



Victoria F. Sheehan
Commissioner

THE STATE OF NEW HAMPSHIRE
DEPARTMENT OF TRANSPORTATION

OCT 23 '15 AM 11:56 DE



William Cass, P.E.
Assistant Commissioner

Bureau of Environment
October 20, 2015

Her Excellency, Governor Margaret Wood Hassan
and the Honorable Council
State House
Concord, New Hampshire 03301

REQUESTED ACTION

Authorize the Department of Transportation (DOT), Bureau of Environment, to pay the Department of Environmental Services (DES) (Vendor #177894) Aquatic Resource Mitigation (ARM) Fund \$224,948.38 as documented in E-mail correspondence, approval letters, and ARM fund calculators from DES, effective upon Governor and Council approval, through June 30, 2016. 100% Federal Funds.

Funding is available as follows:

04-96-96-963515-3054	<u>FY 2016</u>
Consolidated Federal Aid	
400-500870 Highway Contract Payments	\$224,948.38

EXPLANATION

Pursuant to RSA 482-A, to compensate for the loss of jurisdictional areas, DES adopted rules that require mitigation for major impact projects, certain minor impact projects with jurisdictional impacts of 10,000 square feet or greater, and projects involving over 200 linear feet of stream impact (Env-Wt 303.02). The ARM Fund authorizes DES to collect mitigation funds in lieu of wetland restoration, wetland creation, or upland buffer preservation, as part of a wetlands permit application. These funds are then pooled by DES with payments from other permit applications to fund projects that have greater conservation value within the same watershed. The ARM program was authorized in legislation that became effective in August 2006.

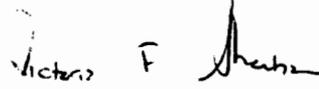
Two (2) permits for Consolidated Federal Aid projects require mitigation for jurisdictional wetland impacts as listed below:

- Keene-Swanzey, 10309P (construction of a multi-use trail bridge over NH Route 101/NH Route 12) requires a one-time payment in Fiscal Year 2016 of \$89,440.67 as mitigation for 20,176 square feet of impact to wetlands (DES File #2015-01505).
- Plaistow-Kingston, 10044G (reconstruction of NH Route 125 from East Road to Old Road) requires a one-time payment in Fiscal Year 2016 of \$135,507.71 as mitigation for 28,071 square feet of additional impact to wetlands (DES File #2004-00763).

The funding for these projects is 80% federal funds with 20% state match. Turnpike toll credit is being utilized for match requirements, effectively using 100% federal funds.

Your approval of this resolution is respectfully requested.

Sincerely,

A handwritten signature in black ink, appearing to read "Victoria F. Sheehan". The signature is written in a cursive style with a large initial "V".

Victoria F. Sheehan
Commissioner

VFS/ktn

Attachments

Kevin Nyhan

From: Sommer, Lori <Lori.Sommer@des.nh.gov>
Sent: Tuesday, October 13, 2015 7:40 AM
To: Marc Laurin; Matt Urban
Cc: Infascelli, Gino; Kevin Nyhan
Subject: RE: Plaistow-Kingston 10044G (DES#2004-00763)

That amount is correct. Thanks,

Lori

From: Marc Laurin [<mailto:MLaurin@dot.state.nh.us>]
Sent: Monday, October 12, 2015 2:20 PM
To: Sommer, Lori; Matt Urban
Cc: Infascelli, Gino; Kevin Nyhan
Subject: RE: Plaistow-Kingston 10044G (DES#2004-00763)

Lori,
We are ready to finalize the request to go to G&C.

Can you confirm the ARM payment of \$135,507.71 based on my clarification below.

Thanks.

Marc

From: Marc Laurin
Sent: Friday, October 09, 2015 1:08 PM
To: 'Sommer, Lori'; Matt Urban
Cc: Infascelli, Gino; Kevin Nyhan
Subject: RE: Plaistow-Kingston 10044G (DES#2004-00763)

Lori,

Sorry for the confusion, the 28,861 sq ft are the impacts including 790 square feet of temporary impacts. The permanent impacts are 28,071 sq ft. I see that I did not make that clear in the memo.

As such the ARM fund was calculated based on the permanent impacts.

Marc

From: Sommer, Lori [<mailto:Lori.Sommer@des.nh.gov>]
Sent: Friday, October 09, 2015 12:36 PM
To: Matt Urban
Cc: Infascelli, Gino; Kevin Nyhan; Marc Laurin
Subject: RE: Plaistow-Kingston 10044G (DES#2004-00763)

Hi Matt,

On page 1 of the memo the impact amount is noted as 28,071 but on page 2 it is noted in the amendment discussion as 28,861 sq.ft. of additional impacts. Can you clarify?

Lori

From: Matt Urban [<mailto:MUrban@dot.state.nh.us>]
Sent: Friday, October 09, 2015 10:49 AM
To: Sommer, Lori
Cc: Infascelli, Gino; Kevin Nyhan; Marc Laurin
Subject: Plaistow-Kingston 10044G (DES#2004-00763)

Good Morning Lori,

We are in the process of getting the Plaistow-Kingston Arm-Fund amount on the next G&C agenda for approval and we need your concurrence on the amount of mitigation proposed.

I have attached the attached Mitigation Summary and Arm-Fund Calculator that were included with the permit amendment submittal .

Could your please concur that mitigation will be in the amount of \$135,507.71.

Thanks,
Matt Urban

Kevin Nyhan

From: Sommer, Lori <Lori.Sommer@des.nh.gov>
Sent: Wednesday, September 30, 2015 11:12 AM
To: Matt Urban; Infascelli, Gino; kern.mark@epa.gov; Hicks, Michael C NAE
Cc: Marc Laurin; Ronald Grandmaison
Subject: RE: Keene-Swanzey 10309-P (Wetland Mitigation)

Right, thanks for catching that Gino and Matt. That is the correct amount.

Lori

From: Matt Urban [mailto:MUrb@dot.state.nh.us]
Sent: Wednesday, September 30, 2015 11:05 AM
To: Infascelli, Gino; Sommer, Lori; kern.mark@epa.gov; Hicks, Michael C NAE
Cc: Marc Laurin; Ronald Grandmaison
Subject: RE: Keene-Swanzey 10309-P (Wetland Mitigation)

Thanks,
See revised calculator.
Totals \$89,440.67

From: Infascelli, Gino [mailto:Gino.Infascelli@des.nh.gov]
Sent: Wednesday, September 30, 2015 10:58 AM
To: Matt Urban; Sommer, Lori; kern.mark@epa.gov; Hicks, Michael C NAE
Cc: Marc Laurin; Ronald Grandmaison
Subject: RE: Keene-Swanzey 10309-P (Wetland Mitigation)

The application and plans indicate 20,176 sq. ft. of permanent impacts instead of the 20,167 sq. ft. noted in the ARM calculator.

Draft permit description:

Construct a new multi-use trail bridge along the Ashuelot Rail Trail impacting 23,685 sq. ft. (3,509 temporary) of palustrine wetlands to elevate the approaches. NHDOT project #10309P

From: Matt Urban [mailto:MUrb@dot.state.nh.us]
Sent: Wednesday, September 30, 2015 9:03 AM
To: Sommer, Lori; kern.mark@epa.gov; Hicks, Michael C NAE
Cc: Infascelli, Gino; Marc Laurin; Ronald Grandmaison
Subject: RE: Keene-Swanzey 10309-P (Wetland Mitigation)

Thanks Lori.

Matt

From: Sommer, Lori [mailto:Lori.Sommer@des.nh.gov]
Sent: Wednesday, September 30, 2015 9:00 AM
To: Matt Urban; kern.mark@epa.gov; Hicks, Michael C NAE
Cc: Infascelli, Gino; Marc Laurin; Ronald Grandmaison
Subject: RE: Keene-Swanzey 10309-P (Wetland Mitigation)

Hello –

The ARM Fund payment amount stated below is accurate.

I also agree that we want to include a condition in the permit noting the broader mitigation commitment. The one sentence below does not give enough information. Some history describing what the construction involves, amounts anticipated to be constructed, and schedule needs to be included. Also in that summary mention what the mitigation was for (impact types and functions) and objectives of the mitigation plan. I am also concerned that if the future mitigation is not slated until 2021 and this permit for 10309-P expires in 2020 we will lose track of the commitment. It is very difficult to keep track of these promises in our system.

So please expand the narrative and we can discuss how to carry this commitment forward into the future. This will help DES and the Corps and EPA who will also be reviewing the information. Thanks,

Lori

From: Matt Urban [<mailto:MUrban@dot.state.nh.us>]
Sent: Tuesday, September 29, 2015 2:01 PM
To: Sommer, Lori
Cc: Infascelli, Gino; Marc Laurin; Ronald Grandmaison
Subject: RE: Keene-Swanzey 10309-P (Wetland Mitigation)

Good Afternoon Lori,

Attached is the Arm-Fund Calculator for the Keene-Swanzey10309-P application that is currently at DES. An arm-Fund payment for the 20,167 SF of permanent impacts associated with proposed pedestrian crossing is proposed as a one-time payment the amount of \$89,400.77
Can you concur on this amount.

Also, I believe the intent was to memorialize the commitment for a broader mitigation project as a condition of this permit.

We suggest a condition along the following lines:

- NHDOT shall construct the mitigation for the previously permitted impacts under 10309A and H under the Keene-Swanzey 40100 project slated to advertise in 2021.

Let us know what you think of this as a possible condition.

Thanks,
Matt Urban

From: Ronald Grandmaison
Sent: Monday, September 28, 2015 7:30 AM
To: 'Sommer, Lori'
Cc: Infascelli, Gino; Matt Urban; Marc Laurin
Subject: RE: Keene-Swanzey 10309-P (Wetland Mitigation)

My apologies once AGAIN...apparently the Department was "leaning toward" an ARM fund payment for this project and therefore never provided the calculation as part of this application. We will be sending that over momentarily.

My mistake.

Ronald J. Grandmaison, PE

New Hampshire Department of Transportation
Bureau of Highway Design
Project Manager
Phone: 603-271-6198
Fax : 603-271-7025
E-Mail: rgrandmaison@dot.state.nh.us
Website: <http://www.nhdot.com>

 Please consider the environment before printing this e-mail!

From: Sommer, Lori [<mailto:Lori.Sommer@des.nh.gov>]
Sent: Friday, September 25, 2015 2:32 PM
To: Ronald Grandmaison
Cc: Infascelli, Gino; Matt Urban; Marc Laurin
Subject: RE: Keene-Swanzey 10309-P (Wetland Mitigation)

Hi Ron,

The application needs to provide a summary of what is being provided as mitigation. If the department is headed towards a mitigation payment, usually you include a calculation of the payment amount and I will confirm if that is correct. I understand there is no information on mitigation in the recent submittal so this needs to be provided to go forward. Thanks,

Lori

From: Ronald Grandmaison [<mailto:RGrandmaison@dot.state.nh.us>]
Sent: Wednesday, September 23, 2015 6:50 AM
To: Sommer, Lori
Cc: Infascelli, Gino; Matt Urban; Marc Laurin
Subject: Keene-Swanzey 10309-P (Wetland Mitigation)

Good Morning,

The Department currently has a wetland permit application package at DES for the above listed project scheduled to advertise on September 29, 2015. This is the multi-use trail bridge that had originally included mitigation for the wetland and floodplain impacts already realized as part of the interim improvements for the Keene-Swanzey Upgrades. The plan discussed previously was to pay into the ARM fund for these impacts and construct the mitigation for the previous impacts under the Keene-Swanzey 40100 project slated to advertise in 2021. As I recall, you wanted something documenting this direction but I wasn't sure the most appropriate format. I have attached the letter recently sent to FHWA requesting a time extension on the overall bypass project outlining the Department's commitment and schedule. If you would like something in a different format or simply something addressed to you stating the same, I will complete that and send it along for documentation purposes.

Please let me know if you are agreeable with this approach.

Respectfully,

Ronald J. Grandmaison, PE

New Hampshire Department of Transportation

Bureau of Highway Design

Project Manager

Phone: 603-271-6198

Fax : 603-271-7025

E-Mail: rgrandmaison@dot.state.nh.us

Website: <http://www.nhdot.com>

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The State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES



Thomas S. Burack, Commissioner

October 09, 2015

NH Department of Transportation
PO Box 483
Concord, NH 03302

RE: NH Dept. Of Transportation - File # 2015-01505 - Keene

Dear Sir/Madam:

The Department of Environmental Services (DES) Wetlands Bureau has concluded its review of file #2015-01505. DES issues this approval notice for the application to construct a new multi-use trail bridge along the Ashuelot Rail Trail impacting 23,685 sq. ft. (3,509 temporary) of palustrine wetlands to elevate the approaches. Compensatory mitigation includes a one-time payment of \$89,440.67 to the Aquatic Resource Mitigation Fund. NHDOT project #10309P.

As part of this decision, the mitigation commitment for file #1999-1080 remains to be completed and includes the preservation of 80 acres of land (minus the amount of land adjacent to NH Routes 9/101 that will be required for the "T" intersection re-construction) of the undeveloped "NH Route 10 Bypass ROW" by NHDOT either through fee transfer to a conservation entity or deed restrictions as well as protection of an 8 acre parcel south of NH Route 10 Bypass ROW. In addition, the NHDOT shall provide floodplain compensation within the Ashuelot River watershed to fully compensate for the 19.9 acre-feet of impacts incurred by the Keene-Swanzey Interim projects (as outlined in NHDOT's October 7, 2015 Mitigation Commitment Summary Memo).

The decision to approve this application was based on the following conditions being met:

1. All work shall be in accordance with plans dated 5/27/2015 by NHDOT Bureau of Bridge Design, as received by the Department on June 17, 2015.
2. Dredged material shall be placed out of the DES Wetlands Bureau jurisdiction.
3. Construction equipment shall not be located within surface waters.
4. 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; and c) set back as far as possible from wetlands and surface waters, in all cases with a minimum of 20 feet of undisturbed vegetated buffer.
5. Appropriate siltation/erosion/turbidity controls shall be in place prior to construction, shall be maintained during construction, and shall remain until the area is stabilized.
6. 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.
7. 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.
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 to be taken within riparian areas to limit unnecessary removal of vegetation during road construction and areas cleared of vegetation to be revegetated as quickly as possible.
10. There shall be no further alteration to wetlands or surface waters without amendment of this permit.
11. Standard precautions shall be taken to prevent import or transport of soil or seed stock from nuisance, invading species such as purple loosestrife or Phragmites.
12. The impacts associated with the temporary work shall be restored immediately following construction.
13. The construction personnel shall be informed of and aware that Wood Turtles are in the vicinity especially from late May to the end of June and any encounters shall be resolved by a qualified environmental professional.
14. Fill within the floodplain of the Ashuelot River shall be mitigated in conjunction with the overall mitigation of the interim Keene-Swanzey project as required by permit #1999-1080 and outlined in October 7, 2015 Mitigation Commitment Summary Memo.
15. This approval is contingent on receipt by DES of a one-time payment of \$89,440.67 to the DES Aquatic Resource Mitigation (ARM) Fund. The payment shall be received by DES within 120 days of the date of the approval letter or the application will be denied.

The decision to approve this application was based on the following findings:

1. This is a major impact project per Administrative Rule Env-Wt 303.02(c), projects that alter more than 20,000 sq. ft. of nontidal wetlands.
2. The need for the proposed impacts has been demonstrated by the applicant per Env-Wt 302.01.
3. The NH Dept. of Transportation (NHDOT) 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.
4. The NHDOT 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 project was discussed and coordinated through discussions at many monthly Natural Resource Agency Meetings held at the NH Dept. of Transportation with the most recent being on Aug. 21, 2013, Jan. 21, 2015 and May 20, 2015.
6. The application was received on June 17, 2015 and includes an Inter-Department memo noting the NHDOT will prepare and submit a mitigation package specific to this application and will follow up with a mitigation summary / proposal package for the outstanding mitigation required for the previously impacted and future interim Keene - Swanzey 10309 series of projects.
7. On July 21, 2015, a comment was received from the Ashuelot River Local Advisory Committee noting support for the project but is concerned with the outstanding mitigation from past impacts, the mitigation for flood storage and the need for timely mitigation due the frequency of flooding.
8. On October 7, 2015 the DES received a report from the NHDOT summarizing the outstanding mitigation for previous permitted projects.
9. 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 riverine resource, as identified under RSA 482-A:1.
10. The department has determined that this specific project, application 2015-01505, is acceptable for a one-time payment to the Aquatic Resource Mitigation (ARM) Fund for the mitigation.
11. The payment calculated for the proposed wetland loss equals \$89,440.67.
12. The Department decision is issued in letter form and upon receipt of the ARM fund payment, the Department shall issue a posting permit in accordance with Env-Wt 803.08(f).
13. The payment into the ARM fund shall be deposited in the DES fund for the Lower Connecticut River watershed per RSA 482-A:29.

Any person aggrieved by this decision may appeal to the N.H. Wetlands Council ("Council") by filing an appeal that meets the requirements specified in RSA 482-A:10, RSA 21-O:14, and the rules adopted by the Council, Env-WtC 100-200. The appeal must be filed **directly with the Council within 30 days** of the date of this decision and 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. Information about the Council, including a link to the Council's rules, is available at <http://nhec.nh.gov> (or more directly at <http://nhec.nh.gov/wetlands/index.htm>.) Copies of the rules also are available from the DES Public Information Center at (603) 271-2975.

This permit is contingent on receipt of a one-time payment of \$89,400.77 dollars to the DES Aquatic Resource Mitigation (ARM) Fund. **The payment should be received after the 30-day reconsideration period or after November 8, 2015. If the payment is not received by DES by February 8, 2016 or 120 days from the approval decision, DES will deny the application. Please include a copy of this letter with the payment.** If you have any questions please contact me at (603) 271-4059 or via e-mail, lori.sommer@des.nh.gov <<mailto:lori.sommer@des.nh.gov>>.

Sincerely,



Lori Sommer
Wetland Mitigation Coordinator
DES Wetlands Bureau

cc: Keene Conservation Commission
Keene Board of Selectmen
Keene Municipal Clerk



The State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES



Thomas S. Burack, Commissioner

October 14, 2015

NH Department of Transportation
PO Box 16476
Hooksett, NH 03106

RE: NH Department of Transportation - File # 2004-00763; Plaistow - Kingston

Dear Sir/Madam:

The Department of Environmental Services (DES) Wetlands Bureau has concluded its review of file #2004-00763. DES issues this approval notice for the AMENDED PERMIT TO: Dredge and / or fill approximately 5.26 acres of palustrine and riverine wetlands to reconstruct and widen approximately 6 miles of Route 125 to provide through lanes, a center left turn lane, intersection improvements and the construction of a service road. Mitigate by providing a total of 80.8 acres of conservation land including restoration of 2 acres of wetlands. NHDOT project #10044B.

Compensatory mitigation for the NHDOT #10044G contract amendment includes a one-time payment of \$135,507.71 to the Aquatic Resource Mitigation Fund.

The decision to approve this application was based on the following conditions being met:

1. The wetland impacts associated with this approval are based on:
 - a. The Application for the Department of the Army Permit NH Wetlands Bureau (hereinafter "NHDES") Permit application received on April 28, 2004 (hereinafter "the Application");
 - b. The Final Environmental Assessment and Section 4(f) Evaluation received in October, 2005 (hereinafter "the FEA");
 - c. The Application Supplemental Information on the Revised Mitigation in Kingston (March 2006 revisions) received on March 28, 2006 and
 - d. The Addendum to the FEA (March 2006 revisions) received on March 28, 2006.
 - e. The amendment request for an additional 28,861 sq. ft. of impact related to the 10044G contract as indicated per the information and plans received on Aug. 24, 2014.
2. During final design and construction work, wetland impacts that exceed 5.26 acres as represented in the Application and materials contained in NHDES file, shall require submittal of a permit amendment request to be reviewed and approved by NHDES.
3. During final design of the roadway construction plans, a joint review shall be conducted by NH Department of Transportation (hereinafter "NHDOT") and NHDES regarding proposed water quality treatment features such as grass swales or detention basins that may cause additional jurisdictional impacts to confirm need, location, and necessity for a permit amendment.
4. Final design plans for roadway construction shall be submitted to NHDES for each construction contract with a summary of wetland impacts for the associated contract work. Review and comments from NHDES shall be considered by the NHDOT and incorporated into the design where appropriate.
5. During final design, efforts to avoid or minimize wetland and surface water impacts shall be maximized by constructing steepened side slopes, retaining walls, and accommodations for wildlife passage.

DES Web site: www.des.nh.gov

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

Telephone: (603) 271-3503 • Fax: (603) 271-6588 • TDD Access: Relay NH 1-800-735-2964

6. NHDOT will comply with the provisions of the Section 401 Water Quality certification upon its issuance and noncompliance shall be considered a violation of the conditions of this permit.
7. Dredged material shall be placed out of NHDES jurisdiction unless otherwise specified.
8. This permit is contingent upon the submission of project specific stream diversion and erosion control plans to the NHDES for review and approval. Those plans shall detail the timing and method of stream flow diversion during construction, and the temporary siltation, erosion and turbidity control measures to be implemented.
9. At least 48 hours prior to the start of each construction contract, a pre-construction meeting shall be held with NHDES Wetland and, if necessary, Watershed Bureau staff at the project site or at the NHDES or NHDOT Offices in Concord, N.H. to review the conditions of this permit, the NHDES Water Quality Certificate, and any other environmental commitments stated in other approved documents as listed in condition #1. It shall be the responsibility of NHDOT to schedule the pre-construction meeting, and the meeting shall be attended by NHDOT Bureau of Environment, the contract administrator(s), the contractor(s) responsible for performing the work and wetlands scientist(s) regarding wetland restoration/construction.
10. Appropriate siltation/erosion/turbidity controls shall be in place prior to construction, shall be maintained during construction, and shall remain until the area is stabilized.
11. The project engineer shall oversee installation of erosion controls and periodically verify that the controls are properly maintained during construction and until all areas are fully stabilized.
12. Appropriate storm water management and erosion control Best Management Practices (BMPs) shall be implemented to ensure turbidity is minimized and water quality standards are not violated. If the BMPs conflict with the terms or conditions of this permit, the terms and conditions of this permit shall control.
13. Construction equipment shall not be located within surface waters.
14. There shall be no further alteration of wetlands or surface waters without amendment of this permit.
15. Within three days of the last activity in an area, all exposed soil areas, where construction activities are complete or have been temporarily suspended, 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 2:1.
16. 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.
17. Where construction activities have been temporarily suspended outside the growing season, all exposed areas shall be stabilized within 14 days by mulching and tack. Slopes steeper than 3:1 shall be stabilized by matting and pinning.
18. 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 and, wherever possible, with a minimum of 20 feet of undisturbed vegetated buffer.
19. The contractor responsible for completion of the work shall utilize techniques described in the NHDES Best Management Practices for Urban Stormwater Runoff Manual (January, 1996) and the Stormwater and Erosion and Sediment Control Handbook for Urban and Developing Areas in New Hampshire (August, 1992).
20. NHDOT shall limit unnecessary removal of vegetation within riparian areas during road construction and areas cleared of vegetation shall be re-vegetated as quickly as soon after construction as possible so as to minimize erosion and restore wildlife habitat.
21. Land clearing in wetland areas during highway construction is to be kept to a minimum to reduce impacts on wildlife habitat.
22. Precautions shall be taken to prevent import or transport of soil or seed stock containing nuisance, invasive species such as purple loosestrife or Phragmites.
23. This permit is contingent on the execution of the mitigation components specified in the documents listed in condition #1 prior to completion of the project unless as otherwise specified in these conditions.

24. The wetland construction areas shall be properly constructed, monitored, and managed in accordance with final mitigation plans approved by NHDES.
25. Wetland construction and flood storage replacement areas shall be properly constructed, landscaped, and monitored. Remedial actions may be necessary to create functioning wetland and floodplain areas similar to those destroyed by the project. 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.
26. NHDOT shall designate a qualified professional who will be responsible for monitoring and ensuring that the mitigation areas are constructed in accordance with the mitigation plans. Monitoring shall be accomplished in a timely fashion and remedial measures taken if necessary. NHDES 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.
27. The NHDOT shall notify, in writing, NHDES and the local conservation commission(s) in the municipality(ies) where the construction is to take place of their intention to commence construction no less than 5 business days prior to construction.
28. A post-construction report, including a narrative and photographs, documenting the status of the completed mitigation projects shall be submitted to NHDES within 60 days of the completion of construction.
29. NHDOT or the designated qualified professional 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, third and fifth years following the completion of each mitigation site.
30. Wetland construction 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 NHDES.
31. NHDOT shall delineate the wetlands within the mitigation sites, document the delineation with US Army Corps of Engineers' data forms, and depict the delineation as an overlay of the final as-built plans after at least five full growing seasons.
32. Wetland soils from areas vegetated with purple loosestrife shall not be used in the wetland construction sites. 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.
33. NHDOT shall attempt to control invasive, weedy species such as purple loosestrife (*Lythrum salicaria*) and common reed (*Phragmites australis*) by measures approved by NHDES if the species is found in the mitigation areas during construction and during the early stages of vegetative establishment.
34. Baseline documentation reports for all lands to be protected shall be completed and submitted to NHDES within one year following NHDOT securing the parcels. The reports shall contain photographic documentation of the areas, and shall be submitted to NHDES to serve as a baseline for future monitoring of the areas.
35. NHDOT shall provide information for review and approval by NHDES relative to the mechanisms to be used for preservation of the parcels in perpetuity. The use of a conservation easement for long-term protection of the properties is preferred and should be pursued where possible.
36. NHDOT shall provide NHDES documentation confirming the acquisition and protection of 22.3 acres of the Nichols property, located along the Powwow River in Kingston.
37. NHDOT shall provide NHDES a status report on the properties to be protected as part of the second and third year monitoring reports to insure compliance with the preservation requirements. If the preservation of the properties has not been completed after three years, yearly reports shall be submitted following the third year as to the status of protection.
38. Conservation easements that are placed on the preservation areas shall be written to run with the land, and both existing and future property owners shall be subject to this easement. The conservation easements shall be executed and recorded within two years of the permit issuance.

39. The boundaries of the protected properties shall be surveyed by a licensed surveyor, and marked by permanent markers/signs for purposes of identification and monitoring prior to recordation of the plan.
40. NHDES shall be notified of the placement of the permanent markers/signs to coordinate on-site review of their location.
41. The plan depicting the conservation easement along with a copy of the final easement language shall be recorded with the Registry of Deeds Office for each property. A copy of the recording from the County Registry of Deeds Office shall be submitted to NHDES Wetlands Bureau within 90 days of recording.
42. There shall be no removal of the existing vegetative undergrowth within the preservation areas, except as specified in the approved stewardship plan, and the placement of fill, construction of structures, and storage of vehicles or hazardous materials is prohibited.
43. NHDES shall be notified in writing of the transfer of any preservation lands and mitigation sites to another organization that has been retained for management purposes and the notification shall state the name of the entity responsible for continuing long-term management and/or stewardship of the lands.
44. Activities in contravention of the conservation easement shall be construed as a violation of RSA 482-A, and those activities shall be subject to the enforcement powers of NHDES, including remediation and fines.
45. The NHDOT shall comply with the conditions of permit 2003-01010 (NHDOT project #10044C), specifically #'s 17, 19 and 20 prior to any construction on this permit.

The decision to approve this application was based on the following findings:

1. This is a major impact project per Administrative Rule Wt 303.02(c), alteration of more than 20,000 sq. ft. of non-tidal wetlands and surface waters.
2. On Aug. 24, 2015 an amendment request was received to impact an additional 0.66 acres of wetlands for the 10044G contract and proposed a one-time payment of \$135,507.71 to the Aquatic Resource Mitigation Fund.
3. The department has determined that this amendment to the project is acceptable for a one-time payment to the Aquatic Resource Mitigation (ARM) Fund for the mitigation.
4. The payment calculated for the proposed wetland loss equals \$135,507.71.
5. The Department decision is issued in letter form and upon receipt of the ARM fund payment, the Department shall issue a posting permit in accordance with Env-Wt 803.08(f).
6. The payment into the ARM fund shall be deposited in the DES fund for the Merrimack River watershed per RSA 482-A:29.

Any person aggrieved by this decision may appeal to the N.H. Wetlands Council ("Council") by filing an appeal that meets the requirements specified in RSA 482-A:10, RSA 21-O:14, and the rules adopted by the Council, Env-WtC 100-200. The appeal must be filed **directly with the Council within 30 days** of the date of this decision and 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. Information about the Council, including a link to the Council's rules, is available at <http://nhec.nh.gov> (or more directly at <http://nhec.nh.gov/wetlands/index.htm>.) Copies of the rules also are available from the DES Public Information Center at (603) 271-2975.

This permit is contingent on receipt of a one-time payment of \$135,507.71 dollars to the DES Aquatic Resource Mitigation (ARM) Fund. **The payment should be received after the 30-day reconsideration period or after November 13, 2015. If the payment is not received by DES by February 11, 2016 or 120 days from the approval decision, DES will deny the application. Please include a copy of this letter with the payment.**

If you have any questions please contact me at (603) 271-4059 or via e-mail, lori.sommer@des.nh.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Lori Sommer", with a long horizontal flourish extending to the right.

Lori Sommer
Wetland Mitigation Coordinator
DES Wetlands Bureau

cc: Plaistow Conservation Commission
Plaistow Board of Selectmen
Plaistow Municipal Clerk