



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
NEW ENGLAND DISTRICT, CORPS OF ENGINEERS
696 VIRGINIA ROAD
CONCORD, MASSACHUSETTS 01742-2751

May 13, 2019

Regulatory Division
CENAE-R-PEC
Permit Number: NAE-2016-01736

Town of Durham
Attn: Michael Lynch
8 Newmarket Road
Durham, New Hampshire 03824

Dear Applicant:

This is to inform you that we have reviewed your application to conduct activities as described on the attached NH Permit No. 2019-00405, dated May 8, 2019.

Based on the information you provided to the New Hampshire Wetlands Bureau, we have determined that your project, which may include a discharge of dredged or fill material into waters or wetlands, will have only minimal individual or cumulative environmental impacts on waters of the United States, including wetlands. Therefore, this work is authorized under General Permit No. 10 of the referenced Federal permit known as the Department of the Army General Permits for the State of New Hampshire (GPs). This work must be performed in accordance with the terms and conditions of the GPs and also in compliance with the following special condition:

SPECIAL CONDITION 1: All work shall occur in the dry or at low tide to avoid impacts to Atlantic and Shortnose Sturgeon.

SPECIAL CONDITION 2: The restoration project shall be monitored for a minimum of 5 years. The first year of monitoring will be the first year that the site has been through a full growing period after completion of construction and planting. For these permit special conditions, a growing period starts no later than May 31. Monitoring shall occur annually – in late spring/early summer and again in late summer/early fall - with appropriate remedial measures to ensure that performance standards are met. Monitoring reports shall be submitted to Lindsey Lefebvre, Regulatory Division, Policy, during years 1, 2, 3, 4, and 5, no later than December 15 of each year a report is due. Remedial measures will be implemented at least two years prior to completion of the monitoring period to attain the project-specific performance standards within 2 growing periods after completion of construction of the restoration site. Should measures be required within two years of the end of the original monitoring period, the monitoring period will be extended as necessary to ensure two years of monitoring after the remedial work is completed.

You are responsible for complying with all of the GP's requirements. Please review the referenced GPs carefully to familiarize yourself with its contents. You should ensure that

whoever does the work fully understands the requirements and that a copy of the permit document is at the project site throughout the time the work is underway. Also, see a copy of the GPs at:

<http://www.nae.usace.army.mil/Missions/Regulatory/StateGeneralPermits/NewHampshireGeneralPermit.aspx>

This authorization expires August 18, 2022, unless the GPs are modified, suspended, or revoked before that. You must complete the work authorized herein by that date. If you do not, you must contact this office to determine the need for further authorization before continuing the activity. We recommend that you contact us *before* this authorization expires to discuss a time extension or reissuance of the authorization.

If you change the plans or construction methods for work within our jurisdiction, please contact us immediately to discuss modification of this authorization. This office must approve any changes before you undertake them.

This authorization requires you to complete and return the enclosed Compliance Certification Form within one month following the completion of the authorized work.

This authorization presumes that the work as described above and as shown on your plans noted above is in waters of the U.S. Should you desire to appeal our jurisdiction, please submit a request for an approved jurisdictional determination in writing to this office.

This permit does not obviate the need to obtain other Federal, state or local authorizations required by law, including those listed in the GPs. Performing work not specifically authorized by this determination or failing to comply with all the terms and conditions of the GPs may subject you to the enforcement provisions of Corps regulations.

We continually strive to improve our customer service. In order for us to better serve you, we would appreciate your completing our Customer Service Survey located at http://www.nae.usace.army.mil/reg/Customer_Service_Survey.pdf.

If you have questions concerning this, please contact Lindsey Lefebvre of my staff at (978) 318-8295, (978) 318-8335/8338, (800) 343-4789, or, if calling from within Massachusetts, (800) 362-4367.

Sincerely,



Frank J. DelGiudice
Chief, Permits & Enforcement Branch
Regulatory Division

Enclosures

Copies Furnished:

Collis Adams, NH DES; collis.adams@des.nh.gov
Sarah Richos, NH DES; sarah.richos@des.nh.gov



The State of New Hampshire
Department of Environmental Services



Robert R. Scott, Commissioner

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WETLANDS AND NON-SITE SPECIFIC PERMIT 2019-00405

NOTE CONDITIONS

PERMITTEE: TOWN OF DURHAM
C/O MICHAEL LYNCH
8 NEWMARKET RD
DURHAM NH 03824

PROJECT LOCATION: WAGON HILL FARM RTE 4, DURHAM
TAX MAP #11, LOT #8-2

WATERBODY: OYSTER RIVER

AMENDED APPROVAL DATE: MAY 08, 2019
ORIGINAL APPROVAL DATE: FEBRUARY 22, 2019

EXPIRATION DATE: FEBRUARY 22, 2024

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Based upon review of the above referenced application, in accordance with RSA 482-A and RSA 485-A:17, a Wetlands Permit and Non-Site Specific Permit was issued by the New Hampshire Department of Environmental Services (NHDES). This permit shall not be considered valid unless signed as specified below.

PERMIT DESCRIPTION: Impact 14,676 square feet of tidal wetlands plus 14,012 square feet of previously-developed upland tidal buffer zone as part of an overall restoration effort to restore lost and degraded salt marsh habitat, minimize further erosion, prepare for sea-level rise, install an engineered stormwater treatment swale and to provide educational opportunities for the general public. In addition, 3,500 square feet of previously-developed upland tidal buffer zone will be temporarily impacted for construction access and staging.

THIS APPROVAL IS SUBJECT TO THE FOLLOWING PROJECT SPECIFIC CONDITIONS:

1. AMENDED: All work shall be in accordance with plans by the University of New Hampshire Coastal Habitat Restoration Team titled "Wagon Hill Farm Shoreline Restoration" dated May 02, 2019, as received by the NH Department of Environmental Services (NHDES) on May 02, 2019; plans by Ross Engineering titled "Observation Deck Wagon Hill Farm" dated November 20, 2018, revised through April 02, 2019, last received by NHDES on April 18, 2019, and; plans by University of New Hampshire Coastal Habitat Restoration Team titled "Wagon Hill Farm Stormwater Control" dated December 13, 2017, as received by NHDES on January 31, 2019.
2. Any revision of, deviation from, or addition to the approved plan set(s) cited above, or any further alteration of area on this property that is subject to RSA 482-A jurisdiction, will require review and written approval by NHDES. Additional permitting or an amendment to this permit, pursuant to RSA 482-A:3 XIV(e), may apply.
3. A qualified professional or professionals with expertise and demonstrated success in the field of salt marsh restoration shall supervise and be on-site during construction.
4. The permittee shall notify the NHDES Wetlands Bureau, in writing, of the qualified professional(s) that have been retained to ensure that the restoration is constructed in accordance with the approved plans. The permittee shall re-notify the NHDES Wetlands Bureau if the identity of the qualified professional(s) changes during the project.

5. The permittee shall schedule a pre-construction meeting with NHDES Land Resources Management Program and Watershed Management Bureau 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.
6. The preconstruction meeting shall be held on-site. The meeting shall be attended by the permittee; the professional engineer(s); wetlands scientist(s), environmental consultant(s) and qualified professional(s); and the contractor(s) responsible for performing the work.
7. 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).
8. 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 Code of Administrative Rules Chapter Env-Wq 1700. Work shall be carried out in a time and manner to avoid disturbances to migratory waterfowl breeding and nesting areas as well as migratory fish spawning and rearing habitat.
9. To prevent the introduction of invasive plant species to the site, the permittee's contractor(s) shall inspect and clean all soils and vegetation from construction equipment before it is moved to the site.
10. The contractor responsible for completion of the work shall appropriately address invasive species in accordance with the NHDOT Best Management Practices for Roadside Invasive Plants (2008).
11. Work shall be performed during low tide.
12. Any fill used shall be clean sand, gravel, rock, or other suitable material selected to match the grain size of the existing substrate to the extent practicable.
13. Geotextile filter fabric shall be installed under temporary fill areas to isolate temporary fill from the natural substrate.
14. Appropriate siltation, erosion and turbidity controls shall be in place prior to construction, shall be maintained during construction, and shall remain until the area is stabilized. Temporary erosion controls shall be removed once the area has been stabilized.
15. Work shall be conducted in a manner so as to minimize turbidity and sedimentation to surface waters and wetlands.
16. The final disposition of all dredged and excavated material and construction related debris shall be placed outside of areas subject to RSA 482-A.
17. 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).
18. 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.
19. The contractor responsible for completion of the work 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.
20. All refueling of equipment shall occur outside of surface waters or wetlands during construction. Machinery shall be staged and refueled in upland areas only, unless approved by NHDES prior to refueling.
21. Faulty equipment shall be repaired immediately prior to entering areas that are subject to RSA 482-A jurisdiction.
22. Within three (3) 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 jute matting and pinning on slopes steeper than 3:1.
23. Where construction activities occur between November 30 and May 1, all exposed soil areas shall be stabilized within one (1) day of establishing the grade that is final or that otherwise will exist for more than five (5) days. Stabilization shall include placing 3-inches of base course gravels, or loaming and mulching with tack or jute matting and pinning on slopes steeper than 3:1.
MONITORING
24. The qualified professional shall monitor the project during construction to verify that all work is done in accordance with the approved plans and narratives, adequate siltation and erosion controls are properly implemented, and no water quality violations occur.

25. The qualified professional shall inspect the construction areas and submit a monitoring report to NHDES Wetlands Bureau after any rain event of 1/2 inch or greater, within a 24 hour period, during construction.
26. A wet weather monitoring report(s) shall be submitted within 1 week of the rain event and shall include, but not be limited to, documentation of erosion control deployment, status of construction activities, sequence at time of monitoring, results of turbidity monitoring, remedies enacted to correct deficiencies in water quality protection measures.
27. The qualified professional shall submit an As-Built Report to the NHDES Wetlands Bureau within 60 days of final site stabilization.
28. The As-Built Report shall include, but not be limited to, the following components:
 - a. An as-built (post-construction) survey to ensure that restoration areas, target elevations and slopes were achieved;
 - b. A description of the regular monitoring that occurred to document the installation, maintenance and daily inspection of erosion and sediment control measures;
 - c. An assessment of each aspect required by the final approved monitoring plan to serve as a reference for post-construction Performance Monitoring Reports.
29. The qualified professional shall submit annual Performance Monitoring Reports by January 30th following each of five full growing seasons, post-construction, to the NHDES Wetlands Bureau, the NHDES Coastal Program, the NH Natural Heritage Bureau and the ACOE.
30. Performance Monitoring Reports shall be completed in accordance with the final approved monitoring plan (Living Shoreline at Wagon Hill Restoration, dated March 20, 2019).
31. The qualified professional shall monitor the success of restoration plantings to ensure at least 75% successful establishment of vegetation and to ensure that the site has not become invaded by nuisance or invasive species after five (5) full growing seasons, or they shall be replanted and re-established in a manner satisfactory to the NHDES Wetlands Bureau.
32. The permittee, qualified professional(s), and permittee's contractor(s) shall coordinate with NHDES and ACOE to adaptively manage the project to optimize restoration potential and to take remedial actions as may be necessary to create stable salt marsh and tidal buffer zone habitat. Remedial actions may include, though shall not be limited to, changing material gradation and depth, amending compacted fill areas, changing the shape, elevation or configuration of the sill, addition or replacement of plantings or management of invasive species.
33. If determined necessary by the permittee, qualified professional(s), the permittee's contractor(s), NHDES and ACOE, adaptive management and remedial actions shall only commence after obtaining written approval from the NHDES Wetlands Bureau.
34. Following department approval of the remediation plan, the permittee shall implement the plan and submit Performance Monitoring Reports following each of the next three full growing seasons.

GENERAL CONDITIONS THAT APPLY TO ALL NHDES WETLANDS PERMITS:

1. A copy of this permit shall be posted on site during construction in a prominent location visible to inspecting personnel;
2. This permit does not convey a property right, nor authorize any injury to property of others, nor invasion of rights of others;
3. The NHDES Wetlands Bureau shall be notified upon completion of work;
4. This permit does not relieve the applicant from the obligation to obtain other local, state or federal permits, and/or consult with other agencies as may be required (including US EPA, US Army Corps of Engineers, NH Department of Transportation, NH Division of Historical Resources (NH Department of Cultural Resources), NHDES Alteration of Terrain, etc.);
5. Transfer of this permit to a new owner shall require notification to and approval by NHDES;

6. This project has been screened for potential impacts to **known** occurrences of protected species and exemplary natural communities in the immediate area. Since many areas have never been surveyed, or have only received cursory inventories, 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;
7. Review enclosed sheet for status of the US Army Corps of Engineers' federal wetlands permit.

APPROVED:



Stefanie M. Giallongo
Wetlands Bureau
Land Resources Management

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BY SIGNING BELOW I HEREBY CERTIFY THAT I HAVE FULLY READ THIS PERMIT AND AGREE TO ABIDE BY ALL PERMIT CONDITIONS.

OWNER'S SIGNATURE (required)

CONTRACTOR'S SIGNATURE (required)



**US Army Corps
of Engineers**®
New England District

COMPLIANCE CERTIFICATION FORM
(Minimum Notice: Permittee must sign and return notification
within one month of the completion of work.)

Permit Number: NAE-2016-01736

Project Manager: Lindsey Lefebvre

Name of Permittee: Town of Durham

Permit Issuance Date: May 13, 2019

Please sign this certification and return it to our office upon completion of the activity and any mitigation required by the permit. You must submit this after the mitigation is complete, but not the mitigation monitoring, which requires separate submittals.

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* E-MAIL TO:  cenac-r@usace.army.mil; or Lindsey.E.Lefebvre@usace.army.mil *
*                                                                 *
* MAIL TO:    Permits and Enforcement Branch C *
*              U.S. Army Corps of Engineers, New England District *
*              Regulatory Division *
*              696 Virginia Road *
*              Concord, Massachusetts 01742-2751 *
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Please note that your permitted activity is subject to a compliance inspection by an U.S. Army Corps of Engineers representative. If you fail to comply with this permit you are subject to permit suspension, modification, or revocation.

I hereby certify that the work authorized by the above referenced permit was completed in accordance with the terms and conditions of the above referenced permit, and any required mitigation was completed in accordance with the permit conditions.

Signature of Permittee

Date

Printed Name

Date of Work Completion

() _____
Telephone Number

() _____
Telephone Number