



The State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES



Thomas S. Burack, Commissioner

September 30, 2016

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

REQUESTED ACTION

Approve NH Dept. of Transportation's (NH DOT) request to perform the following work on North Mill Pond, in Portsmouth. File # 2015-01595. This project will not have significant impact on or adversely affect the values of North Mill Pond.

Improve the Submarine Way intersections with Route 1 Bypass and Market Street, construct a sidewalk, a new closed drainage system and riprap the outfall into a tidal channel impacting a total of 7,132 sq. ft. (2,060 sq. ft. temporary) of previously developed upland in the Tidal Buffer Zone, palustrine and tidal wetlands. NH DOT project 13455-E

Compensatory mitigation includes a one-time payment of \$4,975.88 to the Aquatic Resource Mitigation fund (ARM). The application has been deemed eligible for payment into the ARM fund as the form of compensatory mitigation.

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

1. All work shall be in accordance with plans by NH DOT Bureau of Highway Design, dated June 2016, as received by the NH Department of Environmental Services (NH DES) on July 20, 2016.
2. This approval is not valid until NH DES receives a one-time payment of \$4,975.88 to the ARM fund. The applicant shall remit payment to the NH DES. If the NH DES does not receive payment within 120 days of the date of this approval letter, the NH DES will deny the application.
3. Dredged material shall be placed out of the NH DES Wetlands Bureau jurisdiction.
4. Construction equipment shall not be located within surface waters.
5. 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 ft. of undisturbed vegetated buffer.
6. Appropriate siltation, erosion and turbidity controls shall be in place prior to construction, shall be maintained during construction, and shall remain in place until the area is stabilized.
7. 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.

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

8. 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.
9. 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).
10. Extreme precautions are to be taken within riparian areas to limit unnecessary removal of vegetation during road construction and areas cleared of vegetation to be re-vegetated as quickly as possible.
11. There shall be no further alteration to wetlands or surface waters without amendment of this permit.
12. 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.
13. The impacts associated with the temporary work shall be restored immediately following construction.
14. No work shall be conducted in tidal water between April 15 and June 30.
15. Maintenance of the mechanical treatment system shall be in accordance with the manufacturer's specifications and records shall be made available upon request until the adjacent mitigation for the Sarah Long Bridge has been deemed complete.

EXPLANATION

The DES Wetlands Bureau approved this project on August 30, 2016. The NH DES supported its decision with the following findings:

1. This is a major impact project per Administrative Rules Env-Wt 303.02(a), projects in tidal wetlands.
2. The need for the proposed impacts has been demonstrated by the applicant per Env-Wt 302.01.
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.
4. 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.
5. This decision is also an after the fact approval to retain the 750 sq. ft. of impact to palustrine wetlands allowed as an emergency permit on November 13, 2006, under file 2006-02858, to provide a detour during repairs to the Sarah Long Bridge.
6. Natural Resource Agency meetings were held at the NH DOT on December 19, 2012 and February 18, 2015 to coordinate the review and permitting of the project. Drainage structures and water quality treatment were discussed.
7. The immediately adjacent project of replacing the Sarah Long Bridge includes the requirement to restore the tidal resources that may be temporarily impacted during construction.
8. During construction of the adjacent project the temporary impacted tidal areas were larger than the approved plans indicated requiring further coordination with many state and federal agencies.
9. The stormwater treatment included in the plans for this project received on July 20, 2016 addresses the water quality concerns expressed by the NH DES so as to not require further mitigation of the same resource being temporarily impacted by the Sarah Long Bridge.

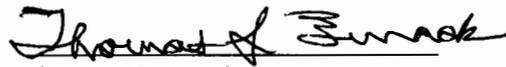
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Mitigation Findings:

10. The applicant has reviewed on-site options for mitigation and the department has determined that this project is acceptable for payment to the ARM fund.
11. The payment calculated for the proposed wetland loss equals \$4,975.88.
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).

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

TSB/CGA/emk



WETLANDS PERMIT APPLICATION

Water Division/ Wetlands Bureau
Land Resources Management

Check the status of your application: <http://des.nh.gov/onestop>



RSA/Rule: Env-Wq 100-900

		Administrative Use Only	File No. 2015-01595
			Case No. ✓ 391326
			Amount \$ 1,121.80
			Initials Emk

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 only)

2. PROJECT LOCATION:

Separate applications must be filed with each municipality that jurisdictional impacts will occur in.

ADDRESS: **US Route 1 Bypass and Submarine Way**

TOWN/CITY: **Portsmouth**

TAX MAP: **NA**

BLOCK: **NA**

LOT: **NA**

UNIT: **NA**

USGS TOPO MAP WATERBODY NAME: **North Mill Pond**

NA

STREAM WATERSHED SIZE:

NA

LOCATION COORDINATES (If known): **43.083237, -70.765772**

UTM State Plane

Latitude/Longitude

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.

The NHDOT proposes improvements to the Rt. 1 Bypass, Submarine Way and Market Street intersection with Submarine Way. The work includes: closed drainage system; riprap outfall; sidewalk; conduit; and rehabilitated guardrail. In addition, this application also accounts for the permanent wetland impact (750 SF) that was authorized in 2006 under Emergency Authorization 2006-02858.

4. RELATED PERMITS, ENFORCEMENT, EMERGENCY AUTHORIZATION, SHORELAND, ALTERATION OF TERRAIN, ETC...

Emergency Authorization 2006-02858; Shoreland Impact Permit, filed in June 2015

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 15 - 0862**

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 (Dashed permitted)LAST NAME, FIRST NAME, M.I.: **Cota, Kelth A.**TRUST / COMPANY NAME: **NH Dept of Transportation**MAILING ADDRESS: **7 Hazen Drive**TOWN/CITY: **Concord**STATE: **NH**ZIP CODE: **03302**EMAIL or FAX: **kcota@dot.state.nh.us**PHONE: **271-2171**ELECTRONIC COMMUNICATION: By initialing here: **KAC**, 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.:

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.: **Zorn, Jennifer L.**COMPANY NAME: **McFarland Johnson**MAILING ADDRESS: **53 Regional Drive**TOWN/CITY: **Concord**STATE: **NH**ZIP CODE: **03301**EMAIL or FAX: **jzorn@mjinc.com**PHONE: **225-2978**ELECTRONIC COMMUNICATION: By initialing here **JLZ**, 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 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 be reviewed for the presence of historical/ archeological resources.
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

KEITH A. COTA

Print name legibly

6/10/2015

Date

shoreland@des.nh.gov or (603) 271-2147
 NHDES Wetlands Bureau, Concord, NH 03303-0095
www.des.nh.gov

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.

⇒	Print name legibly	Date
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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. 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 reviewed in the standard review time frame.

11. 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	Town/City	Date
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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 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.

12. IMPACT AREA

For each jurisdictional area that will be/has been impacted, provide square (acres, if applicable), linear feet or 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.

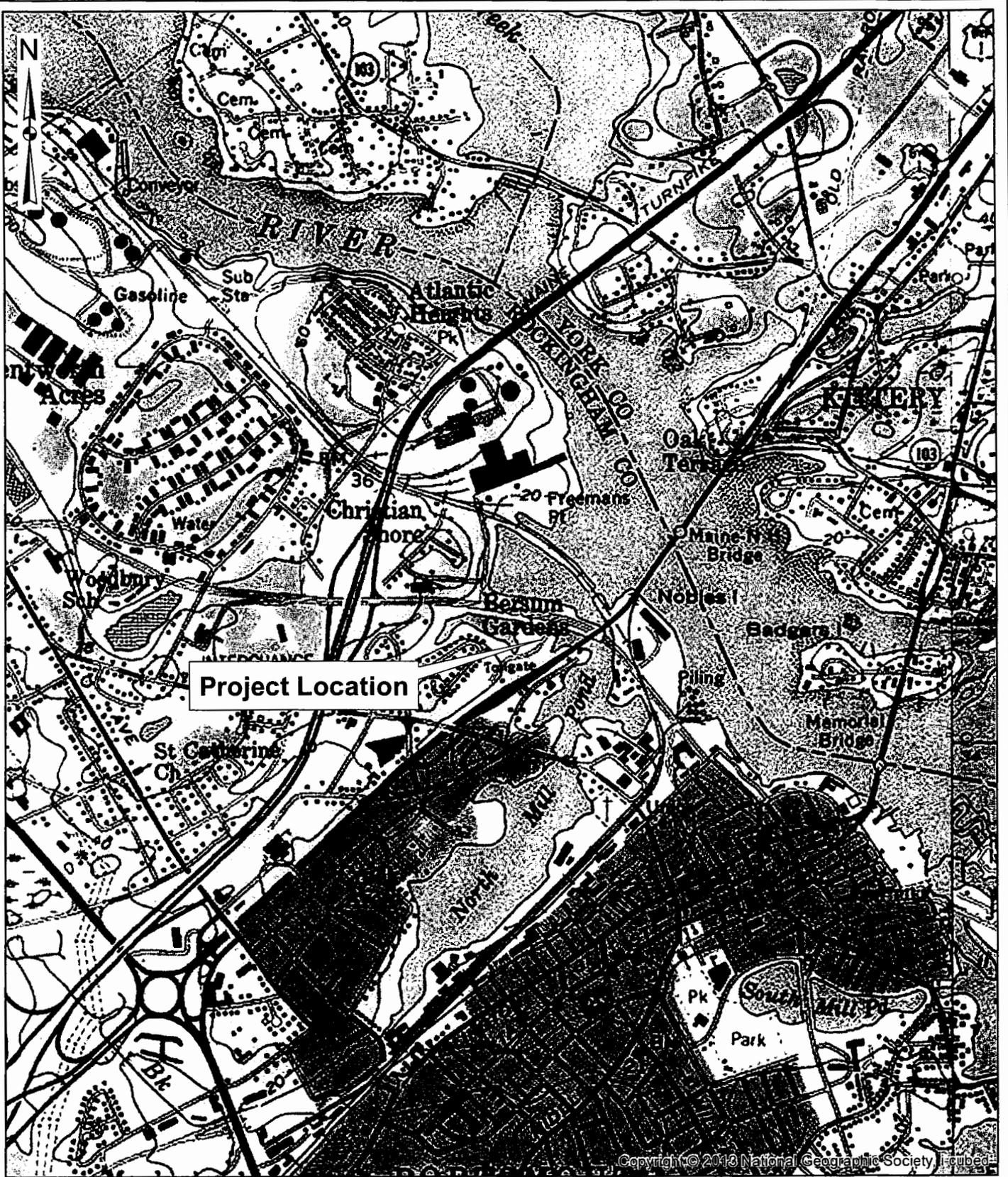
JURISDICTIONAL AREA	PERMANENT Sq. Ft. / Lin. Ft.		TEMPORARY Sq. Ft. / Lin. Ft.
Forested wetland		<input type="checkbox"/> ATF	<input type="checkbox"/> ATF
Scrub-shrub wetland		<input type="checkbox"/> ATF	<input type="checkbox"/> ATF
Emergent wetland	750	<input checked="" type="checkbox"/> ATF	<input 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	/
Lake / Pond	/	<input type="checkbox"/> ATF	/
Bank - Intermittent stream	/	<input type="checkbox"/> ATF	/
Bank - Perennial stream / River	/	<input type="checkbox"/> ATF	/
Bank - Lake / Pond	/	<input type="checkbox"/> ATF	/
Tidal water	188 / 16	<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	2,995	<input type="checkbox"/> ATF	1,676
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	3,933 / 16		1,676 / 0

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)	5,609 sq. ft.	X \$0.20 =	\$ 1,121.80
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 = **\$ 1,121.80**



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M17933.07 Portsmouth-Albacore/Draw/GIS/IFigures

<p>NHDOT PORTSMOUTH, 13455E</p>		
<p>LOCUS</p>		
SCALE 1:24,000	DATE MAY 2015	FIGURE 1
 McFarland Johnson		



New Hampshire Natural Heritage Bureau

To: Jennifer Zorn
53 Regional Drive
Concord, NH 03301

Date: 3/3/2015

From: NH Natural Heritage Bureau

Re: Review by NH Natural Heritage Bureau of request dated 3/3/2015

NHB File ID: NHB15-0862

Applicant: NHDOT

Location: Tax Map(s)/Lot(s):
Portsmouth

Project Description: Construction of a new closed drainage system, sidewalk
and guardrail rehabilitation

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 this project 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 3/2/2016.



MAP OF PROJECT BOUNDARIES FOR NHB FILE ID: NHB15-0862

