The State of New Hampshire
Department of Environmental Services

Robert R. Scott, Commissioner

AMENDED WETLANDS AND NON-SITE SPECIFIC PERMIT 2018-03134

NOTE CONDITIONS

PERMITTEE:	**NH DEPT OF TRANSPORTATION** **ANDREW O'SULLIVAN** **PO BOX 483** **CONCORD NH 033020483**
PROJECT LOCATION:	**VARIOUS, DERRY** **TAX MAP #ROW, LOT #ROW**
WATERBODY:	**VARIOUS**
AMENDMENT DATE:	**APRIL 15, 2024**

ORIGINAL APPROVAL DATE: MAY 5, 2020 **EXPIRATION DATE: MAY 05, 2025**

Based upon review of permit application 2018-03134 in accordance with RSA 482-A and RSA 485-A:17, the New Hampshire Department of Environmental Services (NHDES) hereby issues this Wetlands and Non-Site Specific Permit. To validate this Permit, signatures of the Permittee and the Principal Contractor are required.

AMENDED PERMIT DESCRIPTION:

AMEND PERMIT TO: Dredge and fill a total of 262,688 square feet (SF), which includes 216,096 SF of palustrine forested, scrub shrub, or emergent wetlands and 9,925 SF / 3,826 linear feet (LF) of impacts along intermittent and perennial streams for construction of a new interchange off of I-93 (known as I-93 Exit 4A Derry-Londonderry) and other transportation improvements along Tsienneto Road and State Route 102 (NH 102). Total impact area includes 46,592 SF /2,052 LF of temporary impacts. Compensatory mitigation included a one-time payment in the amount of $3,769,086.39 to the Aquatic Resource Mitigation (ARM) Fund, and construction of a tributary stream referred to as Trolley Car Stream Relocation. No additional mitigation is proposed.

THIS PERMIT IS SUBJECT TO THE FOLLOWING AMENDED PROJECT-SPECIFIC CONDITIONS:

1. All work shall be done in accordance with plans by the State of New Hampshire Department of Transportation (NHDOT) for I-93 Exit 4A Derry-Londonderry, Federal Project IM 0931(201), NH Project 13065 dated February 6, 2020 received by NH Department of Environmental Services (NHDES) on February 14, 2020, with Trolley Car Stream Relocation Plan and narrative dated April, 2020 received by NHDES on April 30, 2020, and with Wetland Impact Plans, Erosion Control Plans, and Construction Sequence for the NH Project 13065B, Exit 4A Interchange Old Rum Trail, Folsom Road, N. Hight Street and NH Route 28 dated February 27, 2024 received with amendment request by NH Department of Environmental Services (NHDES) on March 13, 2024.
2. Final engineered design plans and associated documentation shall be submitted to the NHDES for approval prior to construction for each project contract. Final analysis and designs for any remaining stream crossings in the project area shall be completed for the final design developed by the Design-Builder of the project in accordance with Env-Wt 900. Any additional impacts for this project are subject to RSA 482-A jurisdiction and will require further permitting.
3. The permittee shall schedule a pre-construction meeting with the NHDES staff to occur at least 48 hours prior to the start of any work authorized by this permit to review the conditions of this wetlands permit. The meeting shall be

attended by the permittee, his/her professional engineer(s), wetlands scientist(s), Environmental Compliance Manager, and the contractor(s) responsible for performing the work.

4. This permit is not valid until the applicant/owner obtains construction easements on abutting parcels or written permission from abutting property owners if work authorized under this permit is beyond the ROW.
5. The permit was contingent on submittal of a check in the amount of $3,769,086.39 to the Aquatic Resource Mitigation Fund by the applicant as calculated per Env-Wt 803.07 and RSA 482-A:30 for the project impacts. A total payment in the amount of $3,769,086.39 has been received by NHDES and applied for the project to date.
6. Impacts are proposed along 1,703 linear feet of stream, located along Trolley Car Lane/proposed SB off-ramp, that include stream relocation work. The associated stream compensatory mitigation payment value for the impacts equals $739,285. A 50% credit will be considered by NHDES following review of the Trolley Car Stream Relocation Monitoring Plan reports over a period of three years. If NHDES determines the stream relocation has been successfully completed in accordance with the Trolley Car Stream Relocation Plan and narrative dated April, 2020, then the 50% credit will be applied towards compensatory mitigation. A balance total of $369,643 would be due following review of the year three monitoring report to NHDES if the project has not successfully achieved the stream relocation plan success parameters.
7. All development activities associated with this project shall be conducted in compliance with applicable requirements of RSA 485-A:17 and Env-Wq 1500 during and after construction.
8. 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.
9. 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.
10. Flocculants for sediment control shall only be used as specified in Env-Wq 1506.13.
11. Management of Contaminated Sites shall be in accordance with applicable rules, including Env-Or 600, general or site-specific NHDES waivers, and Soils Management Plans.
12. This permit is contingent on review and approval, by the NHDES, of final stream diversion/erosion control plans prepared by a Professional Engineer. Those plans shall detail the timing and method of stream flow and diversion during construction, and show temporary siltation/erosion/turbidity control and other stabilization measures and water quality controls to be implemented.
13. A Certified Wetland Scientist (CWS) or qualified professional, as applicable, shall monitor all construction activities, during and post-construction to verify that all work is done in accordance with the approved plans and narratives, adequate siltation, erosion and turbidity controls are properly implemented, vegetation is successfully established, and water quality standards are met pursuant to Env-Wq 1700.
14. The stream construction monitoring shall be performed by an individual(s) with a combination of education and experience, such as a fluvial geomorphologist or hydrologist, who has knowledge sufficient to enable the individual to evaluate stream systems. The permittee shall notify NHDES of the name and contact information of the qualified professional(s) and shall re-notify NHDES of any changes of qualified professional(s).
15. The final plan and management approach to environmental compliance, monitoring, and permitting, which includes a narrative description of schedule and sequence of construction, shall be provided to NHDES prior to the start of construction.
16. A narrative description of the methods to be used to assure communication, cooperation, and coordination between the project Environmental Compliance Manager with NHDES shall be provided to NHDES prior to the start of construction.
17. In accordance with recommendations by the NH Fish and Game Department (NHFG), searches for Northern black racers as well as other reptiles shall be conducted within the active project footprint immediately before any heavy machinery enters the work zone or soil alteration begins. Searches must be supervised by a qualified biologist, during appropriate weather conditions, and the effort must be sufficient to ensure that work area is thoroughly searched. Depending on the sequence and timing of ground-disturbing activities, some or all of the project area may require repeated sweeps.
18. In accordance with recommendations by the NHFG, all species encountered during the survey will be moved to an area outside of the active construction zone but nearby and in the direction construction operations are moving.

19. In accordance with recommendations by the NHFG, the following language must be included on final construction plans: "Contact NHFG immediately if state threatened or endangered species are encountered during site surveys or during project construction. Melissa Doperalski 603-479-1129 or NHFG Wildlife Administration at 603-271-2461. Photographs of animals should be taken if feasible to help in identification."
20. In accordance with recommendations by the NHFG, contact NHFG immediately if a potential Northern black racer hibernacula is found (this applies to spring surveys (April - May). If project construction may occur prior to June, NHFG shall be contacted for additional information on potential hibernacula.
21. In accordance with recommendations by the NHFG, wildlife exclusionary fencing will be installed prior to September 15th to exclude snakes from returning to potential hibernacula. Wildlife exclusionary fencing will be installed to include the work area as well as any material storage areas. Wildlife exclusionary fencing will be maintained and kept on site through the duration of the project and removed once the project has been completed.
22. In accordance with recommendations by the NHFG, site personal shall be provided information that helps to identify Northern black racers and other species in addition to NHFG contact and communication during the life of the project. (flyer and factsheet information provided by NHFG that are currently available for use). New England cottontail information and reporting can be found on the NHFG website at https://www.wildlife.state.nh.us/wildlife/profiles/ne-cottontail.html. Smooth green snake information can be found at https://wildlife.state.nh.us/wildlife/profiles/smooth-green-snake.html.
23. In accordance with recommendations by the NHFG, if using a traditional silt fence for wildlife exclusionary purposes NOTE that the wood posts should be placed such that they are located on the INSIDE of the project site. This is opposite to how they are installed if they are used for water quality measures. In addition, the fencing should be buried 8-12 inches below grade as several animals can burrow underneath fencing.
24. In accordance with recommendations by the NHFG, all erosion control materials shall be 'wildlife-friendly'. The type of material shall be specified on final construction plans.
25. Appropriate turbidity controls shall be installed prior to construction, shall be maintained during construction such that water quality standards are met pursuant to Env-Wq 1700.
26. Work shall be conducted in a manner so as to minimize turbidity and sedimentation to surface waters and wetlands.
27. No excavation shall be done in flowing water and no construction equipment shall be operated in flowing water.
28. Cofferdams shall not be installed during periods of high flow, whether due to seasonal runoff or precipitation. Once the cofferdam is fully effective, confined work can proceed without restriction.
29. Discharge from dewatering of work areas shall be in accordance with the EPA Construction General Permit, and Alteration of Terrain rules (Env-Wq 1500).
30. 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.
31. The temporary cofferdam shall be entirely removed within 2 days after work within the cofferdam is completed and water has returned to normal clarity.
32. 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).
33. Siltation, erosion, and turbidity control management measures, practices and devices shall be in place prior to construction, shall be maintained during construction so as to reduce erosion and retain sediment on-site during and after construction and ensure continued effectiveness and remain in place until all disturbed surfaces are stabilized.
34. Extreme precautions shall be taken within jurisdictional areas riparian areas under RSA 482-A 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.
35. Limits of authorized work within wetland areas along the Trolley Car Stream Relocation shall be identified and marked prior to construction.
36. Native material removed from the 'Trolley Car Stream' streambed shall be stockpiled separately and reused to emulate a natural channel bottom within the channel. Additional materials used to emulate a natural channel bottom must be consistent with the streambed materials identified in the reference reach, and shall not include angular riprap or gravel unless specifically identified on the approved plans. Any rip rap located across the stream

channel bed shall be located subgrade with stream bed simulation at the channel bed surface in order to maintain low-flow and natural bed material conditions.

37. 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.
38. Restoration of temporary impact areas, and Trolley Car Stream Restoration area, shall have at least 75% successful establishment of wetlands vegetation after two (2) growing seasons, or they shall be replanted and re-established until a functional wetland is replicated in a manner satisfactory to the NHDES Wetlands Program.
39. Within three days of the last activity in an area, all exposed soil areas, where construction activities are complete, shall be stabilized by seeding and mulching during the growing season, or if not within the growing season, by mulching with tack on slopes steeper than 3:1 or netting /matting and pinning on slopes steeper than 2:1.
40. Where construction activities have been temporarily suspended within the growing season, all exposed soil areas shall be stabilized within 14 days by seeding and mulching or if temporarily suspended outside the growing season, all exposed areas shall be stabilized within 14 days by mulching, mulching with tack on slopes steeper than 3:1 and stabilized by matting and pinning on slopes steeper than 2:1.
41. 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.
42. 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.
43. All refueling of equipment shall occur outside of surface waters or wetlands during construction. Machinery shall be staged and refueled in upland areas only.
44. Faulty equipment shall be repaired immediately prior to entering areas that are subject to RSA 482-A jurisdiction.

THIS PERMIT IS SUBJECT TO THE FOLLOWING GENERAL CONDITIONS:

1. Pursuant to RSA 482-A:12, a copy of this permit shall be posted in a secure manner in a prominent place at the site of the approved project.
2. In accordance with Env-Wt 313.01(a)(5), and as required by RSA 482-A:11, II, work shall not infringe on the property rights or unreasonably affect the value or enjoyment of property of abutting owners.
3. In accordance with Env-Wt 314.01, a standard permit shall be signed by the permittee, and the principal contractor who will build or install the project prior to start of construction, and will not be valid until signed.
4. In accordance with Env-Wt 314.03(a), the permittee shall notify the department in writing at least one week prior to commencing any work under this permit.
5. In accordance with Env-Wt 314.08(a), the permittee shall file a completed notice of completion of work and certificate of compliance with the department within 10 working days of completing the work authorized by this permit.
6. In accordance with Env-Wt 314.06, transfer of this permit to a new owner shall require notification to, and approval of, the NHDES.
7. The permit holder shall ensure that work is done in a way that protects water quality per Env-Wt 307.03; protects fisheries and breeding areas per Env-Wt 307.04; protects against invasive species per Env-Wt 307.05; meets dredging activity conditions in Env-Wt 307.10; and meets filling activity conditions in Env-Wt 307.11.
8. This project has been screened for potential impact to known occurrences of protected species and exemplary natural communities in the immediate area. Since many areas have never been surveyed, or only cursory surveys have been performed, unidentified sensitive species or communities may be present. This permit does not absolve the permittee from due diligence in regard to state, local or federal laws regarding such communities or species. This permit does not authorize in any way the take of threatened or endangered species, as defined by RSA 212-A:2, or of any protected species or exemplary natural communities, as defined in RSA 217-A:3.
9. In accordance with Env-Wt 307.06(a) through (c), no activity shall jeopardize the continued existence of a threatened or endangered species, a species proposed for listing as threatened or endangered, or a designated or

proposed critical habitat under the Federal Endangered Species Act, 16 U.S.C. §1531 et seq.; State Endangered Species Conservation Act, RSA 212-A; or New Hampshire Native Plant Protection Act, RSA 217-A.

10. In accordance with Env-Wt 307.02, and in accordance with federal requirements, all work in areas under the jurisdiction of the U.S. Army Corps of Engineers (USACE) shall comply with all conditions of the applicable state general permit.

APPROVED:

Karl D. Benedict
Public Works Supervisor, Wetlands Bureau
Land Resources Management, Water Division

THE SIGNATURES BELOW ARE REQUIRED TO VALIDATE THIS PERMIT (Env-Wt 314.01).

Wendy A. Johnson

PERMITTEE SIGNATURE (required)

PRINCIPAL CONTRACTOR SIGNATURE (required)