



The State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES



Thomas S. Burack, Commissioner

November 17, 2014

Her Excellency, Governor Margaret Wood Hassan
and The Honorable Council
State House
Concord, NH 03301

REQUESTED ACTION

Approve the City of Portsmouth's request to perform the following work on North Mill Pond, in Portsmouth. File # 2014-01636. This project will not have significant impact on or adversely affect the values of North Mill Pond.

Impact a total of 4,670 sq. ft. of tidal wetland and previously developed upland tidal buffer zone to install a 36 inch stormwater culvert with stone outlet protection including the following: 495 sq. ft. of tidal wetland impact for the construction of the culvert outlet including placement of rip-rap; 1,115 sq. ft. of temporary impact in tidal wetland for construction access; and 3,060 sq. ft. of impact to previously developed upland tidal buffer zone to install a 36 inch culvert.

Approve as compensatory mitigation the restoration of 15,115 sq. ft. of saltmarsh in North Mill Pond.

The Department imposed the following conditions as part of this approval:

1. All work shall be in accordance with plans by Stantec dated September 26, 2014, as received by the Department on October 9, 2014.
2. The contractor performing the work shall use a rubber tracked excavator and utilize mats to buffer the substrate from the equipment within the temporary impact area.
3. Siltation/turbidity barrier shall be installed throughout the duration of construction to protect from the occurrence of sedimentation during tidal cycles.
4. All temporary work areas shall be restored to original condition following completion of construction.
5. A coastal wetlands ecologist shall be on-site during construction of the outlet to minimize impacts to aquatic resources.
6. Coastal staff shall be notified in writing prior to commencement of work and upon its completion. Notification may be via e-mail to David Price at David.Price@des.nh.gov.
7. Any future work in jurisdiction as specified in RSA 482-A on this property will require a new application and approval by the Department of Environmental Services ("DES") Wetlands Bureau.
8. 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 DES Wetlands Bureau prior to construction.
9. 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.
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.

DES Web site: www.des.nh.gov

P.O. Box 95, 29 Hazen Drive, Concord, New Hampshire 03302-0095

Telephone: (603) 271-3501 • Fax: (603) 271-6683 • TDD Access: Relay NH 1-800-735-2964

11. Work shall be done during low tide.
12. Work shall be conducted in a manner so as to minimize turbidity and sedimentation to surface waters and wetlands.
13. Work shall be conducted in a manner that avoids excessive discharges of sediments to fish spawning areas.
14. Construction equipment shall be inspected daily for leaking fuel, oil and hydraulic fluid prior to entering surface waters or wetlands.
15. Faulty equipment shall be repaired prior to entering jurisdictional areas.
16. 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.
17. All refueling of equipment shall occur outside of surface waters or wetlands.

Wetland restoration/construction:

18. This permit is contingent upon the restoration of 15,115 sq. ft. of saltmarsh in accordance with plans received by DES on June 24, 2014.
19. This permit shall not be effective until it has been recorded with the Rockingham County Registry of Deeds office by the Permittee. A copy of the recorded permit shall be submitted to the DES Wetlands Bureau by certified mail, return receipt requested, prior to construction.
20. The schedule for construction of the mitigation area shall coincide with site construction unless otherwise considered and authorized by the Wetlands Bureau.
21. The mitigation area shall be properly constructed, monitored, and managed in accordance with approved final mitigation plans.
22. Saltmarsh restoration areas shall be properly constructed, landscaped, monitored and remedial actions taken that may be necessary to create functioning wetland areas. Remedial measures may include replanting, relocating plantings, removal of invasive species, changing soil composition and depth, changing the elevation of the wetland surface, and changing the hydrologic regime.
23. The permittee shall designate a qualified professional who will be responsible for monitoring and ensuring that the mitigation areas are constructed in accordance with the mitigation plan. Monitoring shall be accomplished in a timely fashion and remedial measures taken if necessary. The Wetlands Bureau shall be notified in writing of the designated professional prior to the start of work and if there is a change of status during the project.
24. The permittee shall notify DES and the local conservation commission in writing of their intention to commence construction no less than 5 business days prior to construction.
25. The permittee or a designee shall conduct a follow-up inspection after the first growing season, to review the success of the mitigation area and schedule remedial actions if necessary. A report outlining these follow-up measures and a schedule for completing the remedial work shall be submitted by December 1 of that year. Similar inspections, reports and remedial actions shall be undertaken in at least the second and third years following the completion of each mitigation site.
26. Saltmarsh restoration 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.
27. Wetland soils from areas vegetated with purple loosestrife shall not be used in the wetland creation site. The potential for the establishment of the invasive species should be considered in other areas where spoils may be spread to limit its further establishment.
28. The permittee shall attempt to control invasive, weedy species such as purple loosestrife (*Lythrum salicaria*) and common reed (*Phragmites australis*) by measures agreed upon by the Wetlands Bureau if the species is found in the mitigation areas during construction and during the early stages of vegetative establishment.

29. A post-construction report documenting the status of the completed project with photographs shall be submitted to the Wetlands Bureau within 60 days of the completion of construction.

EXPLANATION

The DES Wetlands Bureau approved this project on October 15, 2014. DES supported its decision with the following findings:

1. This is a major impact project per Administrative Rule Wt 303.02(a), projects in sand dunes, tidal wetlands, or bogs, except for the repair of existing structures pursuant to Wt 303.04(v).
2. The need for the proposed impacts has been demonstrated by the applicant per Env-Wt 302.01. The project represents a necessary new drainage outfall extending below mean high tide into North Mill Pond after Brewster Street stormwater is separated from the sanitary sewer system. The Brewster Street area currently floods during large storm events.
3. 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. A majority of the impact is to previously developed upland tidal buffer zone with a minimal amount of impact to tidal wetland area for the new culvert outlet.
4. The impacts are further compensated by the proposed mitigation of 15,115 sq. ft. of saltmarsh restoration.
5. 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. The NH Natural Heritage Bureau has no record of sensitive species within the project vicinity.
6. DES staff field inspection on October 13, 2014 found that the site is accurately represented in the application.
7. In accordance with RSA 482-A:8, DES 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 palustrine resource, as identified under RSA 482-A:1.
8. The Portsmouth Conservation Commission recommends approval of the project.

Application file documents are being forwarded to the Governor and Executive Council in connection with their consideration of this matter pursuant to RSA 482-A:3,II.(a) as it is a major project in public waters of the state.

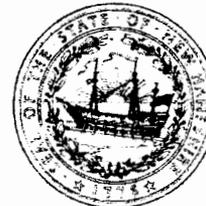
We respectfully submit this request for your consideration.


Thomas S. Burack
Commissioner

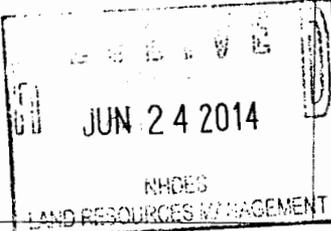


THE STATE OF NEW HAMPSHIRE
DEPARTMENT OF ENVIRONMENTAL SERVICES
LAND RESOURCES MANAGEMENT
WETLANDS BUREAU

29 Hazen Drive, PO Box 95, Concord, NH 03302-0095
Phone: (603) 271-2147 Fax: (603) 271-6588
<http://des.nh.gov/organization/divisions/water/wetlands>



PERMIT APPLICATION

	<p>COMPLETE</p> <p>JUN 24 2014</p>	2014-01636
		431991
		\$940.00
		DB

1. REVIEW TIME:
Indicate your Review Time below. Refer to Guidance Document A for instructions.

- Standard Review (Minimum, Minor or Major Impact) Expedited Review (Minimum Impact)

2. PROJECT LOCATION:
Separate applications must be filed with each municipality that jurisdictional impacts will occur in.

ADDRESS: Brewster Street		TOWN/CITY: Portsmouth	
TAX MAP: 139	BLOCK:	LOT: 164-4	UNIT:
USGS TOPO MAP WATERBODY NAME: North Mill Pond		<input type="checkbox"/> NA	STREAM WATERSHED SIZE: <input type="checkbox"/> NA
LOCATION COORDINATES (If known): N:211126 E:1225042		<input type="checkbox"/> Latitude/Longitude <input type="checkbox"/> UTM	
<input checked="" type="checkbox"/> State Plane			

3. PROJECT DESCRIPTION:
Provide a brief description of the project outlining the scope of work. Attach additional sheets as needed to provide a detailed explanation of your project. DO NOT reply "See Attached" in the space provided below.

Construct new 36" drain outlet pipe in City easement to North Mill Pond (tidal wetland) w/headwall & stone erosion apron under existing railroad with temporary and permanent impacts to tidal wetlands & 100 ft. upland tidal buffer totaling to 4,700 SF. Outlet location is at an existing impacted wetland area due to temporary stormwater pump discharges conducted during large storm events. Work includes horizontal trenchless pipe/casing installation under the active rail lines and open cut construction in railyard across abandoned rail sidings. Temporary impacts to the 100 ft. upland tidal buffer and tidal wetlands of 4,100 SF and permanent impacts of 600 SF in the tidal wetlands for the 36" pipe outlet headwall and stone erosion apron with Mitigation proposed. See additional information in Attachment A.

4. RELATED PERMITS, ENFORCEMENT, EMERGENCY AUTHORIZATION, SHORELAND, ALTERATION OF TERRAIN, ETC...
A shoreland permit is being submitted. A Shoreland PBN #2014-00758 has be obtained

5. NATURAL HERITAGE BUREAU & DESIGNATED RIVERS:
See the Instructions & Required Attachments document for instructions to complete a & b below.

- a. Natural Heritage Bureau File ID: **NHB 14 - 0188**
- b. Designated River the project is in ¼ miles of: _____; and
date a copy of the application was sent to Local River Advisory Committee: Month: ___ Day: ___ Year: ___
- NA

6. APPLICANT INFORMATION (Desired permit holder)LAST NAME, FIRST NAME, M.I.: **City of Portsmouth - DPW**

TRUST / COMPANY NAME:

MAILING ADDRESS: **680 Peverly Hill Road**TOWN/CITY: **Portsmouth**STATE: **NH**ZIP CODE: **03801**EMAIL or FAX: **djdesfosses@pw.cityofportsmouth.com**PHONE: **427-1530**

ELECTRONIC COMMUNICATION: By initialing here: _____, I hereby authorize DES to communicate all matters relative to this application electronically

7. PROPERTY OWNER INFORMATION (If different than applicant)LAST NAME, FIRST NAME, M.I.: **City of Portsmouth and Boston & Maine Railroad (Pan Am) Easement to construct piping**

TRUST / COMPANY NAME:

MAILING ADDRESS:

TOWN/CITY:

STATE:

ZIP CODE:

EMAIL or FAX:

PHONE:

ELECTRONIC COMMUNICATION: By initialing here _____, I hereby authorize DES to communicate all matters relative to this application electronically

8. AUTHORIZED AGENT INFORMATIONLAST NAME, FIRST NAME, M.I.: **Michael Leach**COMPANY NAME: **Stantec Consulting Services, Inc**MAILING ADDRESS: **5 Dartmouth Drive - Suite 101**TOWN/CITY: **Auburn**STATE: **NH**ZIP CODE: **03032**EMAIL or FAX: **michael.leach@stantec.com**PHONE: **603-669-8672**

ELECTRONIC COMMUNICATION: By initialing here _____, I hereby authorize DES to communicate all matters relative to this application electronically

9. PROPERTY OWNER SIGNATURE:

See the Instructions & Required Attachments document for clarification of the below statements

By signing the application, I am certifying that:

1. I authorize the applicant and/or agent indicated on this form to act in my behalf in the processing of this application, and to furnish upon request, supplemental information in support of this permit application.
2. I have reviewed and submitted information & attachments outlined in the Instructions and Required Attachment document.
3. All abutters have been identified in accordance with RSA 482-A:3, I and Env-Wt 100-900.
4. I have read and provided the required information outlined in Env-Wt 302.04 for the applicable project type.
5. I have read and understand Env-Wt 302.03 and have chosen the least impacting alternative.
6. Any structure that I am proposing to repair/replace was either previously permitted by the Wetlands Bureau or would be considered grandfathered per Env-Wt 101.47.
7. I have submitted a copy of the application materials to the NH State Historic Preservation Officer.
8. I authorize DES and the municipal conservation commission to inspect the site of the proposed project.
9. I have reviewed the information being submitted and that to the best of my knowledge the information is true and accurate.
10. I understand that the willful submission of falsified or misrepresented information to the New Hampshire Department of Environmental Services is a criminal act, which may result in legal action.
11. I am aware that the work I am proposing may require additional state, local or federal permits which I am responsible for obtaining.
12. The mailing addresses I have provided are up to date and appropriate for receipt of DES correspondence. DES will not forward returned mail.



Property Owner Signature

Peter Rice

Print name legibly

6/12/14

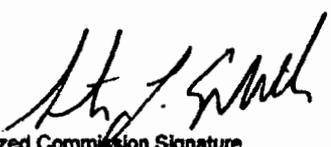
Date

MUNICIPAL SIGNATURES

10. CONSERVATION COMMISSION SIGNATURE

The signature below certifies that the municipal conservation commission has reviewed this application, and:

1. Waives its right to intervene per RSA 482-A:11;
2. Believes that the application and submitted plans accurately represent the proposed project; and
3. Has no objection to permitting the proposed work.

 <small>Authorized Commission Signature</small>	Steve J. Miller <small>Print name legibly</small>	June 11, 2014 <small>Date</small>
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DIRECTIONS FOR CONSERVATION COMMISSION

1. Expedited review ONLY requires that the conservation commission's signature is obtained in the space above.
2. The Conservation Commission signature should be obtained prior to the submittal of the original application and four copies to the town/city clerk for mailing to the DES.
3. The Conservation Commission may refuse to sign. If the Conservation Commission does not sign this statement for any reason, the application is not eligible for expedited review and the application will reviewed in the standard review time frame.

11. TOWN / CITY CLERK SIGNATURE

As required by Chapter 482-A:3 (amended 1991), I hereby certify that the applicant has filed five application forms, five detailed plans, and five USGS location maps with the town/city indicated below and I have received and retained certified postal receipts (or copies) for all abutters identified by the applicant.

 <small>Town/City Clerk Signature</small>	Kelli L. Barnaby <small>Print name legibly</small>	Portsmouth <small>Town/City</small>	6-20-14 <small>Date</small>
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DIRECTIONS FOR TOWN/CITY CLERK:

Per RSA 482-A:3, I(d):

1. For applications where "Expedited Review" is checked on page 1, accept the application for mailing only if the Conservation Commission signature has been sought;
2. Collect the postal receipts demonstrating that all abutters and the Local Advisory Committee were sent proper notice;
3. Collect any administrative fees, not to exceed \$10 plus the cost of postage by certified mail (RSA 482-A:3, I).
4. IMMEDIATELY sign the original application and four copies in the signature space provided above;
5. Retain one copy of the application form, one complete set of attachments and the postal receipts demonstrating that all abutters and the Local River Advisory Committee were notified and make them reasonably accessible to the public;
6. IMMEDIATELY distribute a copy of the application with one complete set of attachments to each of the following bodies: the municipal Conservation Commission, the local governing body (Board of Selectmen or Town/City Council), and the Planning Board in accordance with RSA 482-A:3, I; and
7. IMMEDIATELY send the ORIGINAL application form, one complete set of attachments and filing fee, by CERTIFIED MAIL to the NHDES Wetlands Bureau at the address indicated on page 1 of this application. (DO NOT HOLD FOR CONSERVATION COMMISSION SIGNATURE).

12. IMPACT AREA:

For each jurisdictional area that will be/has been impacted, provide square feet and, if applicable, linear feet of impact

Permanent: impacts that will remain after the project is complete.

Temporary: impacts not intended to remain (and will be restored to pre-construction conditions) after the project is complete.

After-the-fact (ATF): work completed prior to receipt of this application by DES. Check box to indicate ATF.

JURISDICTIONAL AREA	PERMANENT Sq. Ft. / Lin. Ft.		TEMPORARY Sq. Ft. / Lin. Ft.	
Forested wetland		<input type="checkbox"/> ATF		<input type="checkbox"/> ATF
Scrub-shrub wetland		<input type="checkbox"/> ATF		<input type="checkbox"/> ATF
Emergent wetland		<input type="checkbox"/> ATF		<input type="checkbox"/> ATF
Wet meadow		<input type="checkbox"/> ATF		<input type="checkbox"/> ATF
Intermittent stream		<input type="checkbox"/> ATF		<input type="checkbox"/> ATF
Perennial Stream / River	/	<input type="checkbox"/> ATF	/	<input type="checkbox"/> ATF
Lake / Pond	/	<input type="checkbox"/> ATF	/	<input type="checkbox"/> ATF
Bank - Intermittent stream	/	<input type="checkbox"/> ATF	/	<input type="checkbox"/> ATF
Bank - Perennial stream / River	/	<input type="checkbox"/> ATF	/	<input type="checkbox"/> ATF
Bank - Lake / Pond	/	<input type="checkbox"/> ATF	30 / 30	<input type="checkbox"/> ATF
Tidal water	600 / 30	<input type="checkbox"/> ATF	1010 / 60	<input type="checkbox"/> ATF
Salt marsh		<input type="checkbox"/> ATF		<input type="checkbox"/> ATF
Sand dune		<input type="checkbox"/> ATF		<input type="checkbox"/> ATF
Prime wetland		<input type="checkbox"/> ATF		<input type="checkbox"/> ATF
Prime wetland buffer		<input type="checkbox"/> ATF		<input type="checkbox"/> ATF
Undeveloped Tidal Buffer Zone (TBZ)		<input type="checkbox"/> ATF		<input type="checkbox"/> ATF
Previously-developed upland in TBZ		<input type="checkbox"/> ATF	3060	<input type="checkbox"/> ATF
Docking - Lake / Pond		<input type="checkbox"/> ATF		<input type="checkbox"/> ATF
Docking - River		<input type="checkbox"/> ATF		<input type="checkbox"/> ATF
Docking - Tidal Water		<input type="checkbox"/> ATF		<input type="checkbox"/> ATF
TOTAL	600 / 30		4100 / 90	

13. APPLICATION FEE: See the Instructions & Required Attachments document for further instruction

Minimum Impact Fee: Flat fee of \$ 200

Minor or Major Impact Fee: Calculate using the below table below

Permanent and Temporary (non-docking) 4700 sq. ft. X \$0.20 = \$ 940

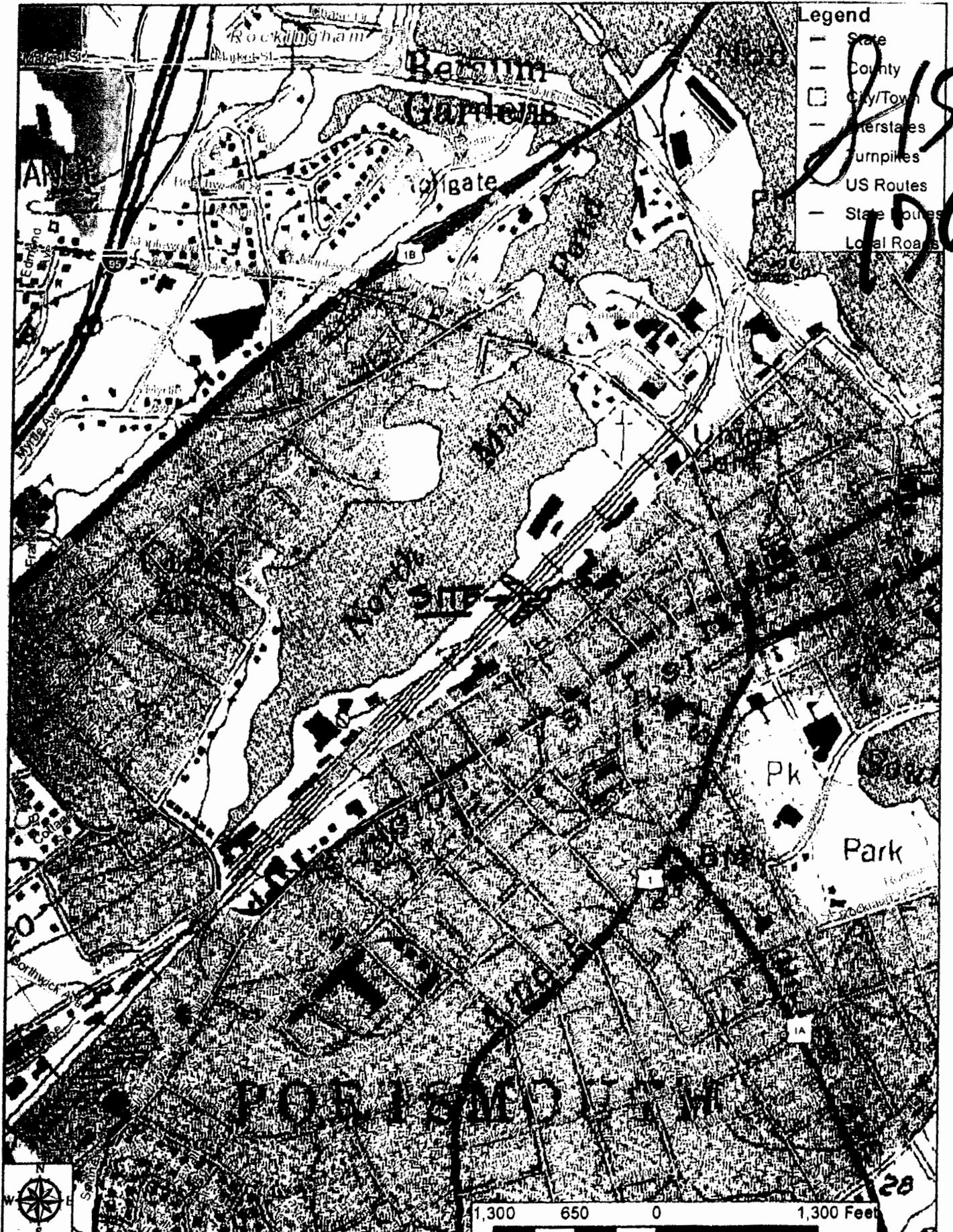
Temporary (seasonal) docking structure: sq. ft. X \$1.00 = \$

Permanent docking structure: sq. ft. X \$2.00 = \$

Projects proposing shoreline structures (including docks) add \$200 = \$

Total = \$ 940

The Application Fee is the above calculated Total or \$200, whichever is greater = **\$ 940**



- Legend**
- State
 - County
 - City/Town
 - Interstates
 - Turnpikes
 - US Routes
 - State Routes
 - Local Roads

15
100



1,300 650 0 1,300 Feet

28



New Hampshire Natural Heritage Bureau

To: Michael Leach
5 Dartmouth Drive - Suite 101
Auburn, NH 03032

Date: 1/14/2014

From: NH Natural Heritage Bureau

Re: Review by NH Natural Heritage Bureau of request dated 1/14/2014

NHB File ID: NHB14-0188

Applicant: Michael Leach

Location: Tax Map(s)/Lot(s): Map 139 lot 164-4
Portsmouth

Project Description: Brewster Street Drainage Rail Crossing to North Mill Pond

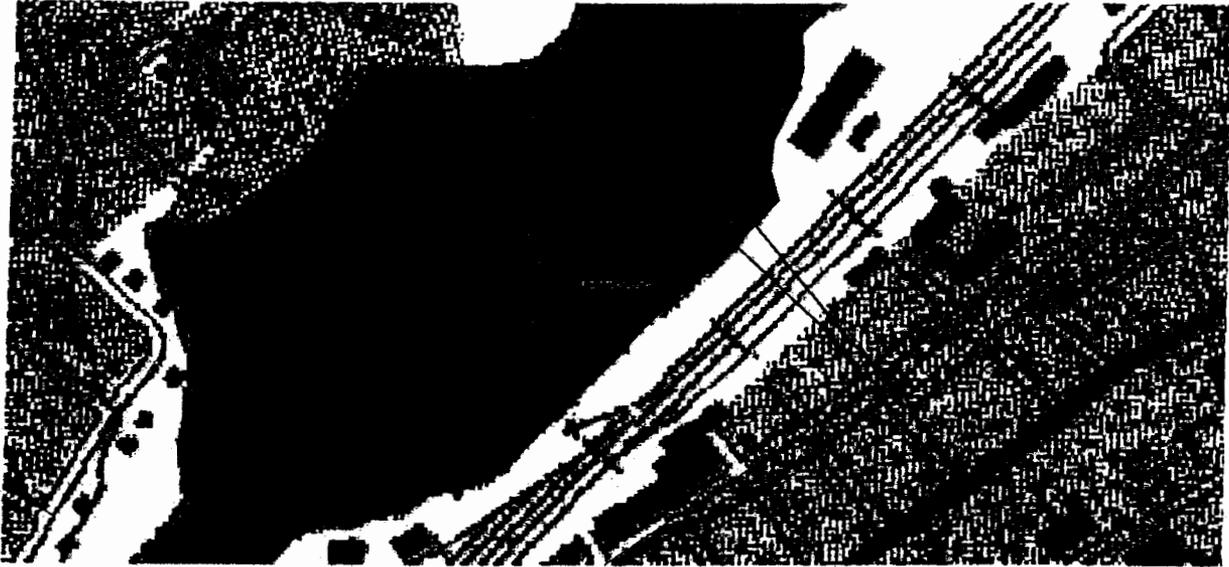
The NH Natural Heritage database has been checked for records of rare species and exemplary natural communities near the area mapped below. The species considered include those listed as Threatened or Endangered by either the state of New Hampshire or the federal government. We currently have no recorded occurrences for sensitive species near the proposed area.

A negative result (no record in our database) does not mean that a sensitive species is not present. Our data can only tell you of known occurrences based on information gathered by qualified biologists and reported to our office. However, many areas have never been surveyed, or have only been surveyed for certain species. An on-site survey would provide better information on what species and communities are indeed present.

This report is valid through 1/15/15.



MAP OF PROJECT BOUNDARIES FOR NHB FILE ID: NHB14-0188



Wetland Permit Application for Parcel 164-4
Brewster Street Drainage Improvements - Portsmouth NH
Applicant: City of Portsmouth - DPW

**WRITTEN NOTIFICATION LIST FOR
WETLANDS & SHORELAND PERMIT**

Map 139 Lot 164-4
Pan Am Railways
C/o Shawn Higgins, PE
1700 Iron Horse Park
N. Billerica MA 01862

Map 139 Lots 1 & 8
Regan Electric Co Inc.
94 Langdon Street
Portsmouth, NH 03801

Map 138 Lot 56
Shelley Tamis
[REDACTED]
Portsmouth, NH 03801

Map 138 Lot 52
Ramona Connelly
[REDACTED]
Portsmouth, NH 03801

Map 138 Lot 49
Michael A. Carella
[REDACTED]
Portsmouth, NH 03801

Map 138 Lot 48
John Ahlgren & Bessie J. Palmisciano
[REDACTED]
Portsmouth, NH 03801

Map 138 Lot 61
Peter Happny
[REDACTED]
Portsmouth, NH 03801

Map 138 Lot 60 & Map 124 Lots 1 & 2
City of Portsmouth
P.O. Box 628
Portsmouth, NH 03802

Map 138 Lot 62
Hill Hanover Group LLC
C/O JPK Properties LLC
1 New Hampshire Ave. #125
Portsmouth, NH 03801

Map 125 Lot 17
Deer Street Assoc.
P.O. Box 100
York Harbor, ME 03911

Map 125 Lot 19
David F Mahoney Marital Qtip Trust
C/O Jaqueline Mahoney, Trustee
[REDACTED]
Portsmouth, NH 03801

Map 144 Lot 47
Great McDonough St. LLC
135 McDonough St
Portsmouth, NH 03801

Map 144 Lot 46
Myles s Bratter
[REDACTED]
Portsmouth, NH 03801

Map 144 Lot 45
James A Hewitt Revoc. Trust 2004
James A Hewitt, Trustee
[REDACTED]
Durham, NH 03824

Map 144 Lot 44
Ruth E. James
[REDACTED]
Portsmouth, NH 03801

Map 144 Lot 43
Barbara A. Brock
[REDACTED]
Portsmouth, NH 03801

Map 144 Lot 42
Candace Couture
[REDACTED]
Portsmouth, NH 03801

Map 144 Lot 41
Brandon J. & Laura E. Terry
[REDACTED]
Portsmouth, NH 03801