

CDR 3/17/20  
✓

## Wetlands Applications Decision Report

Decisions Taken  
03/09/2020 to 03/15/2020

### **DISCLAIMER:**

This document is published for information purposes only and does not constitute an authorization to conduct work. Work in jurisdiction may not commence until the applicant has received a posting permit.

Decisions are subject to appeal, and are reviewed by the federal agencies for compliance with Section 404 of the Federal Clean Water Act.

### **APPEAL:**

Any party aggrieved by a decision may file an appeal within 30 days of the date of this decision as specified in RSA 482-A:10, RSA 21-O:14, and the rules adopted by the Wetlands Council, Env-WIC 100-200.

The appeal must be filed directly with the Council, c/o the Council Appeals Clerk, who may be contacted at (603) 271-6072 or [atappeals@des.nh.gov](mailto:atappeals@des.nh.gov). The notice of appeal must set forth fully every ground upon which it is claimed that the decision complained of is unlawful or unreasonable. Only those grounds set forth in the notice of appeal can be considered by the council.

**MAJOR IMPACT PROJECT**

\*\*\*\*\*

2017-00487

**CLOUGH, MARION**

**NEW CASTLE LITTLE HARBOR**

**Requested Action:**

Permanently impact 280 square feet (sq. ft.) of estuarine and marine wetlands for the construction of a seasonal docking structure to include a 4 ft x 10 ft access ramp, a 4 ft x 30 ft pier with ThruFlow decking, a 3 ft x 15 ft aluminum ramp leading to an 8 ft x 10 ft float overall structure length 60 ft providing one slip on approximately 140 ft of frontage along the Piscataqua River Back Channel.

\*\*\*\*\*

**Conservation Commission/Staff Comments:**

Inspection Date: 06/27/2017 by EBEN M LEWIS

**APPROVE PERMIT**

On January 23, 2019, the NH Wetlands Council (Council) remanded the appeal of the NH Department of Environmental Services (NHDES) January 16, 2018 approval of your original application, requiring the NHDES to hold a public hearing on the application, allow a public comment period, and accept public comments pursuant to RSA 482-A:8. On June 27, 2019, the NHDES held a public hearing to receive additional public comments. After review of the public comments, the NHDES affirmed the above referenced application to permanently impact 280 square feet (sq. ft.) of estuarine and marine wetlands for the construction of a seasonal docking structure to include a 4 ft x 10 ft access ramp, a 4 ft x 30 ft pier with ThruFlow decking, a 3 ft x 15 ft aluminum ramp leading to an 8 ft x 10 ft float overall structure length 60 ft providing one slip on approximately 140 ft of frontage along the Piscataqua River Back Channel.

**With Conditions:**

1. All work shall be in accordance with plans by Riverside & Pickering Marine Contractors dated January 27, 2017 and revised August 8, 2017, as received by the NHDES Wetlands Bureau on August 8, 2017.
2. Any future work in jurisdiction as specified in RSA 482-A on this property will require a new application and approval by the NHDES.
3. This permit shall not be effective until recorded at the Rockingham County Registry of Deeds office by the permittee. Prior to starting work under this permit, the permittee shall submit a copy of the recorded permit to the NHDES by certified mail, return receipt requested.
4. Not less than five state business days prior to starting work authorized by this permit, the permittee shall notify the NHDES and the NCCC in writing of the date on which work under this permit is expected to start.
5. A "no cut/no maintenance buffer" shall be left on the property landward 100-feet from the highest observable tide line. This shall include, but is not limited to, trees, shrubs, and herbaceous vegetation.
6. Appropriate siltation/erosion/turbidity controls shall be in place prior to construction, shall be maintained during construction, and shall remain in place until the area is stabilized.
7. The float shall be fitted with float stops or similar structure so that the float will have minimal contact with the underlying intertidal area.
8. The height of the pier decking over the surface of the tidal marsh at normal high tide shall equal the width of the decking. Decking shall be ThruFlow decking.
9. Work shall be done during low tide.
10. Work shall be conducted in a manner so as to minimize turbidity and sedimentation to surface waters and wetlands.
11. Work shall be conducted in a manner that avoids excessive discharges of sediments to fish spawning areas.
12. The seasonal structures, including but not limited to ramp and floats, shall be removed during the non-boating season

03/09/2020 to 03/15/2020

and stored on the existing pier or in an upland location.

With Findings:

1. Approvals must be consistent with the findings of public purpose set forth by RSA 482-A:1.
2. Approvals must be consistent with the setbacks set forth by RSA 482-A:3 XIII (c) notwithstanding the provisions of subparagraph (a). Boat docking facilities may be located closer than 20 feet from an abutter's property line in non-tidal waters and 20 feet in tidal waters, if the owner of the boat docking facility obtains the written consent of the abutting property owner.
3. This project is classified as major impact pursuant to Administrative Rule Env-Wt 303.02(a), projects in sand dunes, tidal wetlands, or bogs, except for the repair of existing structures pursuant to Env-Wt 303.04(v).
4. Env-Wt 101.03 "Abutter" means any person who owns property immediately adjacent and contiguous to the property on which the project will take place. This does not include those properties across a public road. An abutter includes an owner of any flowage rights on or immediately adjacent to the property on which the project will take place. If the project is located on waterfront or another area which by its configuration would cause the project to affect non-contiguous properties, owners of those properties are considered as abutters. The term does not include the owner of a parcel of land located more than one quarter mile from the limits of the proposed project.
5. Pursuant to Env-Wt 302.03, the applicant shall provide evidence which demonstrates that the potential impacts of the project proposal avoid and minimizes impacts to the maximum extent practicable.
6. Pursuant to Env-Wt 302.01(a), and Env-Wt 302.04(a)(1), the need for the proposed impacts shall be demonstrated by the applicant prior to the NHDES approval of any alteration of tidal wetlands. Preserving the integrity of saltmarshes and tidal wetlands shall be given highest priority by the NHDES, because of the high productivity and rarity of such wetlands and the difficulty in restoration in value and function for those environments. No project shall be allowed that intrudes into a tidal wetland unless the department finds that it is to be for the public good as set out in RSA 482-A:1.
7. The NH Supreme Court has explained that "Env-Wt 302.01(a) and, in turn, Env-Wt 302.04(a)(1) require an applicant to demonstrate 'a want of something requisite, desirable, or useful' prior to approval of any project that alters tidal wetlands." Appeal of Cook, 170 N.H. 746, 752 (2018).
8. In accordance with Rule Env-Wt 302.04(a)(3), Requirements for Application Evaluation, for any major or minor project, the applicant shall demonstrate by plan and example the type and classification of the wetlands involved.
9. In accordance with Rule Env-Wt 302.04(a)(7), Requirements for Application Evaluation, for any major or minor project, the applicant shall demonstrate by plan and example the impact on plants, fish and wildlife including, but not limited to: (a) Rare, special concern species; (b) State and federally listed threatened and endangered species; (c) Species at the extremities of their ranges; (d) Migratory fish and wildlife; (e) Exemplary natural communities identified by the DRED-NHB; and (f) Vernal pools.
10. In accordance with Rule Env-Wt 302.04(a)(8), Requirements for Application Evaluation, for any major or minor project, the applicant shall demonstrate by plan and example the impact of the proposed project on public commerce, navigation and recreation.
11. In accordance with Rule Env-Wt 302.04(a)(9), Requirements for Application Evaluation, for any major or minor project, the applicant shall demonstrate by plan and example the extent to which a project interferes with the aesthetic interests of the general public.
12. In accordance with Rule Env-Wt 302.04(a)(11), Requirements for Application Evaluation, for any major or minor project, the applicant shall demonstrate by plan and example the impact upon abutting owners pursuant to RSA 482-A:11, II.
13. In accordance with Rule Env-Wt 302.04(a)(13), Requirements for Application Evaluation, for any major or minor project, the applicant shall demonstrate by plan and example the impact of a proposed project on quantity or quality of surface and ground water.
14. In accordance with Rule Env-Wt 302.04(a)(14), Requirements for Application Evaluation, for any major or minor project, the applicant shall demonstrate by plan and example the potential of a proposed project to cause or increase flooding, erosion, or sedimentation.
15. In accordance with Rule Env-Wt 302.04(a)(16), Requirements for Application Evaluation, for any major or minor project, the applicant shall demonstrate by plan and example the cumulative impact that would result if all parties owning or abutting a portion of the affected wetland or wetland complex were also permitted alterations to the wetland proportional to the extent of their property rights.
16. In accordance with Rule Env-Wt 302.04(a)(17), Requirements for Application Evaluation, for any major or minor project, the applicant shall demonstrate by plan and example the impact of the proposed project on the values and functions of the total wetland or wetland complex.
17. In accordance with Rule Env-Wt 401.01(b), Purpose, the purpose of chapter Env-Wt 400 is to protect the public trust and other interests of the state of New Hampshire, by preserving the integrity of the surface waters of the state by requiring all structures to be constructed so as to insure safe navigation, minimize alterations in prevailing currents, minimize the reduction of water area available for public use, avoid impacts that would be deleterious to fish and wildlife habitat, and avoid impacts that might cause erosion to abutting properties.
18. In accordance with Rule Env-Wt 402.02, Navigation Space, the design and construction of docking facilities shall allow

03/09/2020 to 03/15/2020

for a maximum of 2 feet of navigation space between a boat slip and any other structure or boat slip.

19. In accordance with Rule Env-Wt 402.04, Setbacks, as required by RSA 482-A:3, XIII(a), all docks shall be located at least 20 feet from any abutting property line or imaginary extension of the property line over surface water, unless the provisions of RSA 482-A:3, XIII(c) or (d) are met.

20. In accordance with Rule Env-Wt 402.05(a), Seasonal Docks, a seasonal dock shall be: (1) Designed to be installed at the beginning and removed at the end of the boating season; (2) Removed from the water for a minimum of 5 months of every calendar year; (3) Designed and placed in the water so as not to obstruct navigation; (4) Removed from the water for the purpose of applying paint, stain, or other preservatives; and (5) Installed only if in compliance with RSA 482-A:3, IV-a or otherwise permitted under RSA 482-A.

21. In accordance with Rule Env-Wt 606.03(a), Piers, Docks, Wharves, and Floats Criteria, projects shall be designed such that supporting cribs, piles, and caissons occupy no more than 5 percent of total volume under the structure at mean high water to allow most wave and current energy to pass through, and prevent deepening of the area in accordance with Rule Env-Wt 606.03(b).

22. In accordance with Rule Env-Wt 606.03(d), Piers, Docks, Wharves, and Floats Criteria, all floats shall be anchored, held by piles, or made fast to the shore or dock, to prevent substantial changes in their positions.

23. In accordance with Rule Env-Wt 606.03(e), Piers, Docks, Wharves, and Floats Criteria, floats that are not linked to the shore by ramps or piles, but are anchored, shall not exceed 400 square feet.

24. In accordance with Rule Env-Wt 603.03(f), Piers, Docks, Wharves, and Floats Criteria, all floats and floating structures or sections thereof, shall be positioned waterward of any vegetated wetlands or vegetated shallows.

25. The NHDES does not regulate boating or Jet Skis. The NH Department of Safety has jurisdiction over motor boats pursuant to RSA 270. There are proposed bills regulating Jet Ski use under consideration by the NH legislature.

#### Findings of Fact

Based on the record and the public comments submitted in writing or made at the Public Hearing, the NHDES makes the following findings:

1. On February 16, 2017, the NHDES received an application from the applicant for impacts to estuarine and marine wetlands for the construction of a seasonal docking structure for boating access.

2. The subject parcel or land on which the project is proposed is identified as New Castle Tax Map 9, Lot 23 (property). The property has an average of 140 feet of frontage along the Piscataqua River Back Channel.

3. The Piscataqua River Back Channel is a public waterbody controlled by the state.

4. On January 16, 2018, the NHDES approved the applicant's request to: Permanently impact 280 square feet (sq. ft.) of estuarine and marine wetlands for the construction of a seasonal docking structure to include a 4 ft. x 10 ft. access ramp, a 4 ft. x 30 ft. pier with ThruFlow decking, a 3 ft. x 15 ft. aluminum ramp leading to an 8 ft. x 10 ft. float, overall structure length 60 ft., providing one slip on approximately 140 ft. of frontage along the Piscataqua River Back Channel.

5. On March 21, 2018, the NH Wetlands Council received a revised Petition for Appeal from the New Castle Conservation Commission (NCCC).

6. On January 23, 2019, the NH Wetlands Council remanded the appeal to the NHDES for the NHDES to notice a public comment period and accept public comments on the application pursuant to RSA 482-A:8.

7. On February 1, 2019, the NHDES initiated a 45-day public comment period, under the authority of RSA 482-A:8. The NHDES received 35 comments in opposition of the project. Twenty-eight comments were received from residents of New Castle, four comments were received from town officials, and one comment apiece was received from the University of New Hampshire, the NH Piscataqua Region Estuaries Partnership, and the Rockingham County Conservation District. In particular, the NCCC submitted comments to the NHDES dated March 14, 2019 including a Report of Daniel Geiger, Certified Wetland Scientist of Oak Hill Environmental Services (Report). The NCCC's submittal outlined 'Summary Comments in Support of Permit withdrawal.'

8. On May 20, 2019 the NHDES received a petition to the New Castle Select Board signed by seven New Castle residents supporting the community effort to preserve and protect the environmental integrity of Lavenger Creek and the surrounding shore by opposing the application for a sixty-foot docking structure with ramp, pier and decking, ramp and float, along with the planned use of Jet Skis. The petition cites documentation by the NCCC and "attested to by over 25 letters from New Castle residents that approving the permit would (1) undermine years of efforts to protect Lavenger Creek; (2) harm water quality, disturb and redistribute soft mud at the mouth of the Creek, and potentially reduce the capacity of the Creek to handle increased precipitation and flooding during large storms, and (3) encourage the use of motorized watercraft, including Jet Skis, thereby accelerating pollution and environmental degradation, harming wildlife, and destroying tranquility and beauty of this fragile ecosystem..."

9. The NHDES held a public hearing at the Portsmouth office of the NHDES on June 27, 2019 for the purpose of gathering information and public comment relative to the proposed impacts to the jurisdiction of the NHDES. Seventeen individuals provided testimony at the public hearing. The landowner's agent, Zachary Taylor, Tidal Ecological Consultant testified on behalf of the applicant. Bill Stewart testified on behalf of the New Castle Select Board. David Murray presented a video in opposition to the project. Several neighbors and abutters testified in opposition to the project. Attorney Maureen D. Smith

03/09/2020 to 03/15/2020

and the NCCC agent Dan Geiger testified on behalf of the NCCC.

#### Rulings in Support of the Decision Pertaining to the Need for the Proposed Impacts

1. The applicant demonstrated their need to access water as a right to wharf out. "In New Hampshire, the right to wharf out to navigable depth has long been recognized as a common-law littoral right." *Donaghey v. Croteau*, 119 N.H. 320, 323 (1979).
2. Tidal docks that do not offer all-tide access, such that the float will rest on the substrate at lower tides, cannot be used to secure a vessel because the lack of water at lower tides makes it likely a vessel will be damaged by sitting on the substrate. Thus, vessels are secured to moorings in deeper waters until sufficient water depth enables a vessel to have sufficient draft to travel and secure to a dock while safely loading occupants and gear.
3. At the property, the proposed tidal dock is necessary to access the water with minimal impact to sensitive tidal wetlands.
4. The applicant has met the requirements to demonstrate need under the rules as "need" under the NHDES Wetlands Rules has been interpreted broadly by the New Hampshire Supreme Court. See *Appeal of Cook*, 170 N.H. 746 (2018).

#### Rulings in Support of the Decision Pertaining to the Least Impacting Practicable Alternative

1. Concerns were raised at the public hearing that the proposed docking structure is not the least impacting alternative.
2. Pursuant to Env-Wt 302.04(a)(3), the applicant correctly identified the resources proposed for impacts in accordance with the US Fish and Wildlife Service Manual FWS/OBS-79/31 Classification of Wetlands and Deepwater Habitats of the United States, Cowardin et al, 1979.
3. Impacts have been minimized to the furthest extent practicable. The seasonal usage of the docking structures on the property, particularly the pier, was designed as approved because the eight, 2-inch round metal pipes reduce any erosive possibilities from tidal current energy. The location of the dock on the property, reduced exposure to fetch, low water current velocities from the tidal cycle, and orientation on the frontage allows for the usage of the non-permanent, seasonal docking structures.
4. The storage of seasonal structures in the uplands on the property during the non-boating season such as this pier, ramp and float stored in the upland do not require authorization from the NHDES and do not qualify as permanent structures in accordance with Env-Wq 1406.04(c)(8). The Report's statements "There will be a significant number of pilings associated with the project, as well as a floating dock section [sic]" and "[g]iven the large number of piles" are not accurate and do not reflect the applicant's effort to minimize the impacts as a result of the seasonal pier with the approved eight (8) 2-inch metal pipe piles. The socket pipes would be driven into the soil initially and the support pipes of the pier would be received in the previously driven socket pipes minimizing soil disturbance while the structures are installed and removed.
5. Through the review process of the application and recommendations by the NHDES, the applicant has provided redesigns of the docking pier and float on the property. More specifically, the pier has been designed with ThruFlow decking to enable greater light penetration to reduce shading to the vegetation and substrate below. Literature from the manufacturer of ThruFlow states, "Our products are created with a unique open-surface design that allows water, debris, and sunlight to pass through your walking surface. This feature also protects against hydraulic pressure and uplift of the panel during extreme weather. Sunlight and water penetration also help vegetation below to stay alive and thrive, minimizing the effect of your walking surface on the environment." Additionally, the applicant has reduced the number of piles supporting the seasonal pier from 14 to 8. Further, float stops have been proposed on the float to suspend the float above the substrate at low tide as required by the Department of Army, Programmatic General Permit.
6. Pursuant to Env-Wt 302.01(a), preserving the integrity and investment through and guidance of the Rockingham County Conservation District the Lavenger Creek salt marsh has been given highest priority by the NHDES because of the high productivity and rarity of such wetlands and the difficulty in restoration of value and function for those environments.
7. Pursuant to Env-Wt 302.07(a)(7), the docking structures are located approximately 260 feet from the area where the Lavenger Creek channel transitions to a predominately tidal mudflat with fringe bands of emergent salt marsh vegetation of saltmarsh cordgrass (*Spartina alterniflora*) along the southerly and northerly banks of the area.
8. The salt marsh identified in the Report is contiguous with and adjacent to Lavenger Creek is approximately 700 feet from the docking structures on the land to the northeast.
9. The orientation of the docking structures as proposed on the property is nearly a north to south configuration perpendicular to the shore to maximize sunlight exposure to the substrate and vegetation below. Review of these plans clearly depict the docking structures located immediately adjacent to the fringe saltmarsh cordgrass at this location, not protruding into the channel beyond a reasonable length to create a navigation hazard to boats or other recreational activities.
10. The NHDES therefore, affirms the approval as the applicant has met Env-Wt 302.04(a) and (c).

#### Rulings in Support of the Decision Pertaining to the Impact of the Project on Water Quality, Storm Water Runoff, and Flooding

1. Many local residents and town officials testified at the public hearing and maintained that the proposed project will

03/09/2020 to 03/15/2020

adversely impact water quality and will increase sediment loading to the ecosystem.

2. No evidence was provided corroborating the concern that docking structures on the property will deteriorate water quality. The low tidal flow velocity at this location does not exacerbate erosion and sedimentation by turbulence in the area. As previously provided in findings above, the pier is supported by a total of eight, 2-inch metal piles. One pair of these pipes is located at Mean High Water (MHW).
3. The property is adjacent to a low energy tidal system with little flow velocity from the Piscataqua River Back Channel and the Creek. Given the small diameter of the pipes and low tidal energy surrounding the docking structures' location, the NHDES finds the placement of the docking structures to have little to no impact on the substrate that would cause erosion or sedimentation. Previously, pedestrian traffic to access the water for recreational boating adversely impacted the vegetation and disturbed the soils, exacerbating soil erosion within the Creek.
4. No evidence was provided corroborating the statement that the proposed dock would increase flooding resulting in property damage. The comments of Rockingham County Conservation District (RCCD) are mischaracterized by the NCCC. The recommendations provided by the RCCD at the New Castle Planning Board meeting of February 23, 2016, speak to "good planning, a coastal hazards master plan chapter, approve environmentally sensitive project with good conditions, enact ordinances to better protect resources to provide infrastructure and the existing structures on the island from possible future damage." There is no evidence that tidal docking structures will contribute to flooding on the regional scale purported by the NCCC.
5. There is no evidence supporting the assertion the dock will impact flooding in the immediate area.

#### Rulings in Support of the Decision Pertaining to Impacts to Habitat and Sensitive Areas

1. Concerns were raised at the public hearing that the proposed project would adversely impact sensitive wildlife habitat of various water fowl, turkey (*Meleagris gallopavo*), and white-tailed deer (*Odocoileus virginianus*).
2. No communities of eel grass (*Zostera marina*) are present in the vicinity of the docking structure. The nearest eel grass bed is within the back channel of the Piscataqua River approximately 2,900 feet to the southwest of the property.
3. The State-threatened marsh elder (*Iva frutescens*) is present around the Lavenger Creek salt marsh; however, it does not appear to be present on the property at 95 Mainmast Circle, New Castle. On October 3, 2019, the NHDES and Natural Heritage Bureau (NHB) staff inspected the property, and the inspection confirmed the absence of marsh elder on the property. The NCCC asserts marsh elder "does grow on the applicant's waterfront area," while the Report references the "presence of marsh elder in the area." Neither specifies specifically where the nearest specimen of marsh elder is in relation to the applicant's waterfront.
4. The NHB had no records of the presence of saltmarsh gerardia (*Agalinis maritima*) within the area. The NHB Datacheck for the 95 Mainmast Circle property did not suggest the presence of salt marsh gerardia on the property. Although the Report states salt marsh gerardia has been observed in the Lavenger Creek area, no specific location(s) had been provided in relation to the property. The photograph (Photograph 3) in the Report suggests the gerardia is located within the large salt marsh complex to the northeast from the property as the photo depicts glasswort (*Salicornia* spp.), salt marsh rush (*Juncus gerardii*), and salt grass (*Distichlis spicata*). The proposed docking structures are located within a densely vegetated community of tall form cordgrass. The plant species found in the photo are commonly found in high salt marsh while the tall form cordgrass is found at the low salt marsh as the cord grass is frequently inundated by the tide.
5. The hypothetical threats stated in the Report on vegetation loss within the salt marsh and spread of Common Reed (*Phragmites australis*) is more closely associated to stormwater influx to the system from developed upland areas in the form of unmitigated, nutrient laden stormwater runoff. The Report's findings on loss of salt marsh vegetation resulting from this project are not applicable.
6. The NHDES recognizes the storage racks for recreational watercraft including, but not limited to, canoes and kayaks are used by abutting properties contiguous along the shore of the Channel. Continued beaching or grounding of a vessel on the shore within the sensitive emergent cordgrass vegetation will adversely impact the area/vegetation. These properties with boat racks in the surrounding area do not exhibit similar shorefronts as the property. Many of the abutting properties have rocky shores with less vegetation. Furthermore, these abutting properties have accessed the water for recreational uses by walking over the fragile saltmarsh cordgrass where present, impacting the cordgrass and in some instances permanently impacting the substrate with the placement of rubber-like matting leading down to the water's edge. These structures and continued use exacerbate impacts to the resource by concentrating water flow with impervious surfaces, impact vegetation, and impact the intertidal bank. Visual signs are evident in these locations by the lack of vegetation and worn areas over the intertidal bank.
7. There is no evidence that the proposed impacts to the bank and substrate associated with the construction of the seasonal dock will adversely affect sensitive areas or the overall wildlife habitat associated within this intertidal area.

#### Rulings in Support of the Decision Pertaining to Navigational Issues

1. Concerns were raised at the public hearing that the proposed docking structures would impede safe boating and navigation through Lavenger Creek were not supported.
2. Review of the approved plans confirms Env-Wt 401.01 (b) has been applied to the design of the project.

03/09/2020 to 03/15/2020

3. The terminus of the proposed docking structure is located approximately 40-feet from the center of the channel. At Mean High Water (MHW) there is approximately 80-feet of navigable water to the opposite shore and four feet of water depth available; therefore, the docking structure complies with Env-Wt 402.02. Furthermore, as designed, the furthest limit of the proposed docking structure is nested within, and flush with, the landward extension of the limited fringe of tidal marsh.
4. The proposed dock complies with RSA 482-A:3 XIII (c) and Env-Wt 402.04 as the dock is greater than 20-feet from an abutting property line.
5. The proposed dock has been designed in accordance with Env-Wt 402.05. The two seasonal dock supports (pipes) at MHW impact only 0.83% of the total volume under the 120 square foot pier. Therefore, the structure complies with Env-Wt 606.03(a). The application of Env-Wt 402.03(a)(3) does not apply to tidal docks.
6. The proposed seasonal pier crosses the narrowest vegetated area of saltmarsh cordgrass, using Thru Flow decking, maintaining a 1:1 ratio for height to width. The pier height allows for better light penetration to underlying vegetation and assist in preventing storm damage. Orienting the dock from north to south minimizes the impacts from shading to the furthest extent practicable. The reduced length of the pier has less adverse shading effects on vegetation than longer piers. To further reduce impacts to the vegetation below, the pier is narrower than typical piers providing less adverse shading effects on plant productivity. All of these construction practices minimize impacts to the vegetation on the property to the furthest extent practicable pursuant to Env-Wt 606.03(c).
7. The proposed ramp and float will not require anchors or piles to secure the structures from lateral movement as the area experiences low tidal flow velocities and wave action due to the lack of substantial fetch; therefore, the design does not warrant conformance with Env-Wt 606.03(d) and (e).
8. The proposed float location complies with Env-Wt 603.03(f) as the float is to be positioned waterward of any vegetated wetlands or vegetated shallows.
9. The NHDES reviewed the applicant's plan approved prior to our approval. Review of the approved plan by Riverside & Pickering Marine Contractors (Sheet 2 of 2) dated July 11, 2016 clearly depicts the approximate stream channel at low water, approximate MHW, and approximate HOTL (Highest Observable Tide Line). All docking structures extend 45-feet from the HOTL. The pier portion spans an area of mostly bare, sparsely vegetated mud/exposed soil. The ramp spans a majority of the salt marsh cordgrass.
10. The proposed float has been tucked into the narrowest portion of the salt marsh cordgrass along the frontage. The float does not extend further past the adjacent areas of salt marsh cordgrass to act as an obstacle for vessel passage. The terminus of the docking structure is approximately 40-feet from the center of the Channel. At MHW, there is approximately 80 feet of navigable water to the opposite shore and four feet of water depth available; therefore, the docking structure complies with Env-Wt 302.04(a)(8), Env-Wt 402.02, and Env-Wt 402.05(a)(3).
11. At the public hearing a New Castle resident presented a video using a drone and aerial imagery. The video drone footage had been digitally over-laid with the approved plan. The NHDES applauds the use of this technology to present a compelling argument. However, the scale and location of the digitized plan onto the aerial imagery in the video does not depict the accurate location of the marsh vegetation relative to the proposed dock. The video displaces the proposed dock plan further into the tidal channel beyond the actual proposed location mischaracterizing the impact on navigation to Lavenger Creek channel.
12. Review of the proposed approved cross sectional plan demonstrates that as the tide ebbs and water recedes, the sloped bathymetry from the float to the center of the Channel would leave the proposed float exposed, out of navigable water as the tide nears low.
13. The NHDES review of the record finds no evidence of any negative impact on public navigation as a result of the proposed project.

#### Rulings in Support of the Decision Pertaining to Cumulative Impacts

1. The applicant's agent's response to Env-Wt 302.04(a)(16) is thorough and appropriate detailing a rationale to adequately address this rule. The agent provided a hypothetical dock location plan for the area and the plan depicts properties immediately adjacent to the area. By this scaled plan, measurements were provided demonstrating contiguous abutters would have enough frontage with navigable water to enable a dock similar to the approved structure. Moreover, many properties along Lavenger Creek have non-compliant structures immediately adjacent to the tidal area in the 100-foot tidal buffer zone. Furthermore, properties have accessed the water for recreational use by walking over the fragile saltmarsh cordgrass, impacting the substrate and in some instances permanently impacting the substrate with the placement of rubber-like matting leading down to the water's edge. These structures and continued use exacerbate impacts to the resource by concentrating water flow with impervious surfaces and adversely impact vegetation.
2. The cumulative impacts assessed by the NHDES focus on feasible recreational water access to the cove area immediately adjacent to the property as those properties have reasonable access to the water via hypothetical dock alternatives. The NHDES would not entertain, nor approve, recreational docking structures within the larger salt marsh complex to the northeast of the property. The NHDES has routinely denied applications for impacts that span large linear portions of salt marsh as the impacts are not minimized.

#### Rulings in Support of the Decision Pertaining to Municipal Interests

03/09/2020 to 03/15/2020

1. The NHDES agrees with the NCCC in that the Lavenger Creek Conservation Plan aims to preserve the Lavenger Creek wetland system as "[t]he primary threat to the Lavenger Creek wetland system is a loss or degradation of its natural wetland and upland buffer." The NHDES' statutes are in line with this objective through the Shoreland Water Quality Protection Act, RSA 483-B, "A natural woodland buffer, consisting of trees and other vegetation located in areas adjoining public waters, functions to intercept surface runoff, wastewater, subsurface flow, and deeper groundwater flows from upland sources and to remove or minimize the effects of nutrients, sediment, organic matter, pesticides, and other pollutants and to moderate the temperature of the near-shore waters." Concurrently, the NHDES also has jurisdiction of the 100-foot tidal buffer zone and has reviewed the application with an emphasis on preserving the ability of the buffer area to enhance habitat values in the adjoining tidal wetland and to protect tidal environments from potential sources of pollution. The structure's location preserves the integrity of the larger Lavenger Creek saltmarsh. The Lavenger Creek Conservation Plan does not prohibit the installation of docking structures.

Rulings in Support of the Decision pertaining to the project, interferes with the aesthetic interests of the general public

1. Concerns were raised through public comment and at the public hearing that the proposed docking structure interferes with aesthetic interests of the general public.

-Send to Governor and Executive Council-

2018-00466

**BAYKO, JASON/TARA**

**WOLFEBORO LAKE WINNIPESAUKEE**

Requested Action:

The applicant requests that the permit be amended to to correct the most recent plan date.

\*\*\*\*\*

**APPROVE AMENDMENT**

Dredge 38 cubic yards from 1,140 square feet of lakebed and impact 1,614 square feet of bank along 94 linear feet of shoreline to construct a 25 foot x 31 foot dug in boathouse with a 7 foot x 17 foot bump-out and a 4 foot x 65 foot walkway around the north and west sides, a dredged access channel, an h-shaped piling pier composed of two 6 foot x 30 piers connected by a 6 foot x 12 foot walkway accessed by a 6 foot x 22 foot walkway with 15 foot x 30 foot seasonal canopy, and construct a 900 square foot perched beach with 4 foot wide steps to the water, with on an average of 349 feet frontage on Lake Winnepesaukee in Wolfeboro.

With Conditions:

1. All work shall be in accordance with perched beach plans by Beckwith Builders, Inc. dated February 21, 2018 as received by the NH Department of Environmental Services (DES) on March 26, 2018 and docking structure plans dated February 20, 2018 as revised on August 13, 2019 as received by the NH Department of Environmental Services (DES) on August 22, 2019.
2. This amended permit is not valid and effective until it has been recorded with the appropriate county Registry of Deeds by the applicant. Prior to starting work under this permit, the permittee shall submit a copy of the recorded permit to the DES Wetlands Program by certified mail, return receipt requested.
3. The permittee shall file a restrictive covenant in the appropriate registry of deeds limiting the use of the boathouse to the storage of boats and boating-related accessories. Prior to construction, the permittee shall submit a copy of the recorded covenant to the DES Wetlands Program by certified mail, return receipt requested.
4. All development activities associated with this project shall be conducted in compliance with applicable requirements of RSA 483-B and N.H. Code of Administrative Rules Env-Wq 1400 during and after construction.
5. This permit does not authorize the removal of trees or saplings within the waterfront buffer that would result in a tree and sapling point score below the minimum required per RSA 483-B:9, V, (a)(2)(D)(iv).
6. Work shall be carried out in a time and manner to avoid disturbances to migratory waterfowl breeding and nesting areas.
7. Appropriate turbidity controls shall be installed prior to construction, shall be maintained during construction such that no turbidity escapes the immediate dredge area and shall remain until suspended particles have settled and water at the work site has returned to normal clarity.
8. All dredged and excavated material and construction-related debris shall be placed outside of the areas subject to RSA 482-A. Any spoil material deposited within 250 feet of any surface water shall comply with RSA-483-B.
9. The contractor responsible for completion of the work shall use techniques described in the New Hampshire Stormwater Manual, Volume 3, Erosion and Sediment Controls During Construction (December 2008).

03/09/2020 to 03/15/2020

10. Any subdivision of the property frontage will require removal of a sufficient portion of the docking structures to comply with the dock size and density requirements in effect at the time of the subdivision.
11. Only those structures shown on the approved plans shall be installed or constructed along this frontage. All portions of the structures shall be at least 20 feet from the abutting property lines or the imaginary extension of those lines into the water.
12. Pilings shall be spaced a minimum of 12 feet apart as measured piling center to piling center.
13. No portion of the pier shall extend more than 50 feet from the shoreline at full lake elevation (Elevation 504.32) to achieve 3 foot water depth levels in the slip areas.
14. All seasonal structures, including watercraft lifts, shall be removed for the non-boating season.
15. The canopy, including the support frame and cover, shall be designed and constructed to be readily removed at the end of the boating season and the flexible canopy shall be removed for the non-boating season.
16. Stone placed along the beach front for the purpose of retaining sand shall be placed above and landward of those rocks currently located along the normal high water line (Elevation 504.32). The rocks existing at the normal high water line shall remain undisturbed such that the natural shoreline remains visible and intact.
17. The steps installed for access to the water shall be located completely landward of the normal high water line.
18. No more than 10 cubic yards of sand shall be used and all sand shall be located above the normal high water line.
19. Any future beach replenishment shall require a new permit.
20. The permittee shall provide appropriate diversion of surface water runoff to prevent erosion of beach area.
21. Within three days of final grading or temporary suspension of work in an area that is in or adjacent to wetlands or surface waters, all exposed soil areas shall be stabilized by seeding and mulching during the growing season, or if not within the growing season, by mulching with tackifiers on slopes less than 3:1 or netting and pinning on slopes steeper than 3:1.
22. A combination of trees, shrubs and ground covers representing the density and species diversity of the vegetation present prior to construction shall be replanted beginning at a distance no greater than 5 feet landward from the beach area.
23. The dug in boathouse shall be a single-story structure; ridgeline not to exceed 20 feet in height (Elevation 524.32) above normal high water (Elevation 504.32).
24. Discharge from dewatering of work areas shall be to sediment basins that are: a) located in uplands; b) lined with hay bales or other acceptable sediment trapping liners; c) set back as far as possible from wetlands and surface waters, with a preferred undisturbed vegetated buffer of at least 50 feet and a minimum undisturbed vegetative buffer of 20 feet.
25. Within three days of final grading or temporary suspension of work in an area that is in or adjacent to wetlands or surface waters, all exposed soil areas shall be stabilized by seeding and mulching during the growing season, or if not within the growing season, by mulching with tackifiers on slopes less than 3:1 or netting and pinning on slopes steeper than 3:1.
26. The owner understands and accepts the risk that if this facility requires dredging to maintain a minimum slip depth of 3 feet more frequently than once every 6 years, or is shown to have an adverse impact on abutting frontages, it shall be subject to removal.
27. This facility is permitted with the condition that future maintenance dredging, if needed, shall not be permitted more frequently than once every 6 years, and that a new permit shall be required for each dredge activity.

**With Findings:**

1. This project is classified as a major project per Rule Env-Wt 303.02(d), construction of a major docking facility providing five boat slips and Rule Env-Wt 303.02(g) dredge of more than 20 cubic yards.
2. The applicant has an average of 349 feet of frontage along Lake Winnepesaukee.
3. A maximum of 5 slips may be permitted on this frontage per Rule Env-Wt 402.13, Frontage Over 75'.
4. The proposed docking facility will provide 5 slips as defined per RSA 482-A:2, VIII and therefore meets Rule Env-Wt 402.13.
5. The Department finds that because the project is not of significant public interest and will not significantly impair the resources of Lake Winnepesaukee a public hearing under RSA 482-A:8 is not required.

-Send to Governor and Executive Council-

2019-03339

**BARVEL WHANG ASSOCIATES**

**TUFTONBORO LAKE WINNIPESAUKEE**

**Requested Action:**

Dredge 793 cubic yards of material from 9,989 square feet of lakebed to restore water depth within boat slips and the navigational channel to an existing community docking facility on Lake Winnepesaukee within the mouth of Cops Brook in Tuftonboro.

\*\*\*\*\*

03/09/2020 to 03/15/2020

**Conservation Commission/Staff Comments:**

11/7/2019 Con. Com. made a site visit and has reviewed the application and would like to make the following recommendations. The writer has no issues with the project going forward as shown on the plan.

**APPROVE PERMIT**

Dredge 793 cubic yards of material from 9,989 square feet of lakebed to restore water depth within boat slips and the navigational channel to an existing community docking facility on Lake Winnepesaukee within the mouth of Cops Brook in Tuftonboro.

**With Conditions:**

1. All work shall be in accordance with plans by Diversified Marine Construction dated February 19, 2020, and received by the NH Department of Environmental Services (NHDES) on February 25, 2020 and with the construction sequence by Diversified Marine Construction dated February 19, 2020, and received by the NHDES on March 2, 2020.
2. Any future work on this property that is within the jurisdiction of the NHDES Wetlands Bureau as specified in RSA 482-A will require a new application and approval by the Bureau.
3. The NHDES Biology Bureau's Limnologist/Exotic Species Program Coordinator shall be notified in writing of the date on which dredging will begin 14 days prior to the beginning of the project.
4. The entire permitted work area shall be enclosed by appropriate turbidity controls.
5. Appropriate turbidity controls shall be installed prior to raking, shall be maintained during raking such that no turbidity escapes the immediate work area, and shall remain until suspended particles have settled and the water at the work site has returned to normal clarity.
6. "Appropriate turbidity controls" shall consist of an impermeable barrier which extends from the lakebed to a point 3-4 inches above the water surface at all times through the duration of the dredging, to prevent the escape of all aquatic plant fragments from the site.
7. If, at any time during the dredging, the NHDES determines that rising water levels pose significant risk to the containment of the site, the NHDES may request that the work cease until water levels recede to an acceptable level. Work shall cease immediately upon notification of the applicant, or any agent of the applicant, that water levels have risen to an unacceptable level, and shall not resume until authorized by the NHDES.
8. All spoil material shall be placed outside of the NHDES Wetlands Bureau jurisdiction.
9. No spoil material shall be deposited within 250 feet of any surface water.
10. Equipment initially entering surface waters shall be completely free of any imported aquatic plants and animals.
11. Equipment shall be inspected daily for leaking fuel, oil and hydraulic fluid prior to entering surface waters or wetlands.
12. Faulty equipment shall be repaired prior to entering jurisdictional areas.
13. The contractor shall have appropriate oil/diesel fuel spill kits on site and readily accessible at all times during construction and each operator shall be trained in its use.
14. Work authorized shall be carried out such that discharges in spawning or nursery areas during spawning seasons shall be avoided, and impacts to such areas shall be avoided or minimized to the maximum extent practicable during all times of the year.
15. All activities shall be in accordance with the Shoreland Water Quality Protection Act, RSA 483-B. The owner is responsible for obtaining any Shoreland Permit that may be required per RSA 483-B, for construction, excavation or fill that will occur within the Protected Shoreland.

**With Findings:**

1. This project is classified as a major project per Rule Env-Wt 303.02(g), dredge of more than 20 cubic yards of material from public waters.
2. These areas were previously dredged under Wetlands Permit #2001-1996.
3. The proposed project will have no impact on the number of slips provided by the docking facilities.
4. The NHDES finds that because the project is not of significant public interest and will not significantly impair the resources of Lake Winnepesaukee and Cops Brook, a public hearing under RSA 482-A:8 is not required.

-Send to Governor and Executive Council-

2019-03824

HOGSWAVE LLC

PORTSMOUTH SAGAMORE CREEK

03/09/2020 to 03/15/2020

Requested Action:

Impact 175 square feet within the previously developed upland tidal buffer zone for construction of a 12-foot by 14-foot landing and access way. In addition, impact 1,370 square feet of tidal wetland to remove an existing 385 square foot fixed pier and to modify a second existing tidal docking structure consisting of a 12-foot by 38-foot fixed pier, a 4-foot by 24-foot ramp, a 10-foot by 5-foot landing float and an 8-foot by 96-foot float. The overall structure length seaward of the highest observable tide line is 84-feet, providing 6 slips on 187 feet of frontage along Sagamore Creek.

\*\*\*\*\*

Inspection Date: 03/04/2020 by STEFANIE M GIALONGO

APPROVE PERMIT

Impact 175 square feet within the previously developed upland tidal buffer zone for construction of a 12-foot by 14-foot landing and access way. In addition, impact 1,370 square feet of tidal wetland to remove an existing 385 square foot fixed pier and to modify a second existing tidal docking structure consisting of a 12-foot by 38-foot fixed pier, a 4-foot by 24-foot ramp, a 10-foot by 5-foot landing float and an 8-foot by 96-foot float. The overall structure length seaward of the highest observable tide line is 84-feet, providing 6 slips on 187 feet of frontage along Sagamore Creek.

With Conditions:

1. All work shall be in accordance with plans by Ambit Engineering, Inc. dated December 2019, and revised through February 20, 2020, last received by the NH Department of Environmental Services (NHDES) on February 20, 2020.
2. This permit shall not be effective until recorded at the Rockingham County Registry of Deeds Office by the permittee. A copy of the recorded permit shall be submitted to the NHDES Wetlands Bureau prior to construction.
3. Not less than 5 state business days prior to starting work authorized by this permit, the permittee shall notify the NHDES Wetlands Bureau Pease office and the local conservation commission in writing of the date on which work under this permit is expected to start.
4. Any future work in jurisdiction as specified in RSA 482-A on this property will require a new application and approval by the NHDES Wetlands Bureau.
5. This permit does not authorize the removal of trees or saplings within the waterfront buffer that would result in a tree and sapling point score below the minimum required per RSA 483-B:9, V, (a)(2)(D)(iv).
6. No person undertaking any activity shall cause or contribute to, or allow the activity to cause or contribute to, any violations of the surface water quality standards in RSA 485-A and New Hampshire Administrative Rule Env-Wq 1700.
7. Phasing of the work to remove the second existing fixed pier, as proposed, shall occur concurrently with the overall project.
8. Construction of this tidal docking structure consisting of a 12-foot by 14-foot landing and access way within the previously developed upland tidal buffer zone, a 12-foot by 38-foot fixed pier, a 4-foot by 24-foot ramp, a 10-foot by 5-foot landing float and a 8-foot by 96-foot float, with an overall structure length seaward of the highest observable tide line of 84-feet, providing 6 slips on 187 feet of frontage along Sagamore Creek in Portsmouth shall be the only docking structure on this water frontage.
9. The height of the pier's decking over the surface of the tidal wetland at normal high tide shall be a minimum of 4 feet and decking shall have at least 1-inch spacing between the decking planks to provide sufficient sunlight penetration and rainfall to underlying vegetation.
10. The seasonal structures, including but not limited to the ramp and float, shall be removed during the non-boating season and stored on the existing pier or in an upland location.
11. Construction of the dock shall occur from a barge equipped with a crane, at low tide, to reduce potential impacts to the estuarine intertidal wetlands.
12. Pile driving or pile removal work shall be done during low tide to the maximum extent practicable.
13. Pilings to be removed shall be cut level with the substrate rather than pulled, in order to limit the creation of turbidity.
14. Appropriate siltation/erosion/turbidity controls shall be in place prior to construction, shall be maintained during construction, and shall remain in place until the area is stabilized.
15. Work shall be conducted in a manner so as to minimize turbidity and sedimentation to surface waters and wetlands.
16. Work shall be conducted in a manner that avoids excessive discharges of sediments to fish spawning areas.
17. All construction-related debris shall be properly disposed of outside of the areas subject to RSA 482-A.
18. Within three days of final grading or temporary suspension of work in an area that is in or adjacent to wetlands or surface

03/09/2020 to 03/15/2020

waters, all exposed soil areas shall be stabilized by seeding and mulching during the growing season, or if not within the growing season, by mulching with tack or netting and pinning on slopes steeper than 3:1.

With Findings:

1. This is a Major Project per New Hampshire Administrative Rule Env-Wt 303.02(a), projects in sand dunes, tidal wetlands, or bogs, except for the repair of existing structures pursuant to Env-Wt 303.04(v).
2. Pursuant to New Hampshire Administrative Rule Env-Wt 204.05, in correspondence dated January 02, 2020, the applicant requested a waiver to New Hampshire Administrative Rule Env-Wt 402.21, Modification of Existing Structures.
3. The existing tidal docking structure on the subject frontage is evident in aerial imagery dated 1962 and was previously issued authorization from the State of NH Wetlands Board to replace the pier and pilings (S-01310; 1985). The structure has a history of commercial use, accommodating slip space for commercial fishing vessels.
4. The historic and current use of the site is consistent with provisions of the City of Portsmouth's Waterfront-Business zoning district, within which the property is located.
5. Currently, 1,191 square feet of structure rests on the mud at low tide. The proposed configuration will result in a net reduction of 407 square feet of overall surface area of the structure over surface waters, provide more productive use of the frontage by providing adequate depth for vessels, and no portion of the structure will rest on the mud at low tide.
6. The decking will have a minimum of 4 feet of deck height, and will have 1-inch spacing between the decking planks to provide sufficient sunlight penetration and rainfall to underlying vegetation. Further, the applicant will be utilizing a barge and crane to complete construction of the dock from the water and pile locations have been designed to minimize impacts to the underlying vegetation.
7. In correspondence dated January 13, 2020, the Portsmouth Conservation Commission recommended approval of the project.
8. In correspondence dated February 21, 2020, the Pease Development Authority, Division of Ports and Harbors, determined that after working closely with the applicant, the project would have no negative effect on navigation in the channel.
9. The Natural Heritage Bureau (NHB) report submitted with the application package (NHB19-3594) stated that although there was a record in the vicinity, there are no impacts to sensitive species expected as a result of the proposed project.
10. In accordance with New Hampshire Administrative Rule Env-Wt 204.04, a waiver will be granted if the project will not have an adverse impact to the environment or natural resources of the state, public health, or public safety, and the strict compliance with the rule will provide no benefit to the public and will cause an operation or economic hardship to the applicant.
11. Consistent with New Hampshire Administrative Rule Env-Wt 204.04, the NHDES finds that the alternative configuration proposed will reduce and minimize adverse environmental impact to the surface water and shoreline relative to the existing structure and, therefore, waives the standard configuration requirements set forth by New Hampshire Administrative Rules Env-Wt 402.21.
12. The applicant has provided evidence which demonstrates that this proposal is the alternative with the least adverse impact to areas and environments under the department's jurisdiction per New Hampshire Administrative Rule Env-Wt 302.03.
13. The applicant has demonstrated by plan and example that each factor listed in New Hampshire Administrative Rule Env-Wt 302.04(a) and (c), Requirements for Application Evaluation, has been considered in the design of the project.
14. The NHDES staff field inspection on March 03, 2020 found that the site is accurately represented in the application.
15. In accordance with RSA 482-A:8, the NHDES finds that the requirements for a public hearing do not apply as the permitted project is not of substantial public interest, and will not have a significant impact on or adversely affect the values of the estuarine resource, as identified under RSA 482-A:1.
16. In correspondence dated December 04, 2019, a letter of authorization was signed by the permittee, allowing his/her agent to act on their behalf through the permitting process.
17. In correspondence dated December 16, 2019, the New Hampshire Division of Historical Resources found that the project, as proposed, will have no effect on any potential nearby historical resources.
18. A portion of the proposed structure will extend over the adjacent property boundary. In accordance with New Hampshire Administrative Rule Env-Wt 304.04, signed authorization (dated February 06, 2020) was obtained from the abutting property owner.

-Send to Governor and Executive Council-

2020-00094

CZARNECKI, JAMES/MOLLY

WAKEFIELD PINE RIVER POND

Requested Action:

03/09/2020 to 03/15/2020

Impact 572 square feet of bank along 30 linear feet of shoreline to construct a 30 foot x 19.5 foot semi-circular shaped perched beach with 4 foot wide steps to the water and install a 6 foot x 30 foot seasonal pier on an average of 246 feet of frontage along Pine River Pond in Wakefield.

\*\*\*\*\*

APPROVE PERMIT

Impact 572 square feet of bank along 30 linear feet of shoreline to construct a 30 foot x 19.5 foot semi-circular shaped perched beach with 4 foot wide steps to the water and install a 6 foot x 30 foot seasonal pier on an average of 246 feet of frontage along Pine River Pond in Wakefield.

With Conditions:

1. All work shall be done in accordance with revised plans by Fernstone Associates for the Natural Resources revision dated March 4, 2020, as received by the NH Department of Environmental Services (NHDES) on March 9, 2020 as required pursuant to Env-Wt 307.16.
2. This permit shall not be effective until it has been recorded in the Carroll County Registry of Deeds and a copy of the recorded permit has been provided to the department as required pursuant to RSA 482-A:3, and Env-Wt 314.02.
3. Any subdivision of the property frontage will require removal of a sufficient portion of the docking structures to comply with the dock size and density requirements in effect at the time of the subdivision as required pursuant to Env-Wt 314.02.
4. All docking facilities shall be at least 20 feet from the abutting property lines and no watercraft shall be secured to the docking facility such that it crosses over the imaginary extension of the property lines over the surface water as required by RSA 482-A:3, XIII.
5. The seasonal dock shall be installed after ice-out and removed prior to ice-in accordance with Env-Wt 513.22(b)(1).
6. The seasonal dock shall be removed from the water prior to applying any paint, stain, or other preservative coating, and not returned to the water until after such coating is dry as required per Env-Wt 513.22(b)(4).
7. 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 as required pursuant to RSA 483-B:3.
8. This permit does not authorize the removal of trees or saplings within the waterfront buffer that would result in a tree and sapling point score below the minimum required per RSA 483-B:9, V, (a)(2)(D)(iv).
9. No more than 20 cubic yards of sand shall be used and all sand shall be located above the normal high water line in accordance with Env-Wt 511.06(b) and Env-Wt 511.02(b)(1).
10. Steps for access to and from a water access structures shall not exceed 6 feet in width and shall be constructed or installed such that all portions of the steps are landward of the normal high, in accordance with Env-Wt 511.04(f).
11. Revegetation of the disturbed area by planting trees, shrubs, and ground covers shall represent the density and species diversity of the existing stand of vegetation removed for the project; and begin at a distance no greater than 5 feet landward from the water access structures footprint, in accordance with Env-Wt 511.05(b).
12. Work authorized shall be carried out in accordance with Env-Wt 307 such that appropriate turbidity controls are in place to protect water quality, that no turbidity escapes the immediate dredge area, and that appropriate turbidity controls shall remain until suspended particles have settled and water at the work site has returned to normal clarity.
13. Water quality control measures capable of minimizing erosion; collecting sediment and suspended and floating materials; and filtering fine sediment shall be selected and implemented as appropriate 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 as required pursuant to Env-Wt 307.03(c).
14. Water quality control measures shall be installed prior to start of work and in accordance with the manufacturer's recommended specifications or, if none, the applicable requirements of Env-Wq 1506 or Env-Wq 1508, shall be maintained so as to ensure continued effectiveness in minimizing erosion and retaining sediment on-site during and after construction, and removed upon completion of work and the effective stabilization of disturbed surfaces as required pursuant to Env-Wt 307.03(c).
15. In accordance with Env-Wt 307.03(a), no activity shall be conducted in such a way as to cause or contribute to any violation of surface water quality standards specified in RSA 485-A:8 or Env-Wq 1700; ambient groundwater quality standards established under RSA 485-C; limitations on activities in a sanitary protective area established under Env-Dw 302.10 or Env-Dw 305.10; or any provision of RSA 485-A, Env-Wq 1000, RSA 483-B, or Env-Wq 1400 that protects water quality.
16. Work shall be carried out in a time and manner to avoid disturbances to migratory waterfowl breeding and nesting areas and such that there are no discharges in or to fish or shellfish spawning or nursery areas during spawning seasons as required pursuant to Env-Wt 307.04. Impacts to such areas shall be avoided or minimized to the maximum extent practicable during all other times of the year.
17. This permit shall not preclude NHDES from initiating appropriate action if NHDES later determines that any of the

03/09/2020 to 03/15/2020

structures depicted as "existing" on the plans submitted by or on behalf of the permittee were not previously permitted or grandfathered.

With Findings:

1. The project is classified as a major impact per Rule Env-Wt 511.06(c), the aggregate area impacted by water access structures exceeds 500 SF.
2. 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 - 900. No waivers of RSA 482-A or the Wetlands Program Code of Administrative Rules Chapters Env-Wt 100 - 900 were requested or approved under this permit action.

**MINOR IMPACT PROJECT**

\*\*\*\*\*

2018-03428

266 RT 125 INVESTMENTS LLC

**KINGSTON**

Requested Action:

Dredge and fill 3,858 square feet of scrub-shrub wetland classified as a medium value vernal pool for commercial lot development.

\*\*\*\*\*

APPROVE PERMIT

Dredge and fill 3,858 square feet of scrub-shrub wetland classified as a medium value vernal pool for commercial lot development. Compensatory mitigation involves the permanent conservation of Tax map R1-6 and R1-7 in Kingston through a conservation easement held by the Southeast Land Trust on the 28.5 acres of land.

With Conditions:

1. All work shall be in accordance with plans by The Dubay Group, Inc. dated November 6, 2018 as received by the NH Department of Environmental Services Wetlands Bureau (NHDES) on November 9, 2018.
2. This approval is not valid until a one-time contribution payment of \$184,725.88 is remitted to the Southeast Land Trust (SELT) - Alessio (Kingston) preservation project. The applicant shall remit the payment to SELT within 120 days of the date of this approval and provide NHDES with documentation that SELT receives the payment. If SELT does not receive payment within 120 days of the date of this approval letter, NHDES will deny the application.
3. A pre-construction survey for blazing star (*Liatris novae-angliae*) shall be performed. Plants shall be flagged out and recorded with GPS and a population updated reported to the NH Natural Heritage Bureau (NHB) with the appropriate form. NHB shall be contacted immediately following the survey to discuss plant locations, possible impacts, and means of avoidance, minimization, and mitigation.
4. This permit is not valid unless a septic system construction approval is received in accordance with RSA 485-A:29-44 and Env-Wq 1000.
5. This permit is not valid unless an Alteration of Terrain permit has been issued pursuant to RSA 485-A:17 and Env-Wq 1500.
6. Any further alteration of areas on this property that are subject to RSA 482-A jurisdiction will require a new application and further permitting.
7. No person undertaking any activity shall cause or contribute to, or allow the activity to cause or contribute to, any violations of the surface water quality standards in RSA 485-A and Env-Wq 1700.
8. Work shall be done during low flow and in the dry only.
9. Appropriate siltation and erosion controls shall be in place prior to construction, shall be maintained during construction, and shall remain until the area is stabilized. Temporary controls shall be removed once the area has been stabilized.
10. Appropriate turbidity controls shall be installed prior to construction, shall be maintained during construction such that no turbidity escapes the immediate dredge area and shall remain until suspended particles have settled and water at the work site has returned to normal clarity.
11. The contractor responsible for completion of the work shall use techniques described in the New Hampshire Stormwater

03/09/2020 to 03/15/2020

Manual, Volume 3, Erosion and Sediment Controls During Construction (December 2008).

12. Extreme precautions shall be taken within riparian areas to prevent unnecessary removal of vegetation during construction. Areas cleared of vegetation must be revegetated with like native species within three days of the completion of the disturbance.
13. Dredged materials, whether to be stockpiled or disposed of, shall be dewatered in sedimentation basins lined with siltation and erosion controls, and located outside of areas subject to RSA 482-A jurisdiction.
14. Construction equipment shall be inspected daily for leaking fuel, oil, and hydraulic fluid prior to entering surface waters or wetlands or operating in an area where such fluids could reach groundwater, surface waters, or wetlands.
15. The permittee's contractor shall maintain appropriate oil/diesel fuel spill kits on site that are readily accessible at all times during construction, and shall train each operator in the use of the kits.
16. All refueling of equipment shall occur outside of surface waters or wetlands during construction. Machinery shall be staged and refueled in upland areas only.
17. Within three days of final grading or temporary suspension of work in an area that is in or adjacent to wetlands or surface waters, all exposed soil areas shall be stabilized by seeding and mulching during the growing season, or if not within the growing season, by mulching with tackifiers on slopes less than 3:1 or netting and pinning on slopes steeper than 3:1.
18. In accordance with Env-Wt 807.02(a), prior to the conservation interest being recorded, the natural resources existing on the conservation easement parcel shall not be removed, disturbed, or altered without prior written approval of the department and the easement holder.
19. In accordance with Env-Wt 807.02(b)(2) and (3), within 120 days from the payment for the conservation parcel acquisition, the permittee shall submit to the Wetlands Bureau for approval a management/stewardship plan for the conservation parcel and record the deed that conveys a conservation interest for each parcel to be preserved at the registry of deeds for the county in which the parcel is located; and submit a copy of each document to the department.

With Findings:

1. This is a minor impact project per Administrative Rule Env-Wt 303.03(h) Projects involving less than 20,000 square feet of alteration in the aggregate in nontidal wetlands, nontidal surface waters, or banks adjacent to nontidal surface waters which exceed the criteria of Env-Wt 303.04(f).
2. The applicant has provided evidence which demonstrates that this proposal is the alternative with the least adverse impact to areas and environments under the department's jurisdiction per Env-Wt 302.03.
3. Pursuant to administrative rule Env-Wt 302.03, the applicant has further mitigated for the impacts by a making a one-time contribution payment of \$184,725.88 dollars to the Southeast Land Trust (SELT) - Alessio (Kingston) preservation project. The preservation project is being undertaken by the SELT in conjunction with the town of Kingston where the land lies. The project involves the purchase and preservation of 28.5 acres of woodland including 190 feet of an intermittent tributary to the Little River. The conservation benefits of the project include water quality, wildlife habitat, and connects to the protected Kingston town forest.
4. The applicant has demonstrated by plan and example that each factor listed in Env-Wt 302.04(a) Requirements for Application Evaluation, has been considered in the design of the project.
5. The application included NH Natural Heritage Bureau (NHB) Datacheck Results Letter NHB18-1329 identifying several rare species in the vicinity of the project.
6. Emails from the NH Fish and Game Nongame and Endangered Species Program were included with the application to address impacts to the vertebrate species identified in the aforementioned NHB Letter.
7. The applicant has coordinated with NHB relative to the plant species identified in the NHB Letter. NHDES has incorporated NHB's recommendation into the approval as a condition.
8. The NH Division of Historical Resources has reviewed the project location and found "No Historic Properties Affected."
9. The impacts include fill in a medium value vernal pool and the mitigation would be the size of the vernal pool (3,858 sf) and 39,000 sf for a total of 42,858 sf. of impact.
10. NHDES decision is issued in letter form and upon receipt that the ARM fund payment has been provided to SELT, NHDES shall issue a posting permit in accordance with Env-Wt 803.08(f).

2019-03655

DAROSA, DANIEL/LAURIE

MOULTONBOROUGH LAKE WINNIPESAUKEE

Requested Action:

Extend the piers of an existing U-shape docking facility resulting in a structure consisting of two 6 foot x 45 foot piling piers connected by a 6 foot x 12 foot walkway and accessed by 6 foot x 15 foot wharf along the shore and install a 14 foot x 36 foot seasonal canopy, a seasonal boatlift and two seasonal personal watercraft lifts on an average of 204 feet frontage along Lake Winnepesaukee in Moultonborough.

\*\*\*\*\*

**APPROVE PERMIT**

Extend the piers of an existing U-shape docking facility resulting in a structure consisting of two 6 foot x 45 foot piling piers connected by a 6 foot x 12 foot walkway and accessed by 6 foot x 15 foot wharf along the shore and install a 14 foot x 36 foot seasonal canopy, a seasonal boatlift and two seasonal personal watercraft lifts on an average of 204 feet frontage along Lake Winnepesaukee in Moultonborough.

**With Conditions:**

1. All work shall be in accordance with plans by Terrain Planning & Design, LLC dated October 31, 2019, and revised through January 22, 2020, as received by NHDES on January 22, 2020.
2. This permit is not valid and effective until it has been recorded with the appropriate county Registry of Deeds by the applicant. Prior to starting work under this permit, the permittee shall submit a copy of the recorded permit to the DES Wetlands Program by certified mail, return receipt requested.
3. All development activities associated with this project shall be conducted in compliance with applicable requirements of RSA 483-B and N.H. Code of Administrative Rules Env-Wq 1400 during and after construction.
4. Work authorized shall be carried out such that there are no discharges in or to spawning or nursery areas during spawning seasons. Impacts to such areas shall be avoided or minimized to the maximum extent practicable during all other times of the year.
5. Work shall be carried out in a time and manner to avoid disturbances to migratory waterfowl breeding and nesting areas.
6. Appropriate turbidity controls shall be installed prior to construction, shall be maintained during construction such that no turbidity escapes the immediate dredge area and shall remain until suspended particles have settled and water at the work site has returned to normal clarity.
7. All construction-related debris shall be placed outside of the areas subject to RSA 482-A.
8. Only those structures shown on the approved plans shall be installed or constructed along this frontage. All portions of the structures shall be at least 20 feet from the abutting property lines or the imaginary extension of those lines into the water.
9. Pilings shall be spaced a minimum of 12 feet apart as measured piling center to piling center.
10. No portion of the docking structures shall extend more than 45 feet from the shoreline at full lake elevation (Elev. 504.32).
11. All seasonal structures, including watercraft lifts, shall be removed for the non-boating season.
12. The canopy, including the support frame and cover, shall be designed and constructed to be readily removed at the end of the boating season and the flexible canopy shall be removed for the non-boating season.

**With Findings:**

1. This is a minor impact project per Administrative Rule Env-Wt 303.03(d), modification of a 3 slip permanent docking facility.
2. The applicant has provided evidence which demonstrates that this proposal is the alternative with the least adverse impact to areas and environments under the department's jurisdiction per Env-Wt 302.03.
3. The applicant has demonstrated by plan and example that each factor listed in Env-Wt 302.04(a) Requirements for Application Evaluation, has been considered in the design of the project.
4. The applicant has an average of 204 feet of shoreline frontage along Lake Winnepesaukee.
5. A maximum of 3 slips may be permitted on this frontage per Rule Env-Wt 402.13, Frontage Over 75'.
6. The proposed docking facility will provide 3 slips as defined per RSA 482-A:2, VIII and therefore meets Rule Env-Wt 402.13.

**MINIMUM IMPACT PROJECT**

\*\*\*\*\*

2019-03420

**B G REALTY TRUST**

**WAKEFIELD GREAT EAST LAKE**

03/09/2020 to 03/15/2020

Requested Action:

Abandon an existing 3-slip seasonal "h" shaped docking structure, construct a 6 foot x 4 foot concrete pad, install a 6 foot x 40 foot seasonal pier, and replenish a 15.5 foot x 8 foot beach with 3 cubic yards of sand on an average of 97 feet of frontage along Great East Lake in Wakefield.

\*\*\*\*\*

APPROVE PERMIT

Abandon an existing 3-slip seasonal "h" shaped docking structure, construct a 6 foot x 4 foot concrete pad, install a 6 foot x 40 foot seasonal pier, and replenish a 15.5 foot x 8 foot beach with 3 cubic yards of sand on an average of 97 feet of frontage along Great East Lake in Wakefield.

With Conditions:

1. All work shall be in accordance with plans by Walker Magrath dated September 20, 2019, as received by NHDES on October 28, 2019.
2. This permit is not valid and effective until it has been recorded with the appropriate county Registry of Deeds by the applicant. Prior to starting work under this permit, the permittee shall submit a copy of the recorded permit to the NHDES Wetlands Program by certified mail, return receipt requested.
3. All development activities associated with this project shall be conducted in compliance with applicable requirements of RSA 483-B and N.H. Code of Administrative Rules Env-Wq 1400 during and after construction.
4. Work shall be carried out in a time and manner to avoid disturbances to migratory waterfowl breeding and nesting areas.
5. Appropriate siltation and erosion controls shall be in place prior to construction, shall be maintained during construction, and shall remain until the area is stabilized. Temporary controls shall be removed once the area has been stabilized.
6. Appropriate turbidity controls shall be installed prior to construction, shall be maintained during construction such that no turbidity escapes the immediate dredge area and shall remain until suspended particles have settled and water at the work site has returned to normal clarity.
7. All portions of the pre-existing docking structure shall be completely removed from the frontage prior to the installation of the new docking structure.
8. The contractor responsible for completion of the work shall use techniques described in the New Hampshire Stormwater Manual, Volume 3, Erosion and Sediment Controls During Construction (December 2008).
9. Any subdivision of the property frontage will require removal of a sufficient portion of the docking structures to comply with the dock size and density requirements in effect at the time of the subdivision.
10. Only those structures shown on the approved plans shall be installed or constructed along this frontage. All portions of the structures shall be at least 20 feet from the abutting property lines or the imaginary extension of those lines into the water.
11. No portion of the pier shall extend more than 40 feet from the shoreline at full lake elevation.
12. All seasonal structures shall be removed for the non-boating season.
13. No more than 3 cubic yards of sand shall be used and all sand shall be located above the normal high water line.
14. This permit authorizes a single beach replenishment only. Any future beach replenishment shall require a new permit.
15. The permittee shall provide appropriate diversion of surface water runoff to prevent erosion of beach area.

With Findings:

1. This is a minimum impact project per Administrative Rule Env-Wt 303.04(a), installation of a seasonal pier providing 2 slips.
2. The applicant has provided evidence which demonstrates that this proposal is the alternative with the least adverse impact to areas and environments under the department's jurisdiction per Env-Wt 302.03.
3. The applicant has demonstrated by plan and example that each factor listed in Env-Wt 302.04(b) Requirements for Application Evaluation, has been considered in the design of the project.
4. The pre-existing 3 slip seasonal pier has been removed and shall not be re-installed.
5. The applicant has an average of 97 feet of shoreline frontage along Great East Lake.
6. A maximum of 2 slips may be permitted on this frontage per Rule Env-Wt 402.13, Frontage Over 75'.
7. The proposed docking facility will provide 2 slips as defined per RSA 482-A:2, VIII and therefore meets Rule Env-Wt 402.13.

03/09/2020 to 03/15/2020

**EFFINGHAM PROVINCE LAKE**

Requested Action:

Remove an existing 4 foot x 35 foot seasonal pier and install a 4 foot x 48 foot seasonal pier on an average of 50 feet of frontage along Province Lake in Effingham.

\*\*\*\*\*

APPROVE PERMIT

Remove an existing 4 foot x 35 foot seasonal pier and install a 4 foot x 48 foot seasonal pier on an average of 50 feet of frontage along Province Lake in Effingham.

With Conditions:

1. All work shall be in accordance with plans by Folsom Design & Construction Management dated October 24, 2019, as received by NHDES on October 31, 2019.
2. This permit is not valid and effective until it has been recorded with the appropriate county Registry of Deeds by the applicant. Prior to starting work under this permit, the permittee shall submit a copy of the recorded permit to the DES Wetlands Program by certified mail, return receipt requested.
3. All development activities associated with this project shall be conducted in compliance with applicable requirements of RSA 483-B and N.H. Code of Administrative Rules Env-Wq 1400 during and after construction.
4. Work authorized shall be carried out such that there are no discharges in or to spawning or nursery areas during spawning seasons. Impacts to such areas shall be avoided or minimized to the maximum extent practicable during all other times of the year.
5. Any subdivision of the property frontage will require removal of a sufficient portion of the docking structures to comply with the dock size and density requirements in effect at the time of the subdivision.
6. Only those structures shown on the approved plans shall be installed or constructed along this frontage. All portions of the structures shall be at least 20 feet from the abutting property lines or the imaginary extension of those lines into the water.
7. No portion of the pier shall extend more than 48 feet from the shoreline at full lake elevation (Elev. 480.0).
8. All seasonal structures shall be removed for the non-boating season.

With Findings:

1. This is a minimum impact project per Administrative Rule Env-Wt 303.04(a), installation of a seasonal docking structures providing no more than 2 slips..
2. The applicant has provided evidence which demonstrates that this proposal is the alternative with the least adverse impact to areas and environments under the department's jurisdiction per Env-Wt 302.03.
3. The applicant has demonstrated by plan and example that each factor listed in Env-Wt 302.04(b) Requirements for Application Evaluation, has been considered in the design of the project.
4. The applicant has submitted dated water depths that support the requested pier dimensions.
5. This project was received prior to December 15, 2019 and reviewed under the previous version of the Wetlands Code of Administrative Rules Chapters Env-Wt 100 - 900.

2019-03654

TOWN OF GOFFSTOWN

**GOFFSTOWN Unnamed Stream**

Requested Action:

Re-locate approximately 55 linear feet of intermittent stream that has eroded the base of a dam to protect the base of a dam and to meet on order issued by the Federal Energy Regulatory Commission (FERC).

\*\*\*\*\*

03/09/2020 to 03/15/2020

Conservation Commission/Staff Comments:  
Con Com recommends granting this permit.

#### APPROVE PERMIT

Dredge and fill 270 square feet, along 43 linear feet of intermittent stream, to relocate the channel that has eroded the base of a dam, to protect the base of a dam, and to meet on order issued by the Federal Energy Regulatory Commission (FERC). Temporarily impact 264 square feet of palustrine emergent wetlands for access to the stream relocation.

#### With Conditions:

1. All work shall be in accordance with plans by Berry Surveying and Engineering for Map 5/Lot 15-4, for the town of Goffstown revision dated February 24, 2020, as received by the Department of Environmental Services on February 25, 2020.
2. Work shall be conducted in a manner so as to minimize turbidity and sedimentation to wetlands and surface waters. No person undertaking any activity shall cause or contribute to, or allow the activity to cause or contribute to, any violations of the surface water quality standards in RSA 485-A and Env-Wq 1700.
3. All development activities associated with this project shall be conducted in compliance with applicable requirements of RSA 483-B and N.H. Code Admin. Rules Env-Wq 1400 during and after construction.
4. Appropriate siltation/erosion/turbidity controls shall be in place prior to construction, shall be maintained during construction, and shall remain in place until the area is stabilized.
5. Appropriate dewatering, water diversion, and turbidity controls shall be installed prior to construction, shall be maintained during construction such that no turbidity escapes the immediate dredge area, and shall remain until suspended particles have settled and the water at the work site has returned to normal clarity.
6. Work shall be done during low flow/ low water conditions.
7. Temporary erosion controls must be removed immediately following project area stabilization.
8. The Contractor responsible for completion of the work shall utilize techniques described in the New Hampshire Stormwater Manual, Volume 3, Erosion and Sediment Controls During Construction (December 2008).
9. Extreme precautions shall be taken within riparian areas to prevent unnecessary removal of vegetation during construction. Areas cleared of vegetation must be revegetated with like native species within three days of the completion of the disturbance.
10. No excavation shall be done in flowing water. No construction equipment shall be operated in flowing water.
11. Discharge from dewatering of work areas shall be to sediment basins that are: a) located in uplands; b) lined with hay bales or other acceptable sediment trapping liners; c) set back as far as possible from wetlands and surface waters, in all cases with a minimum of 20 ft. of undisturbed vegetated buffer.
12. Dredged material shall be placed outside of the jurisdiction of the DES Wetlands Bureau.
13. The permittee/permittee's contractor shall regrade temporary impacts to pre-construction conditions and plant native species similar to those within the wetland prior to impact. The permittee shall implement corrective measure promptly if needed to ensure the plantings survive. Seed mix within the restoration area shall be a wetland seed mix appropriate to the area and shall be applied in accordance with manufacturers' specifications.
14. The channel at the inlet and outlet must maintain the natural and a consistent streambed elevation and not impede stream flow.
15. Construction equipment shall be inspected daily for leaking fuel, oil and hydraulic fluid. Faulty equipment shall be repaired immediately.
16. Faulty equipment shall be repaired prior to entering jurisdictional areas.
17. The contractor shall have appropriate oil spill kits on site and readily accessible at all times during construction and each operator shall be trained in its use.
18. All refueling of equipment shall occur outside of surface waters or wetlands.
19. Within three days of final grading or temporary suspension of work in an area that is in or adjacent to wetlands or surface waters, all exposed soil areas shall be stabilized by seeding and mulching during the growing season, or if not within the growing season, by mulching with tack or netting and pinning on slopes steeper than 3:1.
20. Wetland temporary impact areas shall have at least 75% successful establishment of wetlands vegetation after two (2) growing seasons, or shall be replanted and re-established until a functional wetland is replicated in a manner satisfactory to the DES Wetlands Bureau.

#### With Findings:

1. This is a Minimum impact project per Env-Wq 303.04(n) Any project not otherwise specified in this section that alters the course of or disturbs less than 50 linear feet, measured along the thread of the channel, or an intermittent nontidal stream channel or its banks provided construction is performed during periods of non-flow.

03/09/2020 to 03/15/2020

2. The applicant is proposing to realign 43 linear feet of an intermittent stream that is starting to undermine a dam associated with the hydroelectric infrastructure located on Glen Lake in Goffstown, New Hampshire. The Federal Energy Regulatory Commission (FERC) has a requirement that a 15-foot setback to this stream must be maintained from the toe of the dam. The applicant proposes to realign the stream channel beyond the 15-foot setback to prevent further degradation of the dam fill slopes.
3. The temporary impacts for access will be restored on completion of the project.
4. The Piscataquog River Local Advisory Committee submitted a letter received by NHDES on December 17, 2019 indicating the River Local Advisory Committee waives its' review of this Minimum Impact application.
5. The Town of Goffstown Conservation Commission did not sign the Minimum Impact Expedited permit application, however the Goffstown Conservation Commission submitted a letter dated January 24, 2020. The letter states the Goffstown Conservation Commission "express their unanimous support of the proposed project and long term goal of providing safety to the community and our waterways."
6. The New Hampshire Natural Heritage Bureau (NHB) database was checked for records of rare species and exemplary natural communities near the project area. There were no recorded occurrences for sensitive species near the project area per NHB letter dated August 23, 2019.

2019-03956

PANTELAKOS, DONNA

**PORTSMOUTH NORTH MILL POND**

Requested Action:

Impact 144 square feet within the previously-developed 100-foot tidal buffer zone to construct a second-story addition onto an existing structure, supported by four post footings, which will result in an increase in the number of residential units on the property.

\*\*\*\*\*

APPROVE PERMIT

Impact 144 square feet within the previously-developed 100-foot tidal buffer zone to construct a second-story addition onto an existing structure, supported by four post footings, which will result in an increase in the number of residential units on the property.

With Conditions:

1. In accordance with Env-Wt 307.16, all work shall be done in accordance with the site plan originally dated July 29, 1997, revised through March 13, 2020, last received by the NH Department of Environmental Services (NHDES) on March 13, 2020.
2. No other work shall be done on the subject property pursuant to another expedited permit (EXP) or a statutory permit-by-notification (SPN) for a period of 12 months from the date the EXP was issued unless the property owner submits information, including a plan, to demonstrate that the proposed work is wholly unrelated to and separate from the work already done under the EXP or SPN; and the proposed work and the work already done under the EXP or SPN do not, when combined, constitute a project for which a standard permit is required, per Rule Env-Wt 310.03(a)
3. 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 using the techniques described in Env-Wq 1505.02, Env-Wq 1505.04, Env-Wq 1506, and Env-Wq 1508; the applicable BMP manual; or a combination thereof, if the BMP manual provides less protection to jurisdictional areas than the provisions of Env-Wq 1500, per Rule Env-Wt 307.03(b).
4. 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, per Rule Env-Wt 307.03(c)(1).
5. 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, per Rule Env-Wt 307.07.
6. 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, per Rule Env-Wt 307.03(g)(1).
7. Equipment shall be staged and refueled outside of jurisdictional areas (unless allowed) and in accordance with Env-Wt 307.15, per Rule Env-Wt 307.03(h).

With Findings:

1. This is classified as a minimum impact project per Rule Env-Wt 610.17(c)(1) for any dredging, filling, or construction activity, or any combination thereof that is in a previously developed upland area, is within 100 feet of the Highest Observable Tide Line (HOTL), and will disturb less than 3,000 square feet.
2. The applicant has addressed all of the required planning items that are used to determine the appropriate impact classification of a project and the type of approval required, per Rule Env-Wt 306.05.
3. The applicant has demonstrated that the avoidance and minimization requirements in Env-Wt 307, Env-Wt 311.07, Env-Wt 313, and Env-Wt 603.04 have been met, and has demonstrated that all of the requirements listed in Env-Wt 605.01(a) through (c) have been met, for projects in coastal areas, per Rule Env-Wt 605.01.
4. The project meets the approval criteria established in Rule Env-Wt 313.01. The addition is at approximately 75 feet from the highest observable tide line, has been minimized in size and will be supported by four posts over an existing impervious patio. No vegetation removal is necessary and there will be no net increase of impervious surface on the property.
5. The applicant for a permit for work in or adjacent to tidal waters/wetlands or the tidal buffer zone has demonstrated that adverse impacts listed in (a) through (d) have been avoided or minimized as required by Env-Wt 313.04, per Rule Env-Wt 605.02.
6. The project in or on a tidal buffer zone preserves the self-sustaining ability of the buffer area to provide habitat values, protect tidal environments from potential sources of pollution, provide stability of the coastal shoreline, and maintain existing buffers intact where the lot has disturbed area defined under RSA 483- B:4, VI, per Rule Env-Wt 604.02(c).
7. All resource-specific criteria established in Env-Wt 600 have been met, per Rule Env-Wt 313.01(a)(3).
8. All project-specific criteria established in Env-Wt 600 have been met, per Rule Env-Wt 313.01(a)(4).
9. All applicable conditions specified in Env-Wt 307 have been met, per Rule Env-Wt 313.01(a)(2).
10. The application for this expedited permit (EXP) included a signed statement from the municipal conservation commission certifying that the conservation commission waives its right to intervene on the project, per Rule Env-Wt 310.01(h).

**X-EMERGENCY AUTHORIZATION**

\*\*\*\*\*

**2017-01233                      LEBANON DPW, CITY OF**

**LEBANON    INTERMITTENT STREAM**

Requested Action:

Repair a culvert that has separated in the roadway and backfill the area.

\*\*\*\*\*

CONFIRM EMERGENCY AUTHORIZATION

Repair a culvert that has separated in the roadway and backfill the area.

**SHORELAND STANDARD**

\*\*\*\*\*

**2019-03553                      WILKINSON, JAMES**

**FITZWILLIAM    LAUREL LAKE**

03/09/2020 to 03/15/2020

Requested Action:

Impact 3,200 square feet of protected shoreland in order to construct an addition to the primary structure with stormwater management and install a septic system.

\*\*\*\*\*

APPROVE PERMIT

Impact 3,200 square feet of protected shoreland in order to construct an addition to the primary structure with stormwater management and install a septic system.

With Conditions:

1. All work shall be in accordance with plans by GRAZ Engineering, LLC dated November 5, 2019 and received by the NH Department of Environmental Services (NHDES) on November 6, 2019.
2. The proposed foundation shall not be constructed until any approval as may be required under RSA 485-A and Rules Env-Wq 1000 is obtained from NHDES Subsurface Systems Bureau.
3. Orange construction fencing shall be installed at the limits of the temporary impact area as shown on the approved plans prior to the start of work and shall be maintained throughout the project in order to prevent accidental encroachment into areas in which impacts have not been approved.
4. No more than 13.7% of the area of the lot within the protected shoreland shall be covered by impervious surfaces unless additional approval is obtained from NHDES.
5. Native vegetation within an area of at least 1,866 square feet within the Woodland Buffer located between 50 and 150 feet landward of the reference line shall be retained in an unaltered state in order to comply with RSA 483-B:9, V, (b), (2).
6. Erosion and siltation control measures shall be installed prior to the start of work, be maintained throughout the project, and remain in place until all disturbed surfaces are stabilized.
7. Erosion and siltation controls shall be appropriate to the size and nature of the project and to the physical characteristics of the site, including slope, soil type, vegetative cover, and proximity to wetlands or surface waters.
8. No person undertaking any activity in the protected shoreland shall cause or contribute to, or allow the activity to cause or contribute to, any violations of the surface water quality standards established in Env-Wq 1700.
9. Any fill used shall be clean sand, gravel, rock, or other suitable material.
10. The proposed roof drains and drywell shall be installed and maintained to effectively absorb and infiltrate stormwater.
11. Photographs documenting the construction of the proposed roof drains and drywell shall be submitted to the Department within 30 days of the completion of construction.
12. Within three days of final grading or temporary suspension of work in an area that is in or adjacent to wetlands or surface waters, all exposed soil areas shall be stabilized by seeding and mulching during the growing season, or if not within the growing season, by mulching with tack or netting and pinning on slopes steeper than 3:1.
13. The individual responsible for completion of the work shall utilize techniques described in the New Hampshire Stormwater Manual, Volume 3, Erosion and Sediment Controls During Construction (December 2008).
14. This permit shall not be interpreted as acceptance or approval of any impact that will occur within wetlands jurisdiction regulated under RSA 482-A including all wetlands, surface waters and their banks, the tidal-buffer zone, and sand dunes. The owner is responsible for maintaining compliance with RSA 482-A and Administrative Rules Env-Wt 100 - 900 and obtaining any Wetland Impact Permit that may be required prior to construction, excavation or fill that will occur within Wetlands jurisdiction.
15. This permit shall not preclude NHDES from taking any enforcement or revocation action if NHDES later determines that any of the structures depicted as "existing" on the plans submitted by the applicant were not previously permitted or grandfathered.

2020-00146

HAMPTON FISH COMPANY

WESTMORELAND CONNECTICUT RIVER

Requested Action:

Retain 539 square feet of impacts within the protected shoreland in order to construct an accessory structure partially within the waterfront buffer.

\*\*\*\*\*

**APPROVE AFTER THE FACT**

Retain 539 square feet of impacts within the protected shoreland in order to construct an accessory structure partially within the waterfront buffer.

**With Conditions:**

1. All work shall be in accordance with surveyed plans by DiBernardo Associates, LLC dated July 2, 2019 and received by the NH Department of Environmental Services (NHDES) on January 28, 2020.
2. No more than .67% of the area of the lot within the protected shoreland shall be covered by impervious surfaces unless additional approval is obtained from NHDES.
3. Native vegetation within an area of at least 41,817 square feet within the Natural Woodland Buffer located between 50 and 150 feet landward of the reference line shall be retained in an unaltered state in order to comply with RSA 483-B:9, V, (b), (2).

**2020-00202**

**THE GSR TRUST**

**WOLFEBORO LAKE WINNIPESAUKEE**

**Requested Action:**

Impact 20,000 square feet of protected shoreland in order to remove primary structure with a deck, a porch, driveway, and detached garage to construct a new primary structure with a porch, a patio, a walkway, and attached garage, construct a driveway, install a septic system, and landscaping.

\*\*\*\*\*

**APPROVE PERMIT**

Impact 20,000 square feet of protected shoreland in order to remove primary structure with a deck, a porch, driveway, and detached garage to construct a new primary structure with a porch, a patio, a walkway, and attached garage, construct a driveway, install a septic system, and landscaping.

**Temporary Waiver Granted:** Temporarily reduce the area of the Woodland Buffer in which vegetation remains in an unaltered state below that required per RSA 483-B:9, V, (b) for the purposes of constructing a conforming primary structure. Post-construction restoration planting required.

**With Conditions:**

1. All work shall be in accordance with plans by Beckwith Builders, Inc. dated February 4, 2020 and revised March 3, 2020 as received by the NH Department of Environmental Services (NHDES) on March 4, 2020.
2. Neither the new primary structure nor the proposed septic system may be constructed until the system is approved by the NHDES Subsurface Systems Bureau.
3. Orange construction fencing shall be installed at the limits of the temporary impact area as shown on the approved plans prior to the start of work and shall be maintained throughout the project in order to prevent accidental encroachment into areas in which impacts have not been approved.
4. Mechanical construction equipment such as, but not limited to cranes, excavators, or other large equipment, shall not be used on the site for any purpose between May 15th and August 1st.
5. No more than 25.8% of the area of the lot within the protected shoreland shall be covered by impervious surfaces unless additional approval is obtained from NHDES.
6. Within 60 days of the completion of the framing of the proposed structure the Permittee shall have replanted and restored native vegetation as stated on the plan drawing resulting in a total of at least 3,510 square feet within the Natural Woodland Buffer located between 50 and 150 feet landward of the reference line. This vegetation shall then be retained in an unaltered state in order to comply with RSA 483-B:9, V(b)(2).
7. Within 90 days the completion of the framing of the proposed structure the Permittee shall provide documentation,

03/09/2020 to 03/15/2020

including photos, showing that restoration of the Natural Woodland Buffer has occurred to the DES Wetlands Bureau.

8. Following planting, the restored Woodland Buffer areas shall be allowed to revert back to a natural state. The regeneration of ground cover shall not be suppressed by the use of bark mulch or other man-made materials. Native vegetation within an area of at least 3,510 square feet within the Natural Woodland Buffer located between 50 and 150 feet landward of the reference line shall be retained in an unaltered state in order to comply with RSA 483-B:9, V, (b), (2).

9. The Permittee is responsible for submitting monitoring reports and photos of restored areas to the DES Wetlands Bureau at six (6) months following completion of plantings and then annually for a duration of three (3) years in order to document compliance with the restoration plan.

10. The Permittee is responsible for replacing all failed plantings in order to maintain compliance with the restoration plan.

11. Within three days of final grading or temporary suspension of work, all exposed soil areas shall be stabilized by seeding and mulching with straw during the growing season, or if not within the growing season, by mulching with tack or netting and pinning on slopes steeper than 3:1.

12. Erosion and siltation control measures shall be installed prior to the start of work, be maintained throughout the project, and remain in place until all disturbed surfaces are stabilized.

13. Erosion and siltation controls shall be appropriate to the size and nature of the project and to the physical characteristics of the site, including slope, soil type, vegetative cover, and proximity to wetlands or surface waters.

14. No person undertaking any activity in the protected shoreland shall cause or contribute to, or allow the activity to cause or contribute to, any violations of the surface water quality standards established in Env-Wq 1700.

15. Any fill used shall be clean sand, gravel, rock, or other suitable material.

16. All pervious technologies used shall be installed and maintained to effectively absorb and infiltrate stormwater.

17. The individual responsible for completion of the work shall utilize techniques described in the New Hampshire Stormwater Manual, Volume 3, Erosion and Sediment Controls During Construction (December 2008).

18. This permit shall not be interpreted as acceptance or approval of any impact that will occur within wetlands jurisdiction regulated under RSA 482-A including all wetlands, surface waters and their banks, the tidal-buffer zone, and sand dunes. The owner is responsible for maintaining compliance with RSA 482-A and Administrative Rules Env-Wt 100 - 900 and obtaining any Wetland Impact Permit that may be required prior to construction, excavation or fill that will occur within Wetlands jurisdiction.

19. This permit shall not preclude NHDES from taking any enforcement or revocation action if NHDES later determines that any of the structures depicted as "existing" on the plans submitted by the applicant were not previously permitted or grandfathered.

#### With Findings:

1. In accordance with RSA 483-B:9, V, (i) The commissioner shall have the authority to grant waivers from the Minimum Shoreland Protection Standards section (RSA 483-B:9). Such authority shall be exercised if the commissioner deems that strict compliance with RSA 483-B:9 will provide no material benefit to the public and have no material adverse effect on the environment or the natural resources of the state, or to accommodate the reasonable needs of persons with disabilities.

2. This property, identified as Lot 27 on Wolfeboro Tax Map 258, is located totally within the protected shorelands.

3. The project as proposed will reduce the impervious area from 26.0% to 25.8% of the portion of the lot within protected shorelands being covered by impervious surfaces and therefore is subject to the requirements of RSA 483-B:9, V, (g), (2).

4. The Applicant has submitted a Request Waiver of the Minimum Standards Form for the temporary waiver of the RSA 483-B, V(b)(2)(A) requiring the retention of 25 percent of the woodland buffer area located between 50 feet and 150 feet from the reference line to be maintained as natural woodland.

5. The proposed temporary removal of unaltered vegetation is necessary in order to construct a conforming structure behind the primary building setback given the locations of lot boundaries.

6. Post-construction the woodland buffer shall be restored to the preconstruction square footage of unaltered vegetation between 50 and 150 feet from the reference line.

7. The waiver request submitted demonstrates that strict compliance with RSA 483-B:9, section waived 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 waiver in accordance with RSA 483-B:9, V, (i) have been met.

2020-00246

CAVANAUGH, DAVID

ENFIELD MASCOMA LAKE

#### Requested Action:

Impact 3,355 square feet of protected shoreland in order to demolish existing primary structure and construct a new primary duplex structure with an expanded footprint.

\*\*\*\*\*

**APPROVE PERMIT**

Impact 3,355 square feet of protected shoreland in order to demolish existing primary structure and construct a new primary duplex structure with an expanded footprint.

**With Conditions:**

1. All work shall be in accordance with plans by Cardigan Mountain, Land Surveys, LLC dated January 30, 2020 and received by the NH Department of Environmental Services (DES) on February 12, 2020.
2. Orange construction fencing shall be installed at the limits of the temporary impact area as shown on the approved plans prior to the start of work and shall be maintained throughout the project in order to prevent accidental encroachment into areas in which impacts have not been approved.
3. No more than 28.3% of the area of the lot within the protected shoreland shall be covered by impervious surfaces unless additional approval is obtained from DES.
4. Erosion and siltation control measures shall be installed prior to the start of work, be maintained throughout the project, and remain in place until all disturbed surfaces are stabilized.
5. Erosion and siltation controls shall be appropriate to the size and nature of the project and to the physical characteristics of the site, including slope, soil type, vegetative cover, and proximity to wetlands or surface waters.
6. No person undertaking any activity in the protected shoreland shall cause or contribute to, or allow the activity to cause or contribute to, any violations of the surface water quality standards established in Env-Wq 1700.
7. Any fill used shall be clean sand, gravel, rock, or other suitable material.
8. The proposed (stormwater management structures) shall be installed and maintained to effectively absorb and infiltrate stormwater.
9. Photographs documenting the construction of the proposed (stormwater management structures) shall be submitted to the Department prior to any party taking up occupancy of the new residential primary structure.
10. Within three days of final grading or temporary suspension of work in an area that is in or adjacent to wetlands or surface waters, all exposed soil areas shall be stabilized by seeding and mulching during the growing season, or if not within the growing season, by mulching with tack or netting and pinning on slopes steeper than 3:1.
11. The individual responsible for completion of the work shall utilize techniques described in the New Hampshire Stormwater Manual, Volume 3, Erosion and Sediment Controls During Construction (December 2008).
12. This permit shall not preclude DES from taking any enforcement or revocation action if DES later determines that any of the structures depicted as "existing" on the plans submitted by the applicant were not previously permitted or grandfathered.

**2020-00251**

**GREAT BAXTER MILLS LLC**

**SOMERSWORTH SALMON FALLS RIVER**

**Requested Action:**

Impact 21,774 square feet of protected shoreland in order to replace 4 underground penstock pipes, modify the parking areas, provide new parking areas, and utilize temporary staging and stockpiling areas.

\*\*\*\*\*

**APPROVE PERMIT**

Impact 21,774 square feet of protected shoreland in order to replace 4 underground penstock pipes, modify the parking areas, provide new parking areas, and utilize temporary staging and stockpiling areas.

**With Conditions:**

1. All work shall be in accordance with plans by Kleinschmidt Group dated January 24, 2020 and received by the NH Department of Environmental Services (NHDES) on February 12, 2020.
2. Orange construction fencing shall be installed at the limits of the temporary impact area as shown on the approved plans prior to the start of work and shall be maintained throughout the project in order to prevent accidental encroachment into

03/09/2020 to 03/15/2020

areas in which impacts have not been approved.

3. No more than 15.6% of the area of the lot within the protected shoreland shall be covered by impervious surfaces unless additional approval is obtained from NHDES.
4. Native vegetation within an area of at least 23,864 square feet within the Woodland Buffer located between 50 and 150 feet landward of the reference line shall be retained in an unaltered state in order to comply with RSA 483-B:9, V, (b), (2).
5. Erosion and siltation control measures shall be installed prior to the start of work, be maintained throughout the project, and remain in place until all disturbed surfaces are stabilized.
6. Erosion and siltation controls shall be appropriate to the size and nature of the project and to the physical characteristics of the site, including slope, soil type, vegetative cover, and proximity to wetlands or surface waters.
7. No person undertaking any activity in the protected shoreland shall cause or contribute to, or allow the activity to cause or contribute to, any violations of the surface water quality standards established in Env-Wq 1700.
8. Any fill used shall be clean sand, gravel, rock, or other suitable material.
9. Within three days of final grading or temporary suspension of work in an area that is in or adjacent to wetlands or surface waters, all exposed soil areas shall be stabilized by seeding and mulching during the growing season, or if not within the growing season, by mulching with tack or netting and pinning on slopes steeper than 3:1.
10. The individual responsible for completion of the work shall utilize techniques described in the New Hampshire Stormwater Manual, Volume 3, Erosion and Sediment Controls During Construction (December 2008).
11. This permit shall not be interpreted as acceptance or approval of any impact that will occur within wetlands jurisdiction regulated under RSA 482-A including all wetlands, surface waters and their banks, the tidal-buffer zone, and sand dunes. The owner is responsible for maintaining compliance with RSA 482-A and Administrative Rules Env-Wt 100 - 900 and obtaining any Wetland Impact Permit that may be required prior to construction, excavation or fill that will occur within Wetlands jurisdiction.
12. This permit shall not preclude NHDES from taking any enforcement or revocation action if NHDES later determines that any of the structures depicted as "existing" on the plans submitted by the applicant were not previously permitted or grandfathered.

2020-00260

YOUNGREN, MARJORIE

**ALTON LAKE WINNIPESAUKEE**

Requested Action:

Impact 1,250 square feet of protected shoreland construct an addition, retaining walls, and a path. Project includes, installing drip edges and a catch basin, reroute an existing catch basin to a dry well and remove 392 square feet of pavement.

\*\*\*\*\*

APPROVE PERMIT

Impact 1,250 square feet of protected shoreland construct an addition, retaining walls, and a path. Project includes, installing drip edges and a catch basin, reroute an existing catch basin to a dry well and remove 392 square feet of pavement.

With Conditions:

1. All work shall be in accordance with plans by Varney Engineering, LLC dated January 22, 2020 and received by the NH Department of Environmental Services (DES) on February 13, 2020.
2. Orange construction fencing shall be installed at the limits of the temporary impact area as shown on the approved plans prior to the start of work and shall be maintained throughout the project in order to prevent accidental encroachment into areas in which impacts have not been approved.
3. No more than 31.6% of the area of the lot within the protected shoreland shall be covered by impervious surfaces unless additional approval is obtained from DES.
4. Native vegetation within an area of at least 2,532 square feet within the Natural Woodland Buffer located between 50 and 150 feet landward of the reference line shall be retained in an unaltered state in order to comply with RSA 483-B:9, V, (b), (2).
5. Erosion and siltation control measures shall be installed prior to the start of work, be maintained throughout the project, and remain in place until all disturbed surfaces are stabilized.
6. Erosion and siltation controls shall be appropriate to the size and nature of the project and to the physical characteristics of the site, including slope, soil type, vegetative cover, and proximity to wetlands or surface waters.
7. No person undertaking any activity in the protected shoreland shall cause or contribute to, or allow the activity to cause or contribute to, any violations of the surface water quality standards established in Env-Wq 1700.

03/09/2020 to 03/15/2020

8. Any fill used shall be clean sand, gravel, rock, or other suitable material.
9. The proposed (stormwater management structures) shall be installed and maintained to effectively absorb and infiltrate stormwater.
10. Photographs documenting the construction of the proposed (stormwater management structures) shall be submitted to the Department prior to any party taking up occupancy of the new residential primary structure.
11. Within three days of final grading or temporary suspension of work in an area that is in or adjacent to wetlands or surface waters, all exposed soil areas shall be stabilized by seeding and mulching during the growing season, or if not within the growing season, by mulching with tack or netting and pinning on slopes steeper than 3:1.
12. This permit shall not preclude DES from taking any enforcement or revocation action if DES later determines that any of the structures depicted as "existing" on the plans submitted by the applicant were not previously permitted or grandfathered.

2020-00271

BANKS, TIMOTHY

**HILLSBOROUGH CONTENTION POND**

Requested Action:

Impact 420 square feet of protected shoreland in order to retain a 12 foot x 24 foot deck located on the northwest side of primary structure and construct a new 8 foot x 12 foot deck on the northeast side of structure.

\*\*\*\*\*

APPROVE PERMIT

Impact 420 square feet of protected shoreland in order to retain a 12 foot x 24 foot deck located on the northwest side of primary structure and construct a new 8 foot x 12 foot deck on the northeast side of structure.

With Conditions:

1. All work shall be in accordance with plans by S & H Land Services, LLC dated February 12, 2020 and received by the NH Department of Environmental Services (DES) on February 14, 2020.
2. No more than 18.6% of the area of the lot within the protected shoreland shall be covered by impervious surfaces unless additional approval is obtained from DES.
3. Native vegetation within an area of at least 2,450 square feet within the Natural Woodland Buffer located between 50 and 150 feet landward of the reference line shall be retained in an unaltered state in order to comply with RSA 483-B:9, V, (b), (2).
4. Erosion and siltation controls shall be appropriate to the size and nature of the project and to the physical characteristics of the site, including slope, soil type, vegetative cover, and proximity to wetlands or surface waters.
5. No person undertaking any activity in the protected shoreland shall cause or contribute to, or allow the activity to cause or contribute to, any violations of the surface water quality standards established in Env-Wq 1700.
6. Any fill used shall be clean sand, gravel, rock, or other suitable material.
7. This permit shall not preclude DES from taking any enforcement or revocation action if DES later determines that any of the structures depicted as "existing" on the plans submitted by the applicant were not previously permitted or grandfathered.

2020-00290

HARTERY TRUST

**MOULTONBOROUGH LAKE WINNIPESAUKEE**

Requested Action:

Impact 4,644 square feet of protected shoreland in order to construct a 38 foot x 40 foot garage, reconfigure driveway, and install 92 linear feet of drip line trench.

\*\*\*\*\*

03/09/2020 to 03/15/2020

**APPROVE PERMIT**

Impact 4,644 square feet of protected shoreland in order to construct a 38 foot x 40 foot garage, reconfigure driveway, and install 92 linear feet of drip line trench.

**With Conditions:**

1. All work shall be in accordance with plans by David M. Dolan Associates, P.C. dated January 14, 2020 and received by the NH Department of Environmental Services (NHDES) on February 20, 2020.
2. Orange construction fencing shall be installed at the limits of the temporary impact area as shown on the approved plans prior to the start of work and shall be maintained throughout the project in order to prevent accidental encroachment into areas in which impacts have not been approved.
3. No more than 24.15% of the area of the lot within the protected shoreland shall be covered by impervious surfaces unless additional approval is obtained from NHDES.
4. Native vegetation within an area of at least 130 square feet within the Natural Woodland Buffer located between 50 and 150 feet landward of the reference line shall be retained in an unaltered state in order to comply with RSA 483-B:9, V, (b), (2).
5. Erosion and siltation control measures shall be installed prior to the start of work, be maintained throughout the project, and remain in place until all disturbed surfaces are stabilized.
6. Erosion and siltation controls shall be appropriate to the size and nature of the project and to the physical characteristics of the site, including slope, soil type, vegetative cover, and proximity to wetlands or surface waters.
7. No person undertaking any activity in the protected shoreland shall cause or contribute to, or allow the activity to cause or contribute to, any violations of the surface water quality standards established in Env-Wq 1700.
8. Any fill used shall be clean sand, gravel, rock, or other suitable material.
9. The proposed (stormwater management structures) shall be installed and maintained to effectively absorb and infiltrate stormwater.
10. Photographs documenting the construction of the proposed (stormwater management structures) shall be submitted to the Department prior to any party taking up occupancy of the new residential primary structure.
11. Within three days of final grading or temporary suspension of work in an area that is in or adjacent to wetlands or surface waters, all exposed soil areas shall be stabilized by seeding and mulching during the growing season, or if not within the growing season, by mulching with tack or netting and pinning on slopes steeper than 3:1.
12. The individual responsible for completion of the work shall utilize techniques described in the New Hampshire Stormwater Manual, Volume 3, Erosion and Sediment Controls During Construction (December 2008).
13. This permit shall not preclude NHDES from taking any enforcement or revocation action if NHDES later determines that any of the structures depicted as "existing" on the plans submitted by the applicant were not previously permitted or grandfathered.

2020-00292

BUCKLAND, SCOTT

GOFFSTOWN PISCATAQUOG RIVER

**Requested Action:**

Impact 2,996 square feet of protected shoreland in order to expand the primary structure by constructing an attached garage with two decks, one of which encroaches upon the 50 foot primary building setback, and a covered stairway.

\*\*\*\*\*

**DENY PERMIT**

Impact 2,996 square feet of protected shoreland in order to expand the primary structure by constructing an attached garage with two decks, one of which encroaches upon the 50 foot primary building setback, and a covered stairway.

**With Findings:**

**Standards for Approval**

1. Pursuant to RSA 483-B:3 Consistency Required, I, state and local permits for work within the protected shorelands shall be issued only when consistent with the policies of RSA 483-B.

03/09/2020 to 03/15/2020

- 2. RSA 483-B:4: XIII the "Primary building line" means a setback for primary structures of 50 feet from the reference line.
- 3. RSA 483-B:4: XIV a "Primary structure" means a structure as defined in paragraph XXII of this section that is central to the fundamental use of the property and is not accessory to the use of another structure on the same premises.
- 4. Pursuant to RSA 483-B:4, XI-d. "Nonconforming structure" means a structure that, either individually or when viewed in combination with other structures on the property, does not conform to the provisions of this chapter, including but not limited to the impervious surface limits of RSA 483-B:9, V(g).
- 5. Pursuant to RSA 483-B:11, Non-Conforming Structures, V, V. "Notwithstanding paragraphs I and IV, between the primary building line and the reference line, no alteration shall extend the structure closer to the public water, except that a deck or open porch extending a maximum of 12 feet towards the reference line may be added to nonconforming structures erected prior to July 1, 1994."
- 6. Pursuant to RSA 483-B:9 Minimum Shoreland Protection Standards, II, (b), within the protected shoreland, primary structures shall be set back behind the primary building line which is 50 feet from the reference line.

Finding of Fact

- 1. On February 21, 2020 the Department received an application for 2,996 square feet of impacts to protected Shoreland with a reduction of 878 square feet of impervious area along the Piscataquog River in Goffstown for the purpose constructing a garage attached to the nonconforming primary structure with an extended raised deck and a deck with a covered stairway.
- 2. The property on which the impacts are proposed is identified as Lot# 27 on Goffstown Tax Map 25 located at 117 Danis Park Road in Goffstown.
- 3. The existing structures on the property consist of a primary structure located behind the primary building setback with a wraparound deck with steps, a deck with steps, various accessory structures including a greenhouse and a shed, and a paved driveway that leads to a river access boat ramp.
- 4. An existing deck extends from the primary structure, across the the primary building setback and into the waterfront buffer.
- 5. The proposed garage would be an expansion of the primary structure but located more than 50 feet from the reference line.
- 6. The plans show a proposed raised deck extending from the new garage portion of the primary structure into the 50-foot building line of the waterfront buffer.

Rulings in Support of the Decision

- 1. The plans and submitted information shows an expansion of the primary structure with the encroachment into the 50-foot building line of the waterfront buffer in violation of RSA 483-B:9: II,(b).
- 2. Pursuant to RSA 483-B:3, I, the Department shall not grant a permit for this proposal for impacts in protected shorelands because the project as proposed violates RSA 483-B: 9: II,(b).

**SEASONAL DOCK SPN**

\*\*\*\*\*

2020-00407

DATSERAKIS, GEORGE

WAKEFIELD STUMP POND

Requested Action:

Install a seasonal pier not to exceed 6 foot x 30 foot on frontage along Stump Pond in Wakefield.

\*\*\*\*\*

COMPLETE NOTIFICATION

Install a seasonal pier not to exceed 6 foot x 30 foot on frontage along Stump Pond in Wakefield.

2020-00437

CAMPBELL, GARY/SANDRA

SALEM ARLINGTON MILL RESERVOIR

03/09/2020 to 03/15/2020

Requested Action:

Disqualification of the seasonal dock notification, existing dock on frontage.

\*\*\*\*\*

DISQUALIFY TRAIL/FORESTRY/DOCK NOTIFICTN

Disqualification of the seasonal dock notification, existing dock on frontage.

2020-00457

GLADSTONE, DARYN

BARRINGTON SWAINS LAKE

Requested Action:

Install a seasonal pier not to exceed 4 foot x 30 foot on frontage along Swains Lake in Barrington.

\*\*\*\*\*

COMPLETE NOTIFICATION

Install a seasonal pier not to exceed 4 foot x 30 foot on frontage along Swains Lake in Barrington.

FORESTRY SPN

\*\*\*\*\*

2020-00428

MONADNOCK PAPER MILL REAL ESTATE TRUST

BENNINGTON Unnamed Stream

\*\*\*\*\*

COMPLETE NOTIFICATION

BENNINGTON; TAX MAP# 16; LOT# 1

2020-00429

MONADNOCK PAPER MILL REAL ESTATE TRUST

HANCOCK Unnamed Stream

\*\*\*\*\*

COMPLETE NOTIFICATION

HANCOCK; TAX MAP# R16; LOT(S)# 2,3,4,5,6,8

**2020-00430                      MONADNOCK PAPER MILLS INC**

**HANCOCK    Unnamed Stream**

\*\*\*\*\*

COMPLETE NOTIFICATION  
HANCOCK; TAX MAP# R16; LOT# 13

**2020-00443                      BACON, MALCOLM**

**OSSIPEE    Unnamed Stream**

\*\*\*\*\*

COMPLETE NOTIFICATION  
OSSIPEE; TAX MAP# 41; LOT# 3

**2020-00444                      JONES REVOCABLE TRUST, PHILIP**

**NEW DURHAM    Unnamed Stream**

\*\*\*\*\*

COMPLETE NOTIFICATION  
NEW DURHAM; TAX MAP# 267; LOT# 2

**2020-00480                      MCGINLEY, MICHAEL**

**PLYMOUTH    Unnamed Stream**

Requested Action:  
PLYMOUTH; TAX MAP# 212; LOT# 19

\*\*\*\*\*

**CULVERT REPAIR AND REPLACEMENT SPN**  
\*\*\*\*\*

**2020-00440                      DEVEAU, LOREN**

**SUNAPEE Unnamed Stream**

\*\*\*\*\*

COMPLETE NOTIFICATION  
In kind replacement of a 15 inch diameter culvert.

2020-00466

MEEH, TIMOTHY

**CANTERBURY Unnamed Stream**

Requested Action:  
Repair headwall of historic stone culvert.

\*\*\*\*\*

COMPLETE NOTIFICATION  
Repair headwall of historic stone culvert.

**RR6: HEADWALL CONST, REPAIR, OR REPLACE**

\*\*\*\*\*

2020-00378

NHDOT DISTRICT 6

**LEE Unnamed Stream**

\*\*\*\*\*

COMPLETE NOTIFICATION  
Replace a concrete headwall at the outlet of a 24 inch diameter culvert.

**SMALL MOTOR MINERAL DREDGE**

\*\*\*\*\*

2020-00431

OAKES, PHOEBE

**(ALL TOWNS) Unnamed Stream**

\*\*\*\*\*

COMPLETE NOTIFICATION  
RTE 302, BATH, AMMONOOSUC RIVER

**2020-00432 OAKES, MARGARET**

**(ALL TOWNS) Unnamed Stream**

\*\*\*\*\*

COMPLETE NOTIFICATION  
RTE 302, BATH, AMMONOOSUC RIVER

**2020-00446 SMALL, WESTON**

**(ALL TOWNS) Unnamed Stream**

\*\*\*\*\*

COMPLETE NOTIFICATION  
4 TWIN RIVER DR, BATH, WILD AMONOOSUC RIVER

**WETLAND PBN**

\*\*\*\*\*

**2020-00416 GIBBONS, GARY**

**SUNAPEE SUNAPEE LAKE**

**Requested Action:**

Repair an existing 17 foot x 24 foot 7 inch boathouse, a 45 foot 6 inch x 16 foot deck, a single 6 foot x 6 foot crib, two 6 foot x 8 foot cribs and two 8 foot x 8 foot cribs on 100 feet of frontage along Lake Sunapee in Sunapee.

\*\*\*\*\*

**PBN IS COMPLETE**

Repair an existing 17 foot x 24 foot 7 inch boathouse, a 45 foot 6 inch x 16 foot deck, a single 6 foot x 6 foot crib, two 6 foot x 8 foot cribs and two 8 foot x 8 foot cribs on 100 feet of frontage along Lake Sunapee in Sunapee.

**With Conditions:**

1. All work shall be done in accordance with plans by Richard L. Green, as received by the NH Department of Environmental Services (NHDES) on March 5, 2020 as required pursuant to Env-Wt 307.16.
2. This permit shall not be effective until it has been recorded in the Sullivan County Registry of Deeds and a copy of the recorded permit has been provided to the department as required pursuant to RSA 482-A:3, and Env-Wt 314.02.

03/09/2020 to 03/15/2020

3. Per the Natural Heritage Bureau's (NHB) recommendations, the work boat must not touch the substrate in the water unless work will occur in mid-August as to avoid impacts to American Water-Awlwort.
4. Any subdivision of the property frontage will require removal of a sufficient portion of the docking structures to comply with the dock size and density requirements in effect at the time of the subdivision as required pursuant to Env-Wt 314.02.
5. Work authorized shall be carried out in accordance with Env-Wt 307 such that appropriate turbidity controls are in place to protect water quality, that no turbidity escapes the immediate dredge area, and that appropriate turbidity controls shall remain until suspended particles have settled and water at the work site has returned to normal clarity.
6. Water quality control measures capable of minimizing erosion; collecting sediment and suspended and floating materials; and filtering fine sediment shall be selected and implemented as appropriate 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 as required pursuant to Env-Wt 307.03(c).
7. In accordance with Env-Wt 307.03(a), no activity shall be conducted in such a way as to cause or contribute to any violation of surface water quality standards specified in RSA 485-A:8 or Env-Wq 1700; ambient groundwater quality standards established under RSA 485-C; limitations on activities in a sanitary protective area established under Env-Dw 302.10 or Env-Dw 305.10; or any provision of RSA 485-A, Env-Wq 1000, RSA 483-B, or Env-Wq 1400 that protects water quality.
8. Work shall be carried out in a time and manner to avoid disturbances to migratory waterfowl breeding and nesting areas and such that there are no discharges in or to fish or shellfish spawning or nursery areas during spawning seasons as required pursuant to Env-Wt 307.04. Impacts to such areas shall be avoided or minimized to the maximum extent practicable during all other times of the year
9. 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 as required pursuant to RSA 483-B:3.
10. This permit does not authorize the removal of trees or saplings within the waterfront buffer that would result in a tree and sapling point score below the minimum required per RSA 483-B:9, V, (a)(2)(D)(iv).
11. No construction, modification, or maintenance activity that is contrary to RSA 482-A:26 shall be conducted.
12. Construction impacts shall be limited to areas within 15 feet of the proposed structure's footprint, in accordance with Env-Wt 515.05(c).
13. In accordance with Env-Wt 513.22(c), if the permanent dock is not maintained so as to be usable for its intended purpose, the owner of the subject property shall remove the dock.
14. This permit shall not preclude NHDES from initiating appropriate action if NHDES later determines that any of the structures depicted as "existing" on the plans submitted by or on behalf of the permittee were not previously permitted or grandfathered.

With Findings:

1. The project is classified as a minimum impact per Administrative Rule Env-Wt 515.07(a), repair of any boathouse.

2020-00439

GLASSEY, ELISABETH/THOMAS

**GILFORD LAKE WINNIPESAUKEE**

Requested Action:

Install 6 feet x 40 feet seasonal dock and 4 feet x 7 feet concrete anchoring pad, two personal water craft lifts and single seasonal boatlift on an average of 126 feet of frontage along Lake Winnepesaukee in Gilford.

\*\*\*\*\*

PBN DISQUALIFIED

Install 6 feet x 40 feet seasonal dock and 4 feet x 7 feet concrete anchoring pad, two personal water craft lifts and single seasonal boatlift on an average of 126 feet of frontage along Lake Winnepesaukee in Gilford.

With Findings:

1. The applicant requested the installation of a docking structure along the frontage that exceeds the criteria specified under Env-Wt 309.05, Availability of Permit-by-Notification (PBN), and 513.24(a), Docking Structure Construction Classification, therefore the notification has been rejected.

2020-00453

CITY OF NASHUA

**NASHUA NASHUA RIVER**

Requested Action:

Temporarily impact 1,370 square feet of the Nashua River for the repair of a Tier 3 stream crossing

\*\*\*\*\*

PBN DISQUALIFIED

Temporarily impact 1,370 square feet of the Nashua River for the repair of a Tier 3 stream crossing.

With Findings:

- 1) The application was submitted on an invalid form based on expired wetlands rules and does not contain all the information required by Administrative Rule Env-Wt 309.07, PBN Application Requirements.
- 2) The NHB Data Check Results Letter (NHB18-3524) required by Env-Wt 306.05 expired November 27, 2019.
- 3) Plans including the information required by Env-Wt 309.07(c)(5) were not included with the application.
- 4) The information required by Env-Wt 904.09 for repair of legally existing tier 3 stream crossings was not included with the application.

2020-00456

SAWYER'S MILL ASSOCIATES

**DOVER BELLAMY RIVER**

Requested Action:

Temporarily impact 8 square feet (impacting 12 linear feet) within the bed of the Bellamy River in order to repair an existing tier 3 stream crossing.

\*\*\*\*\*

PBN IS COMPLETE

Temporarily impact 8 square feet (impacting 12 linear feet) within the bed of the Bellamy River in order to repair an existing tier 3 stream crossing.

With Conditions:

1. In accordance with Env-Wt 307.16, all work shall be done in accordance with the approved plans dated February 28, 2020, as received by the NH Department of Environmental Services (NHDES) on March 10, 2020.
2. In accordance with Env-Wt 904.02(a)(1), in-stream work shall be done only during low flow or dry conditions, in non-tidal areas.
3. 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.
4. In accordance with Env-Wt 307.04(b), activities that produce suspended sediment in jurisdictional areas that provide value as bird migratory areas or fish and shellfish spawning or nursery areas, shall be done so as to not discharge sediment to fish and shellfish spawning or nursery areas or to amphibian and migratory bird breeding areas during spawning or breeding seasons, as applicable, which could necessitate suspending the activities.
5. All work shall be conducted and maintained in such a way as to protect water quality as required by Rule Env-Wt 307.03(a) through (h).
6. Within 10 days following completion of the work covered by a PBN, the person responsible for the project shall submit to the department confirmation of completion of the project, either on paper or electronically.

With Findings:

1. This is a minimum impact project per New Hampshire Administrative Rule Env-Wt 903.01(e)(3), for the repair of an existing legal tier 3 stream crossing that meets all criteria of New Hampshire Administrative Rule Env-Wt 904.08.