with helical moorings and chains. The overall length of this docking structure, seaward of the highest observable tide line, is approximately 242.34 feet, on approximately 120 feet of frontage on Sagamore Creek.
5. The impacts proposed in the Application are entirely within the City of Portsmouth's Prime Wetland 61A and the duly-established 100-foot prime wetland buffer of Prime Wetland 61A.
6. The Application included a waiver request of Env-Wt 606.07 in accordance with Env-Wt 204.03. The overall structure length of the proposed pier, ramp, and float is 270 feet from the upland and 230 feet from the HOTL.
7. On April 10, 2025, NHDES received comments from the Portsmouth Conservation Commission (PCC) on the Application recommending denial for the following reasons: a. This proposal directly impacts a prime wetland resource in Portsmouth. b. the design associated with this proposal is more in line with a boardwalk compared to a dock. c. The construction and permanent installation of this structure will have detrimental impacts on the extremely sensitive salt marsh habitat. This includes permanent pilings, seasonal deconstruction/construction, and shading of the habitat throughout the day. In addition, damage to this habitat could impact shoreline stability within this cove and surrounding

neighborhood. d. there are other publicly accessible waterfront access points within this neighborhood that the property owner could utilize. e. Permitting a dock in this cove could set a precedent for abutting property owners who may also want to install docks directly over sensitive marsh and onto constrained, unnavigable waterways (mudflats). f. Applicant is requesting a waiver to allow for the overall docking structure to exceed 200' in length, but the dock float will still be unable to float at MLW with the length proposed. This cove is completely mudflats at MLW and the use of the dock for boating would be extremely restricted due to water levels during the remainder of the tidal cycle. Additionally, the applicant is asking for the maximum allowable float footprint and width of the fixed pier.

8. On April 29, 2025, NHDES issued a Request for More Information letter (RMI) to the applicant and the agent on record requesting more information and informing them that the required information must be received by June 30, 2025, or the Application would be denied pursuant to RSA 482-A:3, XIV(a)(2).

9. In summary, the RMI requested: a. In accordance with Env-Wt 311.06(h), provide a statement how the applicant has addressed the comments of the PCC; b. Pursuant to Env-Wt 704.02, a prime wetlands/buffer functional assessment and impact analysis shall be submitted to demonstrate, by clear and convincing evidence as required by RSA 482-A:11, IV(a), that the criteria in RSA 482 A:11, IV(a) are met, namely 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; c. The permanent impacts to the designated prime wetland (Prime Wetland 61a) and the duly-designated 100-foot prime wetland buffer are considered permanent impacts to priority resource areas in accordance with EnvWt 103.66, Env Wt 306.05(a)(2)d., and Env-Wt 306.05(a)(2)e., therefore compensatory mitigation is required for these impacts in accordance with Env-Wt 704.03 (b) Any applicant proposing a project in a prime wetlands/buffer that requires compensatory mitigation shall undertake on-site mitigation if practicable; and, d. In accordance with Env-Wt 311.08(b), for any project that requires compensatory mitigation the applicant must provide, as part of the application, a complete compensatory mitigation proposal as specified in Env-Wt 312.04.

10. On May 26, 2026, NHDES received a response to the RMI from the applicant's agent and included a wetland mitigation proposal.

11. In summary, the wetland mitigation proposed to, "restore approximately 2,257 square feet of freshwater wetland and prime wetland buffer. Impacts to the tidal wetland area are proposed, however, limited restoration for the tidal wetland portions of the subject property are not preferred due to the overall good condition of the existing salt marsh."

12. On June 24, 2026, NHDES issued another RMI requesting clarifications to the plan(s).

C. Ruling in Support of the Decision:

1. The project fails to meet Env-Wt 606.06 (j) (5) as the proposed pier is over 200 feet long spanning the salt marsh and constitutes a boardwalk over tidal marsh to reach a dock. Therefore, pursuant to Env-Wt 313.01, (a), (4), NHDES shall not approve the application.

2. The project fails to meet Env-Wt 606.07 (c) as the proposed docking structures will be 230 feet from the HOTL. Therefore, pursuant to Env-Wt 313.01, (a), (4), NHDES shall not approve the application.

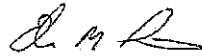
3. For the proposed impacts to the designated Prime Wetland 61A, NHDES is unable to specifically find based on clear and convincing evidence that the proposed project, either alone or in conjunction with other human activity, will not result in the significant net loss of any of the values set forth in RSA 482-A:1. The wetland mitigation proposal is not comparable in function to the wetland impacts it is intended to offset and does not provide the functional lift, hydrologic connectivity, or wildlife corridors needed to meet RSA 482-A:11, IV and the standards in Env-Wt 704.03(b) and Env-Wt 805.01. Specifically, the mitigation proposal does not meet rule requirements because it fails to replace the wetland types and functions impacted and does not demonstrate that the mitigation will provide functions and values equal to or greater than those lost, as required by Env-Wt 805.01(a), Env-Wt 803.02(b), RSA 482-A:11, IV(a), Env-Wt 311.10(a)(2), Env-Wt 704.02, and Env-Wt 704.03(b).

4. Through Env-Wt 704.02, the project fails to meet Env-Wt 701.02 (e) as the project proposes permanent impact to prime wetland and prime wetland buffer that will remain after the project completed which will be a significant net loss meaning a loss that is unlikely to be reversed through natural processes within one year. Therefore, pursuant to Env-Wt 313.01, (a), (3), NHDES shall not approve the application.

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 New Hampshire Wetlands Council (Council) or a Preliminary Notice of Appeal (PNA) and an offer to enter into settlement discussions within 30 days of the decision date, July 30, 2026.** When filing an appeal, 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. A PNA and offer to enter into settlement discussions, shall be filed in accordance with the instructions found at <https://www.des.nh.gov/sites/g/files/ehbemt341/files/documents/prelim-noa-instrctns.pdf> using the form found at <https://www.des.nh.gov/sites/g/files/ehbemt341/files/documents/prelim-not-of-app.pdf>.

If you have any questions, please contact me at Eben.Lewis@des.nh.gov or (603) 559-1515.

Sincerely,



Eben M. Lewis
Southeast Region Supervisor, Wetlands Bureau
Land Resources Management, Water Division

cc: Matthew Cardin, Cardin Environmental Consulting and Permitting
Portsmouth Conservation Commission