



The State of New Hampshire
Department of Environmental Services



Robert R. Scott, Commissioner

January 7, 2021

CITY OF PORTSMOUTH
C/O BRIAN GOETZ
680 PEVERLY HILL RD
PORTSMOUTH NH 03801

Re: Request for More Information – Standard Dredge and Fill Wetlands Permit Application (RSA 482-A)
NHDES File Number: 2020-02959
Subject Property: 180 Piscataqua Rd, Durham, Tax Map #12, Lot #5-2

Dear Applicant:

On December 30, 2020, the New Hampshire Department of Environmental Services (NHDES) Wetlands Bureau reviewed the above-referenced Standard Dredge and Fill Wetlands Permit Application (Application). Pursuant to RSA 482-A:3, XIV(a)(2) and Rules Env-Wt 100 through 900, the NHDES Wetlands Bureau determined the following additional information is required to complete its evaluation of the Application:

1. Avoidance, Minimization, Restoration and Monitoring of Impacts to Salt Marsh:

- a. In accordance with Env-Wt 313.03 and 605.01 the project shall avoid and minimize impacts to tidal marshes and finfish, shellfish, crustacea and wildlife habitat to the maximum practicable extent. Has the applicant considered a hybrid approach in the Alternatives Analysis, which could incorporate a trenchless installation method through the most highly-sensitive resource area (the salt marsh) combined with the proposed methods along the rest of the alignment? Please demonstrate whether or not this is practicable and revise the proposal accordingly.
- b. If impacts to salt marsh are truly unavoidable, please provide a more comprehensive salt marsh protection, restoration and monitoring plan for that affected area. To optimize restoration potential, the plan should be designed and overseen by an on-site qualified coastal professional with expertise and demonstrated success in the field of salt marsh restoration. The monitoring plan should include a more detailed qualitative/characteristic description of depth and dimensions of extracted peat blocks, the location and monitoring/maintenance schedule for temporarily-relocated peat blocks, specification and verification of precise elevation for backfilling, plus long-term monitoring with targeted performance criteria to assess the restoration effort and to plan for remedial actions that may be necessary such as adjusting elevations or supplementing with appropriate vegetation. Additionally, NHDES would recommend adopting an adaptive management strategy, to provide for coordination between NHDES and the qualified professional monitoring the project, in order to facilitate necessary remedial actions and optimize restoration potential.

Please be advised that, pursuant to Env-Wt 307.12, 313.01 and 604.03, the permit issued for this project will be conditioned on the temporary nature of the proposed impacts to salt marsh. Inability to adequately restore impacts to salt marsh may result in additional permittee responsible mitigation requirements.

2. Application Preparation: In accordance with New Hampshire Administrative Rule Env-Wt 311.01(b)(2) and Env-Wt 311.06(g), please continue coordinating with the NH Natural Heritage Bureau (NHB) and NH Fish & Game Department (NHFG) and submit final written follow-up communication from NHB and NHFG related to the potential impact to exemplary natural communities and threatened and endangered species located within the vicinity of the project (NHB identification number: NHB20-2107).

www.des.nh.gov

29 Hazen Drive • PO Box 95 • Concord, NH 03302-0095

NHDES Main Line: (603) 271-3503 • Subsurface Fax: (603) 271-6683 • Wetlands Fax: (603) 271-6588

TDD Access: Relay NH 1 (800) 735-2964

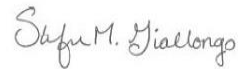
3. Navigation: In accordance with Env-Wt 313.03(b)(5) and Env-Wt 603.02(f)(4), please demonstrate that the project avoids and minimizes impacts that eliminate, depreciate, or obstruct public commerce, navigation, or recreation. Please provide a statement from the Pease Development Authority Division of Ports and Harbors (PDA DP&H) chief harbormaster, or designee, regarding impact of the proposed project on navigation and passage, as required by Env-Wt 603.09. Additionally, it may be beneficial to also provide early notification of the project to the US Coast Guard.
4. Project Plans: In accordance with Env-Wt 311.05(a)(13), please revise the plans to depict the location of all jurisdictional areas delineated per Env-Wt 406. Based on the location of the tidal buffer zone boundary, please verify whether or not impacts are being proposed for construction staging and access outside of the pipeline easement in Newington, as shown on sheet C-5. Is this resource area classified as previously-developed or undeveloped tidal buffer zone? What is the scope and extent of impacts proposed to accomplish the necessary access and staging area (i.e., limited to clearing or maintaining permanent infrastructure)?
5. Administrative Provisions: In accordance with RSA 482-A:11 II., please demonstrate right of access or easement from the owner(s) of affected properties on which easement or access is proposed outside of the existing right of way. Additionally, due to the potential impact to waterfront activities, navigational hazard and/or potential interference with access or use, please provide a verification of notification to the owners of affected aquaculture farms within the proposed project area as well as to Jason Domke, Planning and Preparedness Manager, NHDES Spill Response and Complaint Investigation Section (603-559-1506; jason.domke@des.nh.gov).
6. Compensatory Mitigation: In accordance with Env-Wt 801.03(a), please demonstrate that appropriate consideration has been made for potential permittee-responsible mitigation opportunities by obtaining a list of local mitigation projects from the conservation commissions of the affected municipalities. If on-site mitigation is not practicable for permanent wetland impacts and the conservation commission(s) do not have a list of local projects or if none of the projects on the list are appropriate mitigation for the proposed impacts, then please provide an explanation and documentation pursuant to Env-Wt 801.03(b). If permittee-responsible mitigation is not practicable, then please contact Lori Sommer from the NHDES Wetlands Bureau Mitigation Program (603-271-4059; Lori.Sommer@des.nh.gov) to confirm the appropriate in-lieu mitigation payment amount.
7. Protection of Water Quality - Turbidity: In accordance with Env-Wt 307.03, please provide a more comprehensive turbidity control and monitoring plan. While certain methods of implementation may be left to a contractor's own management plan, the site-specific challenges and limitations of effectively implementing a turbidity control barrier in the proposed locations should be more fully described along with a monitoring plan to minimize the potential for uncontrolled turbidity and sedimentation, provide for timely detection and appropriate notifications if a turbidity event occurs, and to ensure a timely, organized, response to protect water quality and adjacent high value habitat during excavation and installation of the pipeline.
8. Coordination with Other Agencies: Based on the scope of the proposed impacts and pre-application coordination, and because the U.S. Army Corps of Engineers (ACOE) has determined that this project will require an Individual Section 404 Permit, a 401 Water Quality Certification (WQC) determination from the NHDES will be required. Please contact Gregg Comstock from the NHDES Watershed Management Bureau (603-271-2983; Gregg.Comstock@des.nh.gov) for assistance regarding the WQC requirements and Lindsey Lefebvre from the ACOE (978-318-8295; Lindsey.E.Lefebvre@usace.army.mil) for assistance regarding the Individual Section 404 Permit. Additionally, the project will be subject to Coastal Zone Management Act (CZMA) federal-consistency review by the NHDES Coastal Program. Please contact Chris Williams from the NHDES Coastal Program (603-559-0025; Christian.Williams@des.nh.gov).

Please submit the required information as soon as practicable. Pursuant to RSA 482-A:3, XIV(a)(2), **the required information must be received by the NHDES Wetlands Bureau within 60 days of the date of this request (no later than March 8, 2021), or the Application will be denied.** Should additional time be necessary to submit the required information, an extension of the 60-day time period may be requested. In accordance with applicable statutes and regulations, the applicant is also expected to provide copies of the required information to the municipal clerk and all other interested parties.

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

If you have any questions, please contact me at Stefanie.Giallongo@des.nh.gov or (603) 559-1516.

Sincerely,



Stefanie M. Giallongo
Wetlands Specialist, Wetlands Bureau
Land Resources Management, Water Division

cc: Britt Eckstrom, Wright-Pierce (agent)
City of Portsmouth Municipal Clerk/Conservation Commission
Town of Newington Municipal Clerk/Conservation Commission

ec: Gregg Comstock, NHDES Watershed Management Bureau
Lindsey Lefebvre, U.S. Army Corps of Engineers
Tracy Shattuck and Geno Marconi, PDA Division of Ports and Harbors
Chris Nash, NHDES Shellfish Program
Lori Sommer, NHDES Wetlands Bureau Mitigation Program
Amy Lamb, NH Natural Heritage Bureau
Cheri Patterson, NH Fish and Game Department
Jason Domke, NHDES Spill Response
Chris Williams, NHDES Coastal Program