



The State of New Hampshire
Department of Environmental Services

Thomas S. Burack, Commissioner



October 06, 2015

City of Portsmouth
c/o Terry Desmarais
680 Peaverly Hill Rd.
Portsmouth, NH 03801

RE: NHDES Wetlands File # 2015-01866 City of Portsmouth –Peirce Island Wastewater Treatment Facility – Portsmouth Tax Map/Lot # 208 / 1

Dear Mr. Desmarais,:

Attached please find Wetlands Permit # 2015-01866 to Impact a total of 135,975 square feet of developed and undeveloped upland tidal buffer zone, including a total of 21,745 square feet in the undeveloped tidal buffer zone (13,210 s.f. temporary and 7,505 s.f. permanent impacts); and a total of 114,230 square feet in the developed tidal buffer zone (87,220 s.f. temporary and 27,010 permanent impacts) for construction to upgrade the existing Portsmouth Wastewater Treatment facility in accordance with EPA Consent Decree. Approve as mitigation implementation of the "Invasive Species Management Plan" by Normandeau Associates dated August 18, 2015.

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

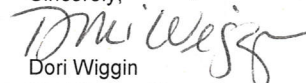
1. This is a major impact project per Administrative Rule Env-Wt 303.02((b) projects within 100 feet of the highest observable tide line in undeveloped uplands, relative to the work proposed for the undeveloped upland tidal buffer zone.
2. Work within the developed upland tidal buffer zone for this project is classified as minimum impact per Administrative Rule Env-Wt 303.04(b), projects in previously developed uplands within 100' of highest observable tide line that are not classified as major or minor.
3. The need for the proposed impacts has been demonstrated by the applicant per Env-Wt 302.01. The overall project is the required upgrade of the Portsmouth Wastewater Treatment plant pursuant to an EPA consent decree. This application is for the construction portion of the overall project and will be executed concurrent with the stabilization portion of the project being permitted under file 2015-1878.
4. 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. The project is confined to the existing site of the wastewater treatment facility for upgrade of the facility, and to areas that are undeveloped municipal parkland as for use as staging and site management. All temporarily disturbed areas will be restored immediately following completion of the project, and the City of Portsmouth has developed a landscape plan to further strengthen the integrity of the buffer once the treatment plant construction work is completed.
5. The applicant is providing compensatory mitigation for permanent tidal buffer zone impacts through the implementation of an invasive species removal and management plan which will be applied to several acres of the island that are now vegetated with invasive plants.
6. The applicant has demonstrated by plan and example that each factor listed in Env-Wt 302.04(a) and (c), Requirements for Application Evaluation, has been considered in the design of the project. The NH Natural Heritage Bureau ("NHB") required a field survey to locate populations of the state-threatened Marsh Elder, which was completed by Normandeau Associates and documented in a report dated July 14, 2014. NHB stated that although there are populations of the species in the immediate project vicinity, it does not expect the species to be impacted if certain stated conditions are followed. Those conditions have been included in the permit conditions.
7. DES Staff conducted a field inspection of the proposed project on August 7, 2015. Field inspection determined that the application materials accurately depict the site, and implementation of the Invasive Species Management Plan will be highly beneficial to the quality of the buffer and inner island areas.
8. 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 estuarine resource, as identified under RSA 482-A:1.
9. The Portsmouth Conservation Commission recommended approval of the project.

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.

Your permit must be signed, and a copy must be posted in a prominent location on site during construction. If you have any questions, please contact me at the Pease District Office at (603) 559-1507 or via email at dori.wiggin@des.nh.gov.

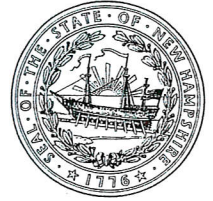
Sincerely,


Dori Wiggin
East Region Supervisor
DES Wetlands Bureau

cc: Portsmouth Conservation Commission
Portsmouth Municipal Clerk
Normandeau Associates



The State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES



Thomas S. Burack, Commissioner

NOTICE TO RECIPIENTS OF MAJOR IMPACT N.H. WETLANDS PERMITS

Your permit was approved by the New Hampshire Wetlands Bureau as a major impact project, and your project will be reviewed by the U.S. Army Corps. Of Engineers for possible approval under the Army Corps. New Hampshire State Programmatic General Permit- SPGP. The Army Corps. will notify you within thirty (30) days as to whether you qualify.

*****NO WORK SHOULD BE DONE IN*****
*****WETLANDS UNTIL YOU RECEIVE THAT NOTICE*****

IF YOU DO NOT HEAR FROM THE ARMY CORPS WITHIN THIRTY (30) DAYS,
YOU SHOULD CALL THEM AT 1-800-343-4789.

THIS NOTICE WAS SENT WITH MAJOR IMPACT PERMIT # 2015-1866 ON 10/6/2015 BY [Signature]

TO: U.S. ARMY CORPS. OF ENGINEERS



The State of New Hampshire
Department of Environmental Services

Thomas S. Burack, Commissioner



=====

WETLANDS AND NON-SITE SPECIFIC PERMIT 2015-01866

Permittee: City of Portsmouth
c/o Terry Desmarais
680 Peverly Hill Rd.
Portsmouth, NH 03801

Project Location: Peirce Island, Portsmouth
Portsmouth Tax Map/Lot No. 208 / 1

Waterbody: Piscataqua River

**NOTE --
CONDITIONS**

APPROVAL DATE: 10/06/2015

EXPIRATION DATE: 10/06/2020

=====

Based upon review of the above referenced application, in accordance with RSA 482-A and RSA 485-A:17, a Wetlands Permit and Non-Site Specific Permit was issued. This permit shall not be considered valid unless signed as specified below.

PERMIT DESCRIPTION: Impact a total of 135,975 square feet of developed and undeveloped upland tidal buffer zone, including a total of 21,745 square feet in the undeveloped tidal buffer zone (13,210 s.f. temporary and 7,505 s.f. permanent impacts); and a total of 114,230 square feet in the developed tidal buffer zone (87,220 sf. temporary and 27,010 permanent impacts) for construction to upgrade the existing Portsmouth Wastewater Treatment facility in accordance with EPA Consent Decree.

Approve as mitigation implementation of the "Invasive Species Management Plan" by Normandeau Associates dated August 18, 2015.

THIS APPROVAL IS SUBJECT TO THE FOLLOWING PROJECT SPECIFIC CONDITIONS:

1. All work shall be in accordance with plans by AECOM dated July 2015, as received by the NH Department of Environmental Services (DES) on 7/21/2015.
2. This permit is not valid unless an Alteration of Terrain permit or other method of compliance with RSA 485-A:17 and Env-Wq 1500 is achieved.
3. This permit is further contingent upon execution of approved mitigation "Invasive Species Management Plan" by Normandeau Associates dated August 18, 2015, with the following requirements:
 - a. The Plan shall be initiated concurrent with the project facility construction;
 - b. Initial report documenting the first season's activities shall be submitted no later than October 1;
 - c. A second report shall be submitted following the next season no later than October 1 of the second year;
 - d. A plan for long-term success and monitoring shall be submitted to DES at the end of the second year for review and approval.
4. Orange construction fence shall be installed around permitted impact areas to avoid activities expanding into unintended areas, and in further accordance with specific requirement relative to threatened species protection stated below.
5. Appropriate siltation and erosion controls shall be in place prior to construction, shall be maintained during construction, and shall remain until the area is stabilized. Temporary controls shall be removed once the area has been stabilized.
6. Relative to the protection of the state-threatened Marsh Elder populations the following conditions shall be adhered to:
 - a. No construction activity or equipment staging will occur outside of erosion control limits, approximately 40 feet from Marsh Elder populations;
 - b. Construction safety fencing shall be installed along either side of Peirce Island Road during the construction;
 - c. During the construction season (Dec. 1- Apr. 30) erosion control fencing will be installed around the seasonal construction trailer/staging area, located adjacent to the eastern end of Sub-population 1;
 - d. Before construction fencing is removed at the end of the construction season, and /or upon termination of the project, care should be taken to remove any sediments that have collected along the fence, so that they do not run off with storm water and impact the Marsh Elder.
7. Any further alteration of areas on this property that are subject to RSA 482-A jurisdiction will require a new application and further permitting.

8. All development activities associated with this project shall be conducted in compliance with applicable requirements of RSA 483-B and N.H. Code Admin. Rules Env-Wq 1400 during and after construction.
9. 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.
10. Erosion control products shall be installed per manufacturers recommended specifications.
11. The contractor responsible for completion of the work shall use techniques described in the New Hampshire Stormwater Manual, Volume 3, Erosion and Sediment Controls During Construction (December 2008).
12. No concrete is to be used anywhere in the construction of the stone riprap revetment. All stone shall be dry laid or placed stone underlain with filter fabric.
13. All temporary impacts shall be remediated back to natural contours and stabilized with native seed mix, as well as planted according to the approved landscape plan immediately upon completion of project construction use of the site.
14. A report documenting such restoration shall be submitted to DES within 30 days of the restoration activities being completed.
15. 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.
16. 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.
17. All refueling of equipment shall occur outside of surface waters or wetlands during construction. Machinery shall be staged and refueled in upland areas only.
18. Faulty equipment shall be repaired immediately prior to entering areas that are subject to RSA 482-A jurisdiction.

GENERAL CONDITIONS THAT APPLY TO ALL DES WETLANDS PERMITS:

1. A copy of this permit shall be posted on site during construction in a prominent location visible to inspecting personnel;
2. This permit does not convey a property right, nor authorize any injury to property of others, nor invasion of rights of others;
3. The Wetlands Bureau shall be notified upon completion of work;
4. This permit does not relieve the applicant from the obligation to obtain other local, state or federal permits, and/or consult with other agencies as may be required (including US EPA, US Army Corps of Engineers, NH Department of Transportation, NH Division of Historical Resources (NH Department of Cultural Resources), NHDES-Alteration of Terrain, etc.);
5. Transfer of this permit to a new owner shall require notification to and approval by DES;
6. This project has been screened for potential impacts to **known** occurrences of rare species and exemplary natural communities in the immediate area. Since many areas have never been surveyed, or have received only cursory inventories, unidentified sensitive species or communities may be present. This permit does not absolve the permittee from due diligence in regard to state, local or federal laws regarding such communities or species.
7. Review enclosed sheet for status of the US Army Corps of Engineers' federal wetlands permit.

APPROVED: _____


Dori Wiggin, East Region Supervisor
DES Wetlands Bureau

=====

BY SIGNING BELOW I HEREBY CERTIFY THAT I HAVE FULLY READ THIS PERMIT AND AGREE TO ABIDE BY ALL PERMIT CONDITIONS.

OWNER'S SIGNATURE (required)

CONTRACTOR'S SIGNATURE (required)