

#### The State of New Hampshire

# Department of Environmental Services



#### Robert R. Scott, Commissioner

October 25, 208

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

#### REQUESTED ACTION

Approve N. Miles Cook, Ill's request to perform the following work on the Piscataqua River in Dover. File # 2015-00960. This project will not have significant impact on or adversely affect the values of the Piscataqua River.

Modify an existing tidal docking structure consisting of a 60 foot x 6 foot permanent pier connecting to a 40 foot x 3 foot ramp connecting to 10 foot x 30 foot float, total overall length of approximately 99 feet seaward of highest observable tideline, to extend the dock to a final configuration consisting of a 60 foot x 6 foot permanent pier connecting to a 160 foot x 4 foot aluminum truss pier connecting to a 40 foot x 3 foot ramp connecting to a 7 foot x 14 foot landing float connecting to a 10 foot by 30 foot float with float stops; overall structure length seaward of highest observable tide line is 272 feet, providing one slip on approximately 765 feet of frontage on the Piscataqua River.

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 plans by Geometres Blue Hills, LLC dated August 15, 2015 as received by the NHDES on September 11, 2015.
- 2. The floats shall be constructed such as to rest on float stops at low tide to prevent the floats from sitting on the mud at low tide.
- 3. No less than five state business days prior to starting work authorized by this permit, the permittee shall notify the NHDES Wetlands Bureau Pease office and the local conservation commission in writing of the date on which work under this permit is expected to start.
- 4. This permit shall not be effective until recorded at the Strafford County Registry of Deeds office by the permittee. A copy of the recorded permit shall be submitted to the NHDES Wetlands Bureau prior to construction.
- 5. Any future work in jurisdiction as specified in RSA 482-A on this property will require a new application and approval by the NHDES Wetlands Bureau.
- 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 New Hampshire Administrative Rule Env-Wq 1700.
- 7. This tidal docking structure shall be the only docking structure on this water frontage.
- 8. There shall be no removal of trees along the shoreline of the river on this property for the construction of the dock and access way.
- 9. Construction of the dock shall occur from a barge equipped with a crane, at low tide, to reduce potential impacts to the river bank and the estuarine intertidal and subtidal wetlands.

His Excellency, Governor Christopher T. Sununu and The Honorable Council Page 2

- 11. Decking shall have at least 3/4-inch spacing between the decking planks to provide sufficient sunlight penetration and rainfall to underlying vegetation.
- 12. The height of the pier's decking over the surface of the tidal wetland and mudflat shall be at least 6 feet above mean high tide (MHT). MHT elevation at this location is 6.8 feet which requires the height of the pier's decking over the surface of the tidal wetland and mudflat to be at least elevation 12.8 feet.
- 13. 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.
- 14. Work shall be conducted in a manner so as to minimize turbidity and sedimentation to surface waters and wetlands.
- 15. Work shall be conducted in a manner that avoids excessive discharges of sediments to fish spawning areas.
- 16. The seasonal structures, including but not limited to the ramp and float, shall be removed during the non-boating season and stored on the existing pier or in an upland location.
- 17. All construction-related debris shall be properly disposed of outside of the areas subject to RSA 482-A.
- 18. 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.

#### **EXPLANATION**

The NHDES approved this project on September 25, 2018. The NHDES supported its decision with the following findings:

- 1. This permit is being issued in settlement of a Writ of Mandamus brought by Cook in the N.H. Supreme Court. Dkt. #2018-0519.
- 2. Cook has met the criteria of "need" as defined by the New Hampshire Supreme Court in Appeal of N. Miles Cook III, 186 A3d 228 (2018).
- 3. The dock design as prepared by Geometres Blue Hills, LLC and received by the Department on September 11, 2015 minimizes impacts for a dock of that length and in that location.

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 submit this request for your consideration.

Robert R. Scott 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



2015-00960

### **PERMIT APPLICATION**

ABR. 3 U 2015  NHDES LAND RESOURCES MANAGEMENT	APR 5 0 2015	Administrative Use Only		983  nount 41,450.00  tals Enk
REVIEW TIME: Indicate your Review Time below: Reference	er to Guidance Document A for inst	uctions.		
☑ Standard Review (Minimum	, Minor or Major Impact)	<b>Exp</b>	edited Review	(Minimum Impact)
PROJECT LOCATION:     Separate applications must be filed with	h each municipality that jurisdiction	l impacts will occu	rin.	
ADDRESS: 22 Isaac Lucas Circle			TOWNC	TY: Dover
TAX MAP: M	BLOCK: 90D	LOT: 10		UNIT:
USGS TOPO MAP WATERBODY NAME: F	iscataqua River	□ NA STREAM	/ WATERSHED	SIZE: NA
LOCATION COORDINATES (If known):			Latitude/Longitu	rde 🔲 UTM 🔲 State Plane
PROJECT DESCRIPTION:  Provide a brief description of the project of your project: DO NOT reply See Att  Extend oxidating documents.	The property of the second policy		às needed to	provide a detailed explanation
Extend existing dock to gain reas Remove (4) 4' x 4' Permanent Mod Add 4' W x 160' L Aluminum Trus permanent surface area) Add 7' x 14' landing float (+98 squ Remove and re-install existing 3' Net: +576 square feet of perma +98 square feet of season	oring Blocks (-64 square feet p is Pier supported by 10 pilings pare feet of seasonal surface a ix 40' ramp, 10' x 30' float, sup ment impact	permanent impa and 6 Helical P	iling Ancho	s (640 square feet
1. RELATED PERMITS, ENFORCEME	NT, EMERGENCY AUTHORIZATI	ON, SHORELAND	, ALTERATIO	OF TERRAIN, ETC
NHDES Permit #2005-02283, NHD		<del></del>	<u> </u>	- Constitution Constitution
See the Instructions & Required Attachm	DESIGNATED RIVERS:	emplete a & b belo		The second secon
A1 4 44 4 4 4 4 4 4 4 4 4 4 4 4 4 4 4 4	НВ <u>15</u> - <u>0297.</u>			

b. ☐ Designated River the project is in ¼ miles of: date a copy of the application was sent to Loc ☑ NA	cal River Advisory Com	ımitte	; and ee: Month: Day: Ye	ar	
6. APPLICANT INFORMATION (Desired permit ho	lder)				
LAST NAME, FIRST NAME, M.I.: N Miles Cook III	Age and making the second second and the second sec	1115		<u>नी अन्य विद्वीति स्वति । विद्वारी स्वति ।</u>	
TRUST / COMPANY NAME:	MAILI	NG A	DORESS:	,	
TOWN/CITY: Dover			STATE: NH	ZIP CODE: <b>03820</b>	
EMAIL or FAX:	PI	HONE	=		
ELECTRONIC COMMUNICATION: By initialing here: MC	_, I hereby authorize DES	to co	ommunicate all matters relative to	this application electronically	
7. PROPERTY OWNER INFORMATION (If differen					
LAST NAME, FIRST NAME, M.I.:	Marie Large de Carte de Carte de La Carte de Car	<u> </u>			
TRUST / COMPANY NAME:	MAJLIN	IG AI	DDRESS:	•	
TOWN/CITY:			STATE:	ZIP CODE:	
EMAIL or FAX:			PHONE:		
ELECTRONIC COMMUNICATION: By initialing here	I hereby authorite DE		communicate all matters relative		
8. AUTHORIZED AGENT INFORMATION  LAST NAME, FIRST NAME, M.I.:  MAILING ADDRESS:			COMPANY NAME:		
FOWN/CITY:			STATE:	7/0 0005	
EMAIL or FAX:	PHONE	 E:	JIAIL.	ZIP CODE:	
ELECTRONIC COMMUNICATION: By initialing here	· <del> 1</del>	<u> </u>	communicate all matters relative	h. Al. 7	
PROPERTY OWNER SIGNATURE: See the instructions & Required Attachments document				to this application electronically	
1. I authorize the applicant and/or agent indicated of upon request, supplemental information in support in a property in a prop	achments outlined in the with RSA 482-A:3, I and noutlined in Env-Wt 30 have chosen the least is the was either previously als to the NH State Hist commission to inspect the and that to the best of a fied or misrepresented in may result in legal a require additional state	e Insi I Env I Env I Env I Env I pen toric the si my kr I Info ection e, loc	tructions and Required Attactive to the applicable project type cting alternative.  The work of the wellands Bures of the proposed project.  The of the proposed project.  The work of the project type of the project t	hment document.  e.  au or would be considered  rue and accurate.  hire Department of	
<ol> <li>The mailing addresses I have provided are up to forward returned mail.</li> </ol>					

a centl.	N Miles Cook III	4 129 12016
Property Owner Signature	Print name legibly	Date

•	HUNICIPAL SIGNATURES	
10. CONS	SERVATION COMMISSION SIGNATURE	: : :
The signature below certifies that the municipal. Walves its right to intervene per RSA 482-72. Believes that the application and submitted 3. Has no objection to permitting the proposed	111; DBDs accurately represent the proposed or	
<b>⇒</b>		
Authorized Commission Signature	Print name legibly	Date
DIRECTIONS FOR CONSERVATION COM  1. Expedited review ONLY requires that the  2. The Conservation Commission signature	conservation commission's signature is ob	tained in the space above.
Logi cobies to the fowtheith cieux tot walling	to the DES.	•
Expedited review ONLY requires that the     The Conservation Commission signature	conservation commission's signature is ob should be obtained prior to the submittal o to the DES.	f the original application a

#### 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.

for any reason, the application is not eligible for expedited review and the application will reviewed in the standard

Karen S. Larertu Town/City Clerk Signature Print name legibly

**DIRECTIONS FOR TOWN/CITY CLERK:** 

review time frame.

#### Per RSA 482-A 3 I

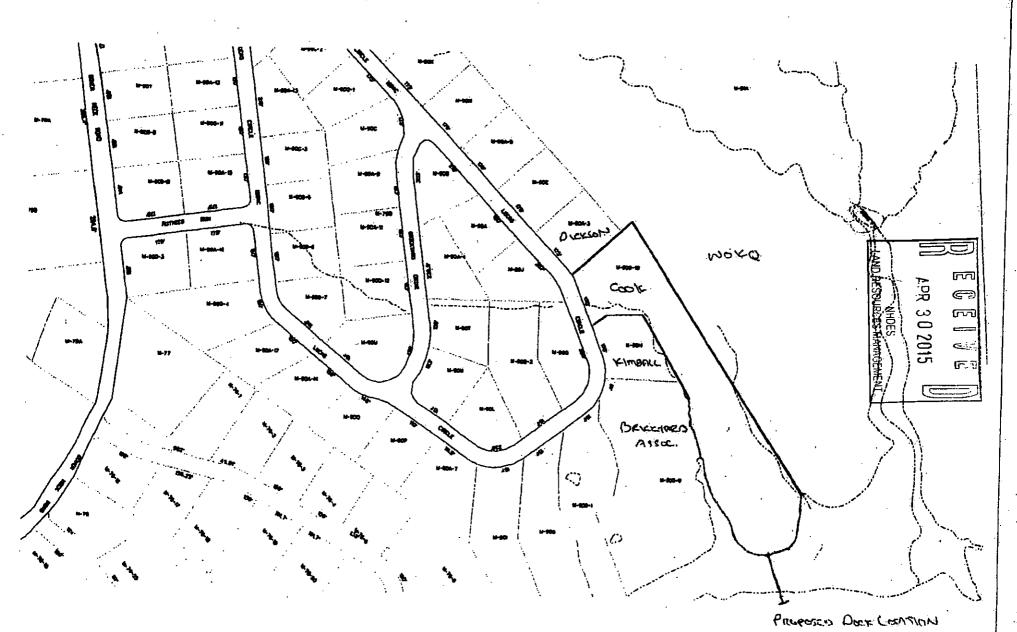
- 1. For applications where "Expedited Review" is checked on page 1, sign and accept the applications only if the Conservation Commission signature has been received;
- 2. IMMEDIATELY sign the original application form and four copies in the signature space provided above;
- 3. Return the signed original 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.

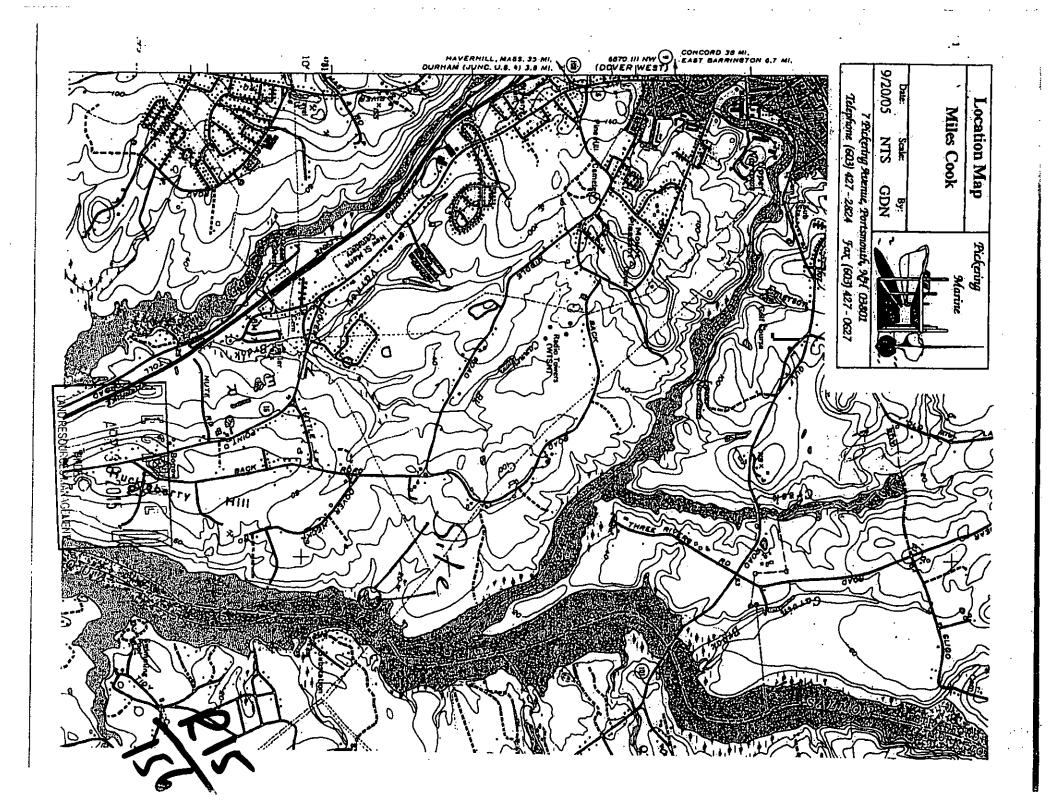
#### DIRECTIONS FOR APPLICANT:

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 no Permanent impacts that will remain after to	s been impacted, provide	square feet and, if applic	able, linear feet of impact	
Temporary: Impacts not intended to remain	in (and will be restored to	pre-construction conditio	ns) after the project is complete.	
After-the-fact (ATE): work completed prior JURISDICTIONAL AREA	PERMANENT Sq. Ft. / Lin. Ft.		Indicate ATF.  TEMPORARY Sq. Ft. / Lin. Ft.	
Forested wetland		☐ ATF	•	ATF
Scrub-shrub wetland		ATF		ATF
Emergent wetland		ATF		ATF
Wet meadow		ATF		ATF
Intermittent stream		ATF		ATF
Perennial Stream / River	1	☐ ATF	1	ATF
Lake / Pond	1	☐ ATF	1 .	ATF
Bank - Intermittent stream	1	☐ AŢF	1	ATF
Bank - Perennial stream / River	1	☐ ATF	1	ATF
Bank - Lake / Pond	1	☐ ATF	. /	ATF
Tidal water		☐ ATF		ATF
Salt marsh		☐ ATF		ATF
Sand dune		ATF		ATF
Prime wetland		☐ ATF		
Prime wetland buffer		☐ ATF		ATF
Undeveloped Tidal Buffer Zone (TBZ)		☐ ATF		ATF
Previously-developed upland in TBZ		☐ ATF		ATF
Docking - Lake / Pond		☐ ATF	·	ATE
Docking - River	-			

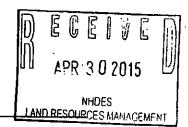
Docking - Tidal Water	576	☐ ATF		98	ATF
TOTAL	576 / 160		98	/ 14	
13. APPLICATION FEE: See the instruc	tions & Required Attachments	document for first	er instruction		
☐ Minimum Impact Fee: Flat fee of \$ 2					
Minor or Major Impact Fee: Calculate	using the below table below	•	,		
Permanent and	Temporary (non-docking)	sq. ft.	X \$0.20 =	\$	
Temporary (sea	asonal) docking structure:	98 sq. ft.	X \$1.00 =	\$ 98	
Pen	manent docking structure:	<b>576</b> sq. ft.	X \$2.00 =	\$ 1152	
Projects p	oposing shoreline structure	s (including dock	s) add \$200 =	\$ 200	<u>-</u>
		•	Total =	\$ 1450	
The Application E	ee is the shows coloulated Ta				







#### NEW HAMPSHIRE NATURAL HERITAGE BUREAU NHB DATACHECK RESULTS LETTER



To:

Miles Cook

22 Isaac Lucas Circle

Dover, NH 03820:=

From:

NH Natural Heritage Bureau

Date:

1/21/2015 (valid for one year from this date)

Re:

Review by NH Natural Heritage Bureau of request submitted 1/17/2015

NHB File ID: NHB15-0297

Applicant: Miles Cook

Location: Dove

Tax Maps: M90D-10

Project

Description: Expand existing docking structure

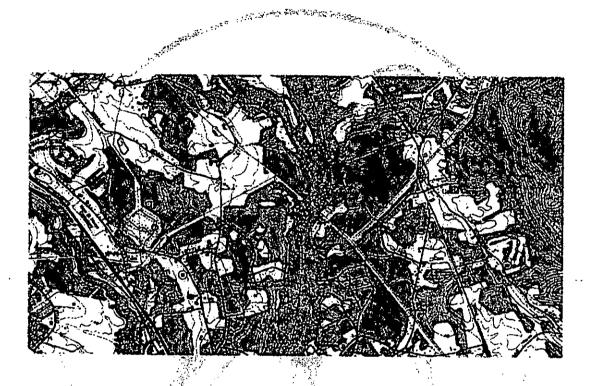
The NH Natural Heritage database has been checked by staff of the NH Natural Heritage Bureau and/or the NH Nongame and Endangered Species Program for records of rare species and exemplary natural communities near the area mapped below. The species considered include those listed as Threatened or Endangered 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 1/17/2015, and cannot be used for any other project.



## NEW HAMPSHIRE NATURAL HERITAGE BUREAU NHB DATACHECK RESULTS LETTER

#### MAP OF PROJECT BOUNDARIES FOR: NHB15-0297



#### Certified Mail Receipt Copies

Map M, Lot 91A Town Square Media

Dover, NH 03820

> Map M Lot 90D-9 Brickyard Estates Association c/o Bill Covert

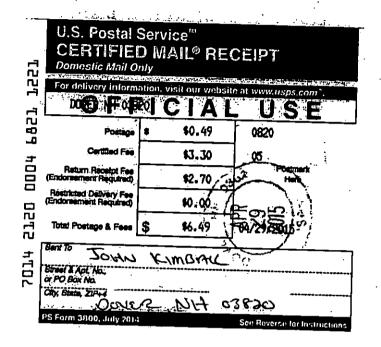
Dover, NH 03820

U.S. Posial Service

1 1238	CERTIFIED MAIL® RECEIPT  Domestic Mail Only  For delivery information, visit our website at www.usps.com*.  DOMESTIC FOR CLASSIC USE				
6821	Postage	•	\$0.49	0820	
4000	Certified Fee	<b>1</b>	\$3.30	05	
	Return Receipt Fee (Endorsement Regulad)		\$2.70	Postmark Here	
	Restricted Delivery Fee (Endorsement Required)		\$0.00	:	
23,20	Total Postage & Fees	\$	\$6.49	04/29/2015	
7074	200013				
		15°C	MH	03 PJ6	
	PS Form 3800, July 2014			See Reverse for Instructions	

Map M, Lot 90H John Kimball

Dover NH 03820



Map M Lot 90A-3 David Dickson

Dover, NH 03820



