



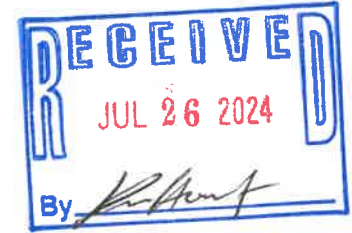
The State of New Hampshire  
**Department of Environmental Services**

Robert R. Scott, Commissioner



July 23, 2024

CITY OF PORTSMOUTH  
C/O PETER RICE  
680 PEVERLY HILL RD  
PORTSMOUTH NH 03801



**Re: Letter of Compliance**  
**Land Resources Management File Number: 2022-02977**  
**Subject Property: 100 Campus Drive, Portsmouth, Tax Map #266, Lot #4**

Dear Mr. Rice:

On July 19, 2024, personnel from the New Hampshire Department of Environmental Services (NHDES) Land Resources Management Program conducted an inspection at the above-referenced property (Property). The purpose of the inspection was to determine compliance with RSA 482-A, Fill and Dredge in Wetlands and applicable rules, specifically, whether the observations noted in the letter issued to you on October 19, 2022 have been addressed.

As a result of this inspection, NHDES determined the observations described in the letter were addressed. NHDES is therefore closing enforcement file 2022-02977.

Thank you for your assistance in bringing this matter to a resolution. Should you have any questions, please contact the Land Resources Management Program at (603) 271-2147.

Sincerely,

David Price  
East Region Supervisor  
Land Resources Management Program  
Water Division

cc: Portsmouth Conservation Commission  
Portsmouth Planning Department  
FB Environmental

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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



The State of New Hampshire  
**Department of Environmental Services**

Robert R. Scott, Commissioner



October 19, 2022

City of Portsmouth  
Department of Public Works  
Attn: Peter Rice, Public Works Director  
680 Peverly Hill Road  
Portsmouth NH 03801

**Re: Restoration Plan Approval**  
**Land Resources Management File Number: 2022-02977**  
**Subject Property: 100 Campus Drive, Portsmouth, Tax Map #266, Lot #4**

Dear Mr. Rice:

On October 19, 2022, the New Hampshire Department of Environmental Services (NHDES) Land Resources Management Program received a proposed site restoration plan (Restoration Plan) for the above-referenced property (Property). The restoration includes removal of historical automotive fill (tires/plow) in two locations located within freshwater wetlands. This is a voluntary restoration and not in response to a NHDES enforcement action. NHDES hereby approves the Restoration Plan as submitted, subject to the following specific conditions. If there is a conflict between the Restoration Plan and this Restoration Plan Approval, this Restoration Plan Approval will control.

1. **By February 1, 2023**, approximately 10,900 square feet of wetlands shall be restored, monitored, and managed and in accordance with the Restoration Plan and all project descriptive details submitted to NHDES on October 19, 2022, by FB Environmental Associates.
2. The restoration shall be conducted according to the Restoration Plan and as conditioned by this Restoration Plan Approval. Any changes or alterations to the Restoration Plan must be requested in writing and approved in writing by NHDES prior to implementing any such changes or alterations.
3. All persons involved in restoration activities on the Property shall have read and become familiar with the provisions of the Restoration Plan and this Restoration Plan Approval prior to beginning the activities. A copy of the Restoration Plan and this Restoration Plan Approval shall be kept posted at the Property during the restoration activities.
4. A certified wetland scientist (CWS), horticultural professional, or qualified professional shall supervise the restoration activities within RSA 482-A jurisdiction on the Property to ensure that the restoration is accomplished pursuant to this Restoration Plan Approval (Env-Wt 803.04).
5. Siltation, erosion, and turbidity controls shall be installed prior to restoration, shall be maintained during restoration activities, and shall remain until the area is stabilized.
6. All steps shall be taken to ensure that no water quality violations occur on the Property during restoration

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activities.

7. Silt fence and hay bales shall not be used across streams, channels, swales, ditches, or other drainage ways.
8. Within three days following the last activity in the restoration area or where restoration activities are suspended for more than three days, all exposed soils shall be stabilized by seeding and mulching. In accordance with Env-Wt 307.12(d), mulch used within RSA 482-A jurisdiction shall be natural straw or equivalent non-toxic, non-seedbearing organic material.
9. If work is conducted outside of the growing season, then impact areas shall be stabilized and wetland seed mix applied at the start of the following growing season.
10. No machinery shall be used within undisturbed NHDES jurisdictional areas on the Property during the restoration beyond this approval unless vegetation and soil is not disturbed.
11. All material removed during restoration activities shall be placed out of NHDES' jurisdiction.
12. All material required to be removed during restoration activities shall be removed down to the level of the original hydric soils.
13. Wetland soils from areas vegetated with purple loosestrife (*Lythrum salicaria*) or other state-listed invasive plant species shall not be used in the area being restored (Env-Wt 307.12(e)).
14. Invasive, weedy species such as purple loosestrife and Common Reed (*Phragmites spp.*) shall be controlled by measures agreed upon by the Wetlands Bureau if the species is found in the restoration areas during construction and during the early stages of vegetative establishment.
15. All wetlands restoration areas shall have at least 75% successful establishment of wetlands vegetation after two growing seasons, or the areas shall be replanted until successful establishment has been monitored for at least two growing seasons in accordance with Env-Wt 307.12(f).
16. There shall be no substitutions made for the plant species specified on the approved plan for replanting purposes without prior written approval from NHDES.
17. An initial monitoring report with photographs shall be submitted to NHDES within 30 days of restoration completion but no later than **March 1, 2023**. The initial monitoring report shall include, but not be limited to, documentation of erosion control deployment, restoration sequencing, restoration activities, and status of restoration at time of initial monitoring report. Photographs shall depict all stages of restoration sequencing. For restoration activities within RSA 482-A jurisdiction, this monitoring report shall be submitted in accordance with Env-Wt 307.18.
18. Subsequent monitoring reports shall be submitted to NHDES by **September 1, 2023** and **September 1, 2024** to document the success of the restoration and outline a schedule for remedial actions if necessary. Such reports shall be submitted to NHDES with photographs demonstrating the conditions on the restoration site, include any necessary remedial actions, and contain a schedule for completing the remedial actions and

conducting follow-up inspections.

19. Remedial actions may include, but are not limited to, replanting, relocating plantings, removing invasive species, altering soil composition or depths, deconsolidating soils due to compaction, altering the elevation of the wetland surface, or changing the hydraulic regime.
20. This Restoration Plan Approval does not convey a property right, nor authorize any injury to property of others, nor invasion of rights of others.
21. This Restoration Plan Approval does not relieve the owner(s) from the obligations of other local, state, or federal permits or requirements.
22. If restoration has not been completed, transfer of ownership of the Property shall require notification to NHDES and an agreement on transfer of the rights and obligations of this Restoration Plan Approval, prior to such transfer of ownership.

NHDES personnel may conduct future inspections to determine compliance with the provisions of the approved Restoration Plan and all other applicable NHDES statutes and rules.

Following completion of the restoration work, monitoring reports should reference NHDES File Number 2022-02977, and should be addressed as follows:

David Price  
Land Resource Management Program  
Department of Environmental Services  
222 International Drive Suite 175  
Portsmouth, NH 03801

Should you have any questions, please contact me at [David.Price@des.nh.gov](mailto:David.Price@des.nh.gov) or (603) 559-1514.

Sincerely,



David Price  
East Region Supervisor  
Land Resources Management Program  
Water Division

cc: Portsmouth Conservation Commission  
Peter Britz, City of Portsmouth  
FB Environmental Associates  
Ransom Consulting, LLC



The State of New Hampshire  
**Department of Environmental Services**



**Robert R. Scott, Commissioner**

July 05, 2024



ADL 325 LITTLE HARBOR ROAD TRUST  
C/O TIM PHOENIX ESQ  
127 PARROTT AVE  
PORTSMOUTH NH 03801

**Re: Approved Standard Dredge and Fill Wetlands Permit Application (RSA 482-A)**  
**NHDES File Number: 2023-01406**  
**Subject Property: 325 Little Harbor Rd, Portsmouth, Tax Map/Block/Lot(s): 204/no block/5; 205/no block/2**

Dear Owner:

On July 05, 2024, the New Hampshire Department of Environmental Services (NHDES) Wetlands Bureau approved the above-referenced application to Impact 66,083 square feet (SF) within the bed, banks, and tidal buffer zone of the Piscataqua River (tier 4) and adjacent tidal wetlands, including 1,632 SF of impact to Portsmouth Prime Wetland 061B, "Little Harbor Cove," and 24,864 SF of impact within the duly designated 100-foot prime wetland buffer to replace an existing tidal crossing with a 332 foot long by 22 foot wide pile supported bridge to provide residential access to Lady Isle (formerly known as Belle Isle) and restore approximately 23,737 square feet of tidal riverbed.

Compensatory mitigation shall consist of 7,491 square feet of salt marsh restoration and 16,340 square feet of tidal buffer enhancement through plantings.

Waive Env-Wt 904.10(c)(1)(c), to relieve the applicant from the requirement to provide a hydraulic analysis as part of the alternative design request.

In accordance with RSA 482-A:10, RSA 21-O:14, and Rules Ec-Wet 100-200, **any person aggrieved by this decision may file a Notice of Appeal directly with the NH Wetlands Council (Council) within 30 days of the decision date, July 05, 2024.** Every ground claiming the decision is unlawful or unreasonable must be fully set forth in the Notice of Appeal. Only the grounds set forth in the Notice of Appeal are considered by the Council. Information about the Council, including Council Rules, is available at <https://www.nhec.nh.gov/wetlands-council/about>. For appeal related issues, contact the Council Appeals Clerk at (603) 271-3650.

In accordance with RSA 482-A:3, II(a) and Env-Wt 313.02(b), as your project is a major project located in a great pond or in public waters of the state, your application must also be approved by the Governor and the Executive Council. Upon expiration of the appeal period, a redacted copy of the file is submitted to the Governor and the Executive Council for their consideration. Information about the Governor and the Executive Council is available at <https://www.nh.gov/council/>.

Sincerely,

Philip Trowbridge, P.E., Manager  
Land Resources Management, Water Division

Enclosure: Copy of Decision

Copied: Agent  
Municipal Clerk/Conservation Commission  
Abutters  
Assistant Administrator, Wetlands Bureau

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FILE #2023-01406  
ADL 325 LITTLE HARBOR ROAD TRUST  
PORTSMOUTH

DECISION DATE:  
July 05, 2024

DECISION:

Impact 66,083 square feet (SF) within the bed, banks, and tidal buffer zone of the Piscataqua River (tier 4) and adjacent tidal wetlands, including 1,632 SF of impact to Portsmouth Prime Wetland 061B, "Little Harbor Cove," and 24,864 SF of impact within the duly designated 100-foot prime wetland buffer to replace an existing tidal crossing with a 332 foot long by 22 foot wide pile supported bridge to provide residential access to Lady Isle (formerly known as Belle Isle) and restore approximately 23,737 square feet of tidal riverbed.

Compensatory mitigation shall consist of 7,491 square feet of salt marsh restoration and 16,340 square feet of tidal buffer enhancement through plantings.

Waive Env-Wt 904.10(c)(1)(c), to relieve the applicant from the requirement to provide a hydraulic analysis as part of the alternative design request.

CONDITIONS:

1. All work shall be done in accordance with the approved plans dated February 7, 2024, and revised through July 3, 2024, by TFMoran, Inc., and the "Proposed Mitigation Planting Plan" dated June 5, 2024, by Matthew Cunningham Landscape Design, LLC. and received by the NH Department of Environmental Services (NHDES) on July 3, 2024, in accordance with Env-Wt 307.16
2. In accordance with Env-Wt 314.02(b) and (c), for projects in the coastal area, the permittee shall record the permit at the Rockingham County Registry of Deeds. Any limitations or conditions in the permit so recorded shall run with the land beyond the expiration of the permit. The permittee shall provide the department with a copy of the permit stamped by the registry with the book and page and date of receipt.
3. This permit is contingent on review and approval of a final mitigation monitoring plan that is commensurate with the complexity of the permittee-responsible restoration and enhancement mitigation project Per Rule Env-Wt 803.04(a).
4. In accordance with Env-Wt 307.07, all development activities associated with any project shall be conducted in compliance with applicable requirements of RSA 483-B and Env-Wq 1400 during and after construction.
5. Except as authorized in Conditions #6 and #7 below, in water work shall occur between November 15 and March 15, in order to protect anadromous fish, in accordance with Env-Wt 307.06(b) and Env-Wt 311.06(g).
6. Pile Installation taking place outside of the federal dredge window between November 15 and March 15 shall be done in the dry at low tide, in order to protect anadromous fish in accordance with Env-Wt 307.06(b) and Env-Wt 311.06(g).
7. Work associated with the construction of the westerly bridge approach taking place outside of the federal dredge window between November 15 and March 15 shall be done in the dry at low tide, in order to protect anadromous fish in accordance with Env-Wt 307.06(b) and Env-Wt 311.06(g).
8. In accordance with Env-Wt 307.05(b), equipment to be used in surface waters shall be completely free of all aquatic and terrestrial invasive plants, seeds, and other propagules, and all exotic aquatic species of wildlife as defined in RSA 487:16, I-a.
9. In accordance with Env-Wt 307.03(g)(1), the person in charge of construction equipment shall inspect such equipment for leaking fuel, oil, and hydraulic fluid each day prior to entering surface waters or wetlands or operating in an area where such fluids could reach groundwater, surface waters, or wetlands.
10. In accordance with Env-Wt 307.03(g)(3) and (4), the person in charge of construction equipment shall maintain oil spill kits and diesel fuel spill kits, as applicable to the type(s) and amount(s) of oil and diesel fuel used, on site so as to be readily accessible at all times during construction; and train each equipment operator in the use of the spill kits.
11. In accordance with Env-Wt 307.03(g)(2), the person in charge of construction equipment shall repair any leaks prior to using the equipment in an area where such fluids could reach groundwater, surface waters, or wetlands.

12. In accordance with Env-Wt 307.03(h), equipment shall be staged and refueled outside of jurisdictional areas (unless allowed) and in accordance with Env-Wt 307.15.
13. In accordance with Env-Wt 307.15(b), mobile heavy equipment working in wetlands shall not be stored, maintained, or repaired in wetlands, except that repairing or refueling in a wetland is allowed if equipment cannot practicably be removed and secondary containment is provided
14. In accordance with Env-Wt 307.08(a), water quality and environmental minimization measures shall be in place to ensure that functions and values of designated prime wetlands and duly-established 100-foot buffers are protected. No activity shall be conducted in such a way as to cause or contribute to any violation of surface water quality standards per Env-Wt 307.03(a).
15. All work including management of soil stockpiles, shall be conducted so as to minimize erosion, minimize sediment transfer to surface waters or wetlands, and minimize turbidity in surface waters and wetlands per Env-Wt 307.03(b).
16. In accordance with Env-Wt 307.03(f)(1), a cofferdam or other turbidity control shall be used to enclose a dredging project conducted in or along the shoreline of a bog, marsh, lake, pond, stream, river, creek, or any other surface water, provided that a coffer dam shall not be installed during periods of high flow.
17. In accordance with Env-Wt 307.10(c), turbidity controls shall be installed prior to construction and maintained during construction such that no turbidity escapes the immediate dredge area; and remain in place until suspended particles have settled and water at the work site has returned to normal clarity.
18. In accordance with Env-Wt 307.03(c)(3), water quality control measures shall be installed prior to start of work and in accordance with the manufacturer's recommended specifications.
19. In accordance with Env-Wt 307.03(c)(1), water quality control measures shall be selected and implemented based on the size and nature of the project and the physical characteristics of the site, including slope, soil type, vegetative cover, and proximity to jurisdictional areas.
20. In accordance with Env-Wt 307.03(c)(2), water quality control measures shall be comprised of wildlife-friendly erosion control materials if erosion control blankets are utilized.
21. In accordance with Env-Wt 307.03(c)(5), water quality control measures shall be maintained so as to ensure continued effectiveness in minimizing erosion and retaining sediment on-site during and after construction.
22. In accordance with Env-Wt 307.03(c)(6), water quality control measures shall remain in place until all disturbed surfaces are stabilized to a condition in which soils on the site will not experience accelerated or unnatural erosion by achieving and maintaining a minimum of 85% vegetative cover using an erosion control seed mix, whether applied in a blanket or otherwise, that is certified by its manufacturer as not containing any invasive species; or placing and maintaining a minimum of 3 inches of non-erosive material such as stone.
23. In accordance with Env-Wt 307.03(c)(7), temporary water quality control methods shall be removed upon completion of work when compliance with Env-Wt 307.03(c)(6) is achieved.
24. In accordance with Env-Wt 307.10(f), dredged materials to be stockpiled in uplands shall be dewatered in sedimentation basins that are contained within turbidity controls that prevent turbid water from leaving the basins; and located outside of any jurisdictional area.
25. In accordance with Env-Wt 307.10(d), dredged materials shall be disposed of out of jurisdictional areas, unless other disposition is specifically permitted pursuant to Env-Wt 307.10(e).
26. In accordance with Env-Wt 307.11(b), limits of fill shall be clearly identified prior to commencement of work and controlled in accordance with Env-Wt 307.03 to ensure that fill does not spill over or erode into any area where filling is not authorized.
27. In accordance with Env-Wt 307.11(a), fill shall be clean sand, gravel, rock, or other material that meets the project's specifications for its use; and does not contain any material that could contaminate surface or groundwater or otherwise adversely affect the ecosystem in which it is used.
28. In accordance with Env-Wt 307.05(e), to prevent the use of soil or seed stock containing nuisance or invasive species, the contractor responsible for work shall follow Best Management Practices for the Control of Invasive and Noxious Plant Species (Invasive Plant BMPs).



29. In accordance with Env-Wt 307.03(e), all exposed soils and other fills shall be permanently stabilized within 3 days following final grading.
30. In accordance with Env-Wt 307.11(c), slopes shall be immediately stabilized to prevent erosion into adjacent wetlands or surface waters.
31. In accordance with Env-Wt 307.12(i), wetland areas where permanent impacts are not authorized shall be restored to their pre-impact conditions and elevation by replacing the removed soil and vegetation in their pre-construction location and elevation such that post-construction soil layering and vegetation schemes are as close as practicable to pre-construction conditions.
32. In accordance with Env-Wt 307.12(e), wetland soils from areas vegetated with purple loosestrife, common reed, or other state-listed invasive plant species shall not be used in the area being restored.
33. In accordance with Env-Wt 307.12(g), a temporary impact area restored by seeding or plantings shall not be deemed successful if the area is invaded by nuisance species such as common reed or purple loosestrife during the first full growing season following the completion of construction; and a remediation plan shall be submitted to the department that proposes measures to be taken to eradicate nuisance species during this same period.
34. In accordance with Env-Wt 307.12(f), if any temporary impact area that is stabilized with seeding or plantings does not have at least 75% successful establishment of wetlands vegetation after 2 growing seasons, the area shall be replanted or reseeded, as applicable.
35. In accordance with Env-Wt 807.03(b), within 60 days of completing a mitigation project that included restoration, enhancement, or creation of wetlands or the restoration or enhancement of a stream, or both, the applicant shall submit a post-construction monitoring report, documenting the conditions of the restored, enhanced, or constructed wetland or restored or enhanced stream.
36. In accordance with Env-Wt 807.03(a), within 60 days of completing a mitigation project that included restoration, enhancement, or creation of wetlands or the restoration or enhancement of a stream, or both, the applicant shall submit a signed letter specifying the date of completion and the anticipated dates of submittal of the annual monitoring reports.
37. In accordance with Env-Wt 807.04(a), the permittee responsible for a mitigation project shall submit monitoring reports to the department as specified in the mitigation monitoring plan required by Env-Wt 803.04.
38. In accordance with Env-Wt 803.04(b)(1), mitigation project monitoring shall span no fewer than 5 growing seasons for any mitigation project that includes plantings.
39. In accordance with Env-Wt 307.18(a), compensatory mitigation project monitoring reports shall be submitted to the department in accordance with Env-Wt 803.04.
40. In accordance with Env-Wt 807.04(b), the permittee shall submit a final monitoring report.

FINDINGS:

1. This project is classified as a major impact project per Rule Env-Wt 903.01(g)(3)(b), for a project to replace tier 4 stream crossing, and per Rule Env-Wt 407.02(a), as the project impacts a priority resource area (PRA) and does not qualify for a project-type exception (PTE) under Env-Wt 407.04, regardless of the size of impact.
2. The impacts within the protected shoreland associated with this project are approved under NHDES Shoreland Permit 2024-00562.
3. On May 26, 2023, the department received correspondence from the Natural Heritage Bureau (NHB) dated May 11, 2023, stating that "Transplanting will be an acceptable approach for the [protected plant species]."
4. On November 6, 2023, NHDES received a copy of the "[Protected plant species] Transplant Report" indicating that the affected plants were transplanted to a new location on the property adjacent to an existing stand of the species.
5. On March 1, 2024 and May 22, 2023, the department received correspondence from the NHB, indicating that the coordination regarding the protected plant species was completed and that "there is no anticipated impact to [the exemplary natural community] for this project," respectively.



6. On May 26, 2023, the department received correspondence from the NH Fish and Game Department (NHF&G) dated May 8, 2023, stating that "they do not anticipate impacts to [the protected anadromous fish species] from this project, however we would prefer that the work occur during the normal dredge window (Nov 15th-Mar 15th). If this will not be possible, please contact us for BMPs to avoid sedimentation."
7. On February 13, 2024, the department received correspondence from the NHF&G dated May 11, 2023, and February 5, 2024, authorizing work related to the pile installation and the construction of the westerly bridge abutment to take place outside of the normal dredge window (November 15th-March 15th), provided that proper BMPs and turbidity curtains are in place and that all work takes place in the dry during low tide.
8. On May 11, 2023, the applicant obtained a statement from the Pease Development Authority, Division of Ports and Harbors regarding the projects impact on navigation and passage stating, "[w]e examined the proposed site and found that the structure will have no negative effect on navigation in the channel," per Rule Env-Wt 603.09.
9. The crossing is deemed self-mitigating because 5,020 SF of existing fill below the mean high water line currently restricts tidal flows. This fill will be removed as part of the project. The replacement crossing will install new fill below the mean high water line, farther landward. There will be a net increase of fill of approximately 280 SF.
10. Per Rule Env-Wt 801.03(a)(2) and Env-Wt 704.03, for impacts in a prime wetland and prime wetland buffer, the department is accepting an on-site permittee-responsible mitigation proposal that uses wetland enhancement/establishment as compensatory mitigation for 26,496 SF of permanent impacts to the Prime Wetland and Duly-established Prime Wetland Buffer.
11. The applicant is providing 16,340 square feet of tidal buffer enhancement (plantings) and 7,491 square feet of salt marsh restoration and as permittee-responsible State of NH compensatory mitigation for permanent impacts to jurisdictional upland areas (prime wetland buffer and undeveloped tidal buffer zone) in accordance with Env-Wt 803.07.
12. Per Rule Env-Wt 803.09(a), the applicant has demonstrated that the alternative permittee-responsible compensatory mitigation proposal, will have greater benefit to water quality, wildlife, aquatic life, habitat(s) for wildlife or aquatic life, or other functions and values of wetlands and surface waters identified in RSA 482-A:1.
13. Per Rule Env-Wt 803.09(c), the alternative compensatory mitigation allowed under Env-Wt 803.09(a) or (b), has met all other applicable requirements of Env-Wt 800.
14. Per Rule Env-Wt 204.05(a), the department has granted a waivers to the requirement established in Rules Env-Wt 706.01(b) and Env-Wt 904.10(c)(1)(c). Granting the waivers will not result in an avoidable adverse impact on the environment or natural resources of the state, including but not limited to jurisdictional areas and protected species or habitat, an avoidable adverse impact on public health or public safety, an impact on abutting properties that is more significant than that which would result from complying with the rules, a statutory requirement being waived, and any benefit to the public or the environment from complying with the rules is outweighed by the operational or economic costs to the applicant.
15. Per Rule Env-Wt 706.05(b), the department has issued a waiver to perform work not addressed by Env-Wt 706.01(a) in a portion of a duly-established 100-foot buffer on the subject property, on grounds that the department has determined that there will be no significant net loss of wetland values as identified by the local conservation commission or local governing authority; and in RSA 482-A:1.
16. Per Rule Env-Wt 202.01(b) in accordance with RSA 482-A:8, NHDES finds that the requirements for a public hearing do not apply as the project will not have a significant environmental impact, as defined in Env-Wt 104.21, or adversely affect the values of the resources protected by RSA 482-A, or, is not of substantial public interest, as defined in Env-Wt 104.34, and the applicant obtained concurrence from the local conservation commission for the proposed mitigation plan for impacts to designated prime wetlands/buffer in accordance with Env-Wt 704.03(d).