



The State of New Hampshire
Department of Environmental Services



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60

Robert R. Scott, Commissioner

August 11, 2020

His Excellency, Governor Christopher T. Sununu
 and The Honorable Council
 State House
 Concord, NH 03301

REQUESTED ACTION

Approve PDA – Division of Ports & Harbors' request to perform the following work on Atlantic Ocean in Rye. File # 2019-02884. This project will not have significant impact on or adversely affect the values of Rye Harbor.

Maintenance dredge a total of 8,200 cubic yards of accumulated and/or shoaled sands and an area of 87,120 square feet (approximately 2 acres) within Rye Harbor to restore the controlling depths within the NH State anchorage. Dredged materials will be disposed at either the Cape Arundel Disposal Site or the Isles of Shoals North Disposal Site.

The New Hampshire Department of Environmental Services (NHDES) imposed the following conditions as part of this approval:

1. All work shall be in accordance with the plans by the US Army Corps of Engineers received by NH Department of Environmental Services Wetlands Bureau (NHDES) on September 11, 2019.
2. This approval is contingent upon the NHDES Coastal Program's approval pursuant to Section 307(c)(1) of the Coastal Zone Management Act, 16 U.S.C §1456(c)(1).
3. Not less than 5 state business days prior to starting work authorized by this permit, the permittee shall notify the NHDES and the Rye Conservation Commissions in writing of the date on which work under this permit is expected to start.
4. Any further alteration of areas on this property that are subject to RSA 482-A jurisdiction will require a new application.
5. At least 48 hours prior to the start of dredging, a pre-construction meeting shall be held with the NHDES technical staff at the project site to review the conditions of this wetlands permit. It shall be the responsibility of the permittee to schedule the pre-construction meeting, and the meeting shall be attended by the permittee, their professional engineer, the contractor(s) and any other party responsible for performing or overseeing the work.
6. 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.
7. Dredging time frame within Rye Harbor shall occur between October 15 and March 15.
8. Any request for dredging outside this time frame will be for emergency conditions only, and must obtain prior approval from and be coordinated with the NHDES and the NH Fish and Game Dept. Marine Division.
9. 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.

www.des.nh.gov

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

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

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

10. 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.

EXPLANATION

The NHDES approved this project on July 08, 2020. The NHDES supported its decision with the following findings:

1. This project has been reviewed extensively by the NHDES Dredge Management Task Force which has overseen a coordinated review process involving all stakeholders in the project including the NH Department of Fish and Game (NHFG), the NH Department of Natural and Cultural Resources, the US Environmental Protection Agency (EPA), the National Oceanic and Atmospheric Administration National Marine Fisheries Service, the New England District of the US Army Corps of Engineers, the Rye Board of Selectmen, the Pease Development Authority (PDA) Division of Ports and Harbors, the applicant.
2. This is a major impact project per New Hampshire Administrative Rule Env-Wt 303.02(a), (a) Projects in sand dunes, tidal wetlands, or bogs, except for repair of existing structures pursuant to Env-Wt 303.04(v) and New Hampshire Administrative Rule Env-Wt 303.02(g) Removal of more than 20 cubic yards of rock, gravel, sand, mud, or other material from public waters.
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 NHDES' jurisdiction per New Hampshire Administrative Rule Env-Wt 302.03.
4. The applicant has demonstrated by plan and example that each factor listed in New Hampshire Administrative Rule Env-Wt 302.04(a) and (c), Requirements for Application Evaluation, has been considered in the design of the project.
5. The Wetlands Permit Application (Application) included NH Natural Heritage Bureau (NHB) Datacheck Results Letter NHB19-2673 stating, "although there was a NHB record [...] present in the vicinity, we do not expect that it will be impacted by the proposed project."
6. The NH Division of Historical Resources has received the proposed impacts and found "No Historic Properties Affected."
7. On October 16, 2019, the EPA reviewed the Application and provided a copy of their NH Programmatic General Permit (PGP) Review Sheet for the project making the determination the project was "eligible as proposed" for the Department of the Army, NH PGP.
8. In accordance with RSA 482-A:8, the NHDES finds that the requirements for a public hearing do not apply as the permitted project is within an established navigational channel and will not have a significant impact on or adversely affect the values of the estuarine and marine resources, as identified under RSA 482-A:1.

Application file documents are being forwarded to the Governor and the 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 request your approval of this item.



Robert R. Scott, Commissioner



WETLANDS PERMIT APPLICATION



Water Division/ Wetlands Bureau

Land Resources Management

Check the status of your application: www.des.nh.gov/onestop

RSA/Rule: RSA 482-A/ Env-W1 100-900

| | | | |
|--|--------------------------------|-------------------------|----------------------------|
| RECEIVED SEP 11 2019 NHDES LAND RESOURCES MANAGEMENT | COMPLETE SEP 11 2019 | Administrative Use Only | File No: 2019-02886 |
| | | | Check No: 028262 |
| | | | Amount: 10,000 |
| | | | Initials: PH |

1. REVIEW TIME: Indicate your Review Time below. To determine review time, refer to Guidance Document A for instructions:

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

2. MITIGATION REQUIREMENT:
 If mitigation is required a Mitigation Pre-Application meeting must occur prior to submitting this Wetlands Permit Application. To determine if Mitigation is Required, please refer to the Determine if Mitigation is Required Frequently Asked Question:

Mitigation Pre-Application Meeting Date: Month: ___ Day: ___ Year: ___
 N/A - Mitigation is not required

3. PROJECT LOCATION:
 Separate wetland permit applications must be submitted for each municipality that wetland impacts occur within:

ADDRESS: **Rye Harbor** TOWN/CITY: **Rye**

TAX MAP: **9.2** BLOCK: **N/A** LOT: **N/A** UNIT: **N/A**

USGS TOPO MAP WATERBODY NAME: **Atlantic Ocean** NA STREAM WATERSHED SIZE: NA

LOCATION COORDINATES (if known): **43 00N 70 45W** Latitude/Longitude UTM State Plane

4. 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:

This project involves the maintenance dredging of the State maintained anchorage of approximately 8,200 cubic yards (cy) of fine sand and silt from the Rye Harbor State maintained anchorage with a mechanical dredge. The clean material will be placed at an offshore site as described in the attachments.

5. SHORELINE FRONTAGE:

NA This does not have shoreline frontage. SHORELINE FRONTAGE:

Shoreline frontage is calculated by determining the average of the distances of the actual natural navigable shoreline frontage and a straight line drawn between the property lines, both of which are measured at the normal high water line.

6. RELATED NHDES LAND RESOURCES MANAGEMENT PERMIT APPLICATIONS ASSOCIATED WITH THIS PROJECT:

Please indicate if any of the following permit applications are required and if required, the status of the application. To determine if other Land Resources Management Permits are required, refer to the Land Resources Management Web Page:

| Permit Type | Permit Required | File Number | Permit Application Status |
|---|---|-------------|--|
| Alteration of Terrain Permit Per RSA 485-A:17 | <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO | _____ | <input type="checkbox"/> APPROVED <input type="checkbox"/> PENDING <input type="checkbox"/> DENIED |
| Individual Sewerage Disposal per RSA 485-A:2 | <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO | _____ | <input type="checkbox"/> APPROVED <input type="checkbox"/> PENDING <input type="checkbox"/> DENIED |
| Subdivision Approval Per RSA 485-A | <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO | _____ | <input type="checkbox"/> APPROVED <input type="checkbox"/> PENDING <input type="checkbox"/> DENIED |
| Shoreland Permit Per RSA 483-B | <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO | _____ | <input type="checkbox"/> APPROVED <input type="checkbox"/> PENDING <input type="checkbox"/> DENIED |

7. 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 19 - 2673
- b. Designated River the project is in ¼ miles of _____; and
 date a copy of the application was sent to the Local River Management Advisory Committee: Month: ___ Day: ___ Year: ___
 N/A

8. APPLICANT INFORMATION (Desired permit holder)

LAST NAME, FIRST NAME, M.I.: Tracy R. Shattuck

TRUST / COMPANY NAME: PDA - Division of Ports & Harbors

MAILING ADDRESS: 555 Market Street

TOWN/CITY: Portsmouth

STATE: NH

ZIP CODE: 03801

EMAIL or FAX: t.shattuck@peasedev.org

PHONE: 603 436-8500

ELECTRONIC COMMUNICATION: By initialing here: trs, I hereby authorize NHDES to communicate all matters relative to this application electronically.**9. PROPERTY OWNER INFORMATION (If different than applicant)**

LAST NAME, FIRST NAME, M.I.:

TRUST / COMPANY NAME:

MAILING ADDRESS:

TOWN/CITY:

STATE:

ZIP CODE:

EMAIL or FAX:

PHONE:

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

10. AUTHORIZED AGENT INFORMATION

LAST NAME, FIRST NAME, M.I.:

COMPANY NAME:

MAILING ADDRESS:

TOWN/CITY:

STATE:

ZIP CODE:

EMAIL or FAX:

PHONE:

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

11. 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 Request for Project Review (RPR) Form (www.nh.gov/nhdhr/review) to the NH State Historic Preservation Officer (SHPO) at the NH Division of Historical Resources to identify the presence of historical/ archeological resources while coordinating with the lead federal agency for NHPA 106 compliance.
8. I authorize NHDES 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 NHDES correspondence. NHDES will not forward returned mail.

☐



Property Owner Signature

Tracy R. Shattuck

Print name legibly

09 / 10 / 2019


Date

MUNICIPAL SIGNATURES

12. 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.


| | | |
|---|--------------------|------|
|  | Print name legibly | Date |
|---|--------------------|------|

DIRECTIONS FOR CONSERVATION COMMISSION

1. Expedited review ONLY requires that the conservation commission's signature is obtained in the space above.
2. Expedited review requires the Conservation Commission signature be obtained prior to the submittal of the original application to the Town/City Clerk for signature.
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 be reviewed in the standard review time frame.

13. TOWN / CITY CLERK SIGNATURE

As required by Chapter 482-A:3 (amended 2014), I hereby certify that the applicant has filed four application forms, four detailed plans, and four USGS location maps with the town/city indicated below.

| | | | |
|--|-------------------------------------|-----------------------------|-----------------|
|  | Print name legibly Donna DeCotis | Town/City Rye 9-10-19 | Date 9-10-19 |
|--|-------------------------------------|-----------------------------|-----------------|

DIRECTIONS FOR TOWN/CITY CLERK:

Per RSA 482-A:3, I

1. For applications where "Expedited Review" is checked on page 1, if the Conservation Commission signature is not present, NHDES will accept the permit application, but it will NOT receive the expedited review time.
2. IMMEDIATELY sign the original application form and four copies in the signature space provided above;
3. Return the signed original application form and attachments to the applicant so that the applicant may submit the application form and attachments to NHDES by mail or hand delivery.
4. 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; and
5. Retain one copy of the application form and one complete set of attachments and make them reasonably accessible for public review.

DIRECTIONS FOR APPLICANT:

1. Submit the single, original permit application form bearing the signature of the Town/ City Clerk, additional materials, and the application fee to NHDES by mail or hand delivery.

14. 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.

| 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 | / <input type="checkbox"/> ATF |
| Tidal water | 87,120 / <input type="checkbox"/> ATF | / <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 | <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 |
| Vernal Pool | <input type="checkbox"/> ATF | <input type="checkbox"/> ATF |
| TOTAL | / | / |

15. 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) _____ sq. ft. X \$0.20 = \$ _____

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

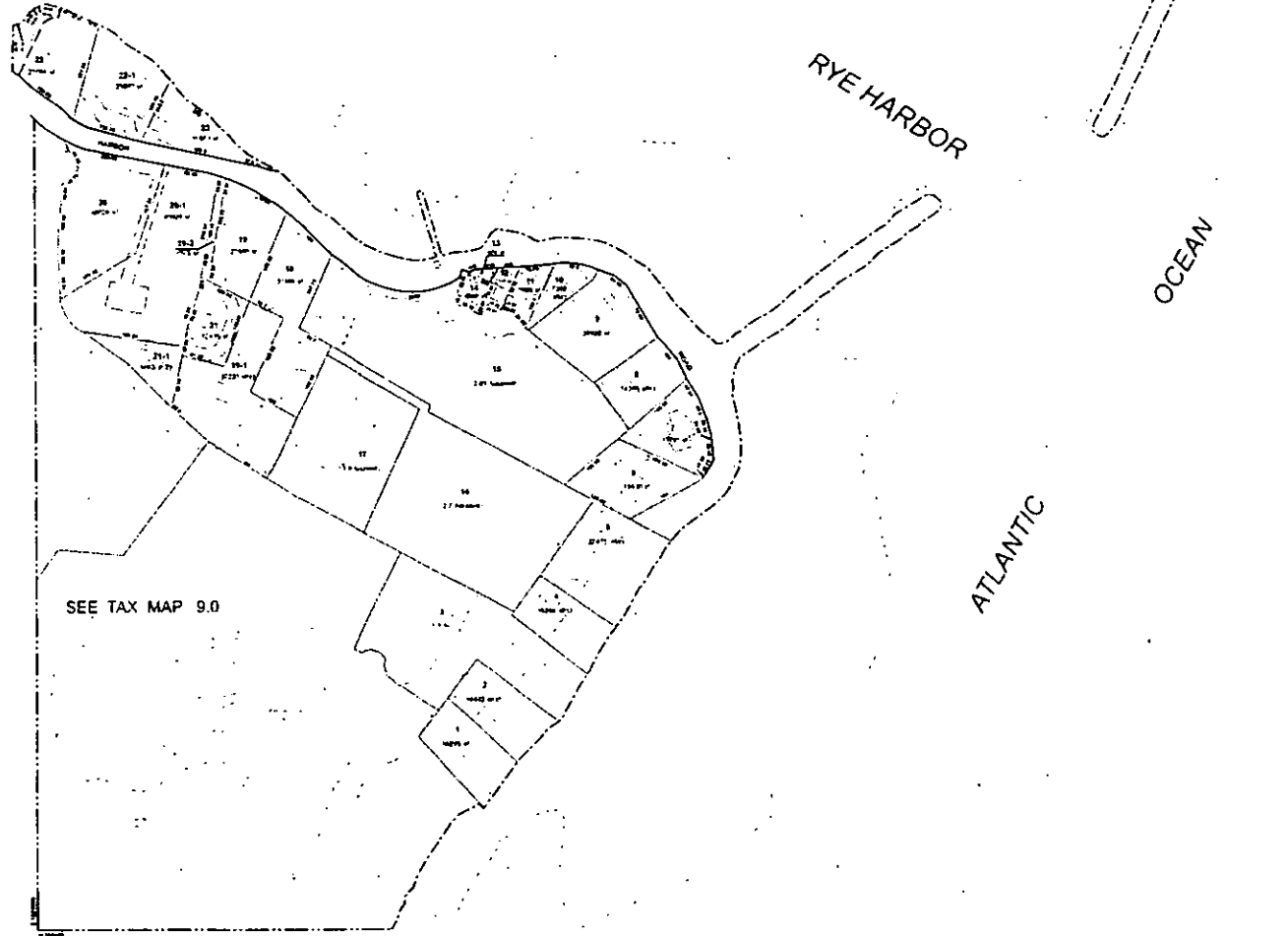
Permanent docking structure: _____ sq. ft. X \$2.00 = \$ _____

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

Total = \$ _____

The Application Fee is the above calculated Total or \$200, whichever is greater = \$ **10,000**


Rye map 9.2



THIS MAP IS FOR LITIGATION AND ASSESSMENT PURPOSES AND IS NOT TO BE USED FOR DESCRIPTION OR CONVEYANCE.
 THE HORIZONTAL BARRIS IS THE NEW HAMPSHIRE STATE PLANE COORDINATE SYSTEM, NAD 83.
 TAX MAP COMPILED BY: BIRNALL CO.
 DIGITAL TAX MAPPING BY: BEACON ENGINEERING ASSOC., INC.

REVISED & REPRINTED BY
 **CAI Technologies**
 10 Pleasant Street, Litchfield, NH 03040
 603.885.1111

LEGEND
 RYE HARBOR DISTRICT HOLLIS PARISH TOWN AREA

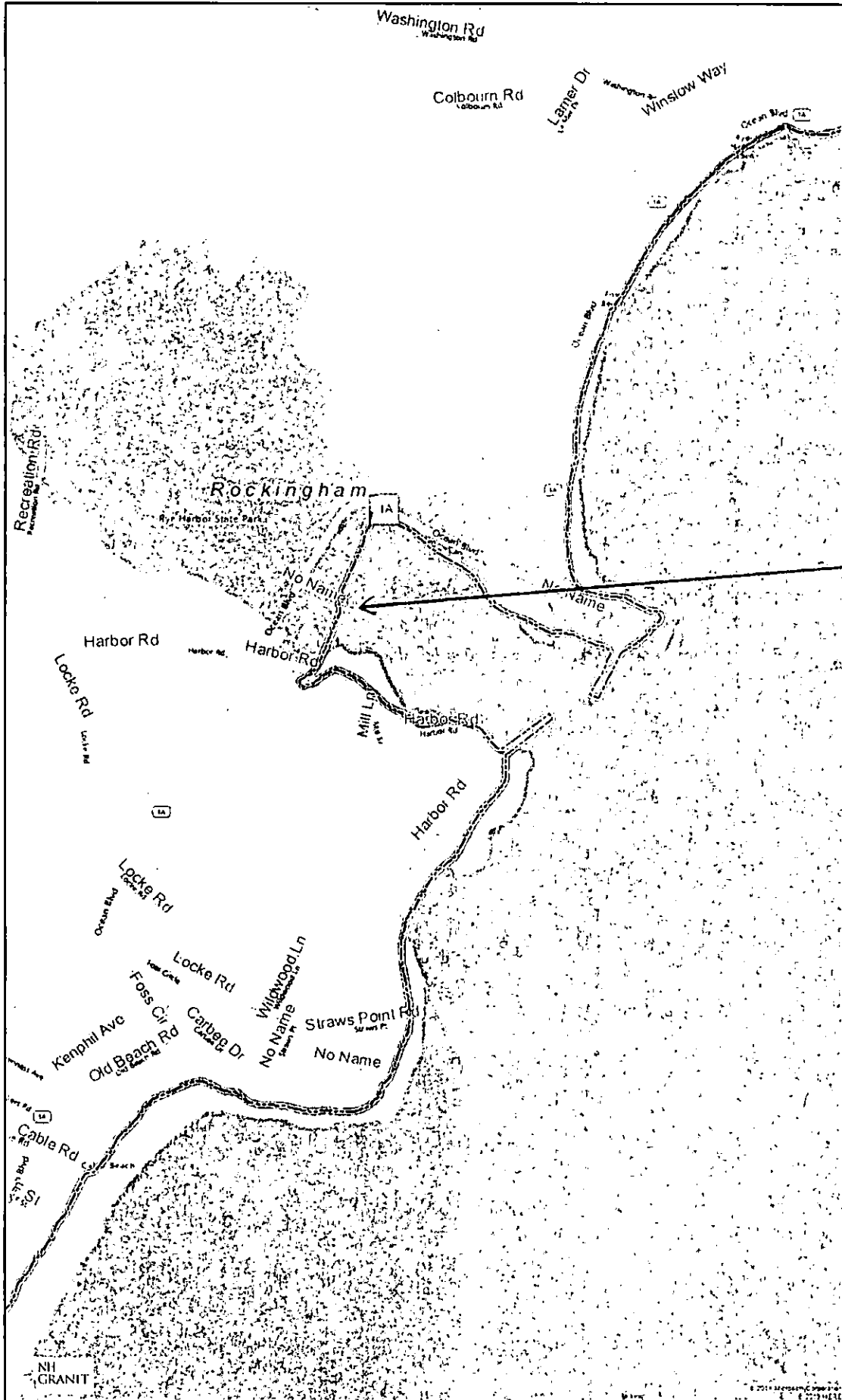
SCALE: 1" = 100'

 REVISED TO APRIL 1, 2017

PROPERTY MAPS
TOWN OF RYE
 NEW HAMPSHIRE

INDEX DIAGRAM


MAP NO.
9.2

Map by NH GRANIT



Legend

- State
- County
- City/Town

Project Location

Map Scale

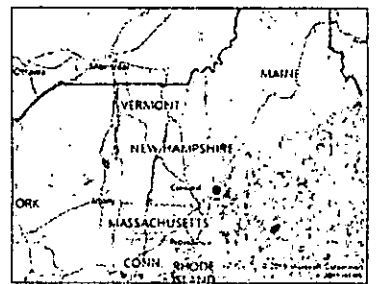
1: 12,988



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Map Generated: 8/19/2019

Notes





NEW HAMPSHIRE NATURAL HERITAGE BUREAU
NHB DATACHECK RESULTS LETTER

To: Tracy Shattuck, Pease Development - Division of Ports & Harbors
555 Market St

Portsmouth, NH 03801

From: NH Natural Heritage Bureau

Date: 8/29/2019 (valid for one year from this date)

Re: Review by NH Natural Heritage Bureau of request submitted 8/20/2019

NHB File ID: NHB19-2673

Applicant: Tracy Shattuck

Location: Rye
Tax Maps: Map 9.2

Project

Description: Maintenance dredging of State maintained anchorage in Rye Harbor
Federal Navigation Project

The NH Natural Heritage database has been checked by staff of the NH Natural Heritage Bureau and/or the NH Nongame and Endangered Species Program 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.

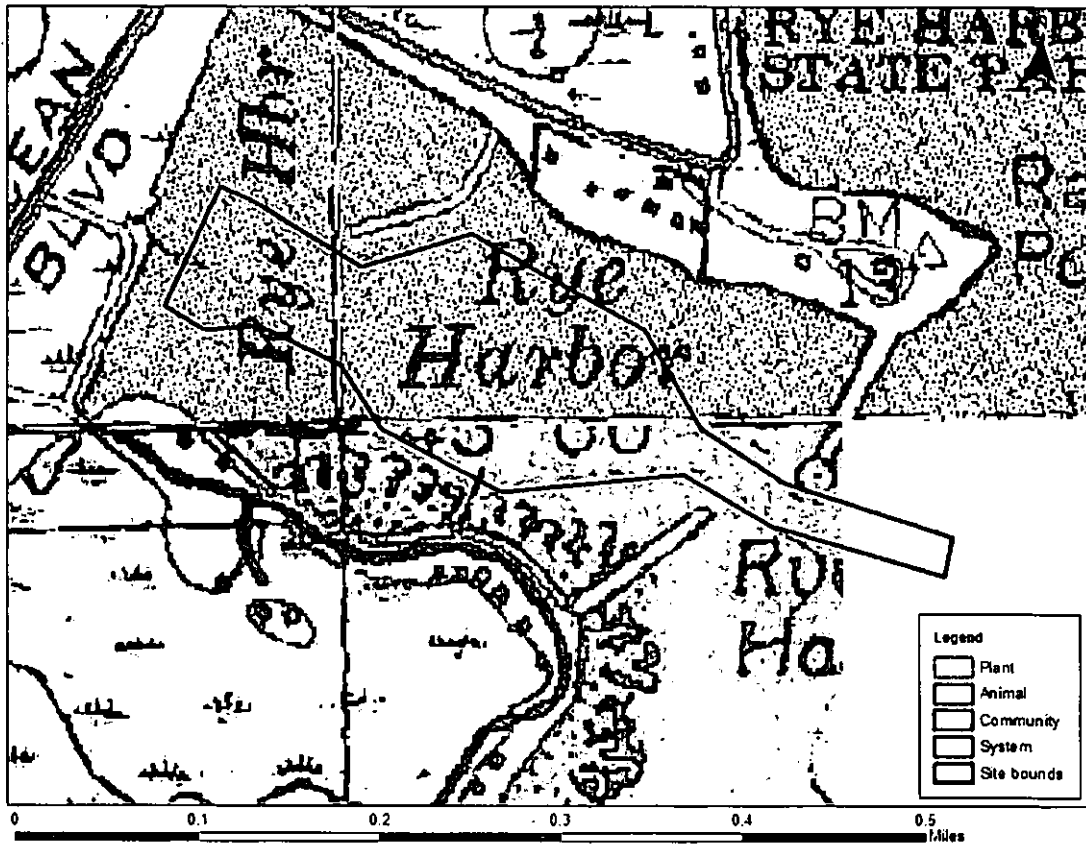
It was determined that, although there was a NHB record (e.g., rare wildlife, plant, and/or natural community) present in the vicinity, we do not expect that it will be impacted by the proposed project. This determination was made based on the project information submitted via the NHB Datacheck Tool on 8/20/2019, and cannot be used for any other project.



NEW HAMPSHIRE NATURAL HERITAGE BUREAU
NHB DATA CHECK RESULTS LETTER

MAP OF PROJECT BOUNDARIES FOR: NHB19-2673

NHB19-2673



CERTIFIED MAIL



7017 3040 0000 7232 1407

Cottontail Farms Trust

CERTIFIED MAIL



7017 3040 0000 7232 1360

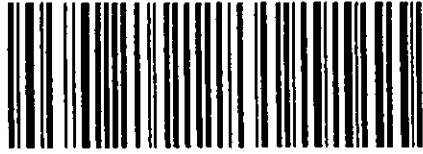
152 Harbor Road Realty Trust

PEASE DEVELOPMENT AUTHORITY
Division of Ports and Harbors ~ DBA NH Port Auth
555 Market Street, Portsmouth, NH 03801-3532

PEASE DEVELOPMENT AUTHORITY
Division of Ports and Harbors ~ DBA NH Port Author
555 Market Street, Portsmouth, NH 03801-3532

CERTIFIED MAIL

COAST GUARD DEVELOPMENT AUTHORITY
Division of Ports and Harbors ~ DBA NH Port
55 Market Street, Portsmouth, NH 03801-3535

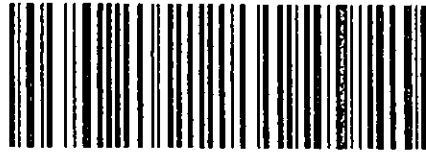


7017 3040 0000 7232 1414

Valley Family Trust

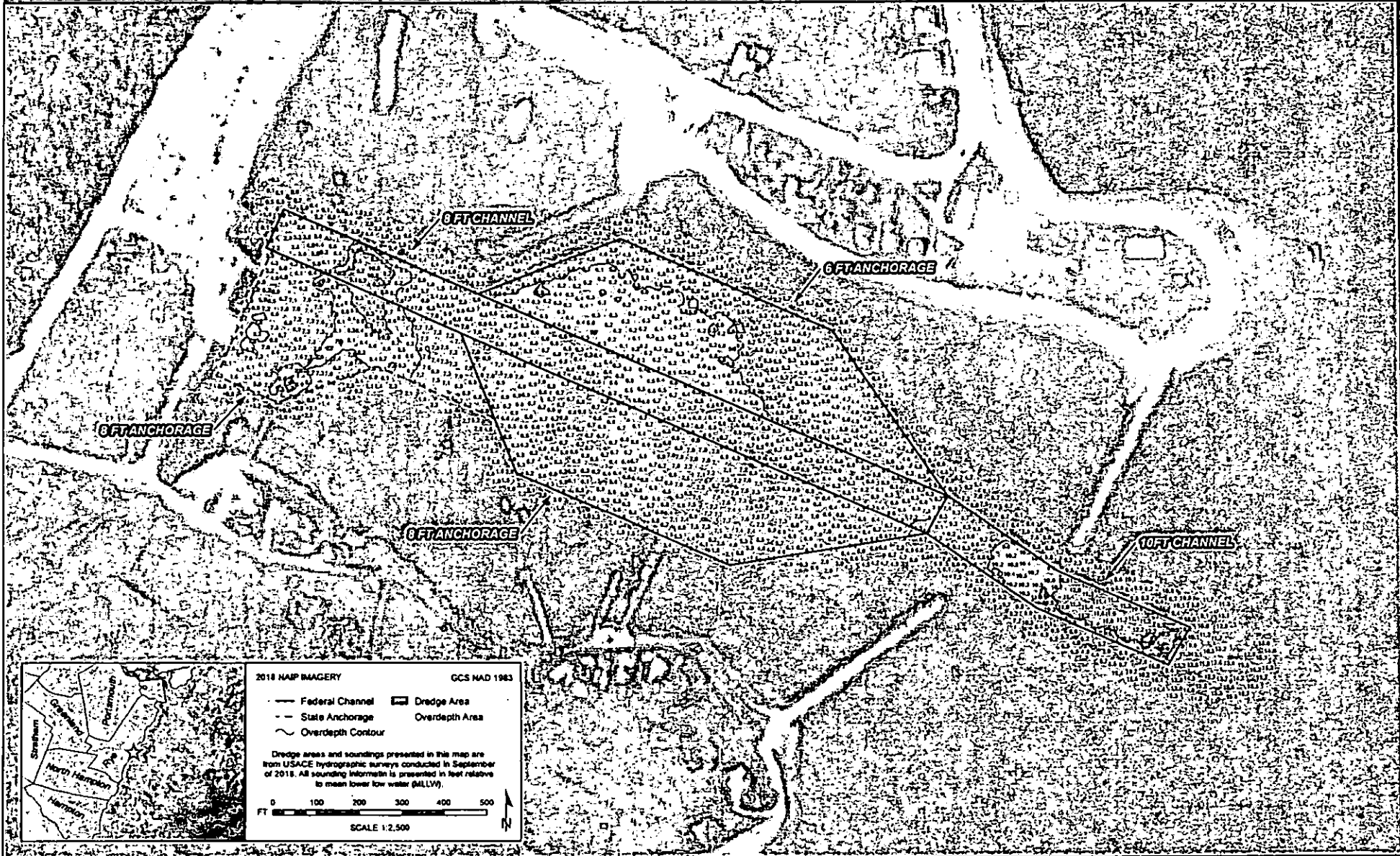
CERTIFIED MAIL

COAST GUARD DEVELOPMENT AUTHORITY
Division of Ports and Harbors ~ DBA NH Port
55 Market Street, Portsmouth, NH 03801-3535



7017 3040 0000 7232 1384

Karin A Finnigan
Anthony J. Salbert



2018 NAIP IMAGERY GCS NAD 1983

- Federal Channel
- - State Anchorage
- ~ Overdepth Contour
- ▭ Dredge Area
- Overdepth Area

Dredge areas and soundings presented in this map are from USACE hydrographic surveys conducted in September of 2018. All sounding information is presented in feet relative to mean lower low water (MLLW).

0 100 200 300 400 500
FT

SCALE 1:2,500