



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



**Robert R. Scott, Commissioner**

June 13, 2025

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TOWN OF DURHAM-DPW  
C/O RICH REINE  
100 STONE QUARRY DR  
DURHAM NH 03824

**Re: Partially Approved Standard Dredge and Fill Wetlands Permit Application (RSA 482-A)  
NHDES Wetlands Bureau File 2024-00344, Mill Pond Dam, Durham**

Dear Applicant:

The New Hampshire Department of Environmental Services (NHDES) Wetlands Bureau partially approved the above-referenced Standard Dredge and Fill Wetlands Permit Application. Enclosed please find Wetlands Permit 2024-00344 to Impact a total of 98,400 square feet of jurisdictional area to include 70,710SF of permanent impact and 27,690SF temporary impact, including 1,535 linear feet of impact along the bed and banks of the Oyster River for the removal of Mill Pond Dam, restore a portion of the Oyster River, establish native plant communities, remove and manage invasive plant species, and stabilize existing stormwater outfalls.

The permittee shall notify the NHDES in writing at least one week prior to commencing any work under this permit and shall file a notice of completion of work and certificate of compliance with the department within 10 working days of completion of the work authorized by this permit.

This permit is not valid unless signed by the permittee and the principal contractor, if any, who will build or install the project. Prior to start of construction, a copy of this permit shall be posted in a secure manner in a prominent place at the site of the approved project. It shall remain posted until the project is completed. Transfer of this permit to a new owner shall require notification to, and approval of, the NHDES. **This permit does not convey any property right, nor does it preclude the need to meet any other applicable state, federal, or municipal legal requirements.**

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, June 13, 2025.** 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.

**This approval is based on the following findings:**

1. Per Rule Env-Wt 407.04(b), classification based on resource type impacted does not apply to a restoration project under Env-Wt 525, as the project is funded in whole or in part with public funds from a federal, state, or local agency; is conducted under the supervision of a New Hampshire state agency established to manage or protect natural resources and is not done to restore any area that is subject to a removal or restoration order. Both NHDES and the National Oceanic and Atmospheric Administration are funding this project.
2. On February 12, 2018, NHDES Dam Bureau issued Letter of Deficiency (LOD) DSP#18-010 to the Town of Durham regarding NHDES' safety inspection of Mill Pond Dam. In summary, the LOD identified safety issues with the Mill Pond Dam.

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3. Durham Town Council voted to proceed with the removal of the Mill Pond Dam on September 2021. In March 2022 a referendum ballot had been voted on by the residents of Durham to remove the dam. 74% of Durham voters supported removing the dam, upholding the Town Council decision.
4. Per Rule Env-Wt 311.01(e), the applicant provided a copy of the application to the Oyster River Local Advisory Committee (LAC) on February 9, 2024, prior to filing the application with NHDES.
5. Per Rule Env-Wt 311.06(h), the Durham Conservation Commission did not provide comments on the proposed project.
6. Per Rule Env-Wt 311.01(b), the applicant coordinated with the NH Fish and Game Department (NHF&G) and the Natural Heritage Bureau (NHB) to determine how to avoid and minimize project-related impacts on rare or protected animal species and habitat, and on protected plants or exemplary natural communities.
7. NHDES held a public hearing for the project on April 22, 2025 in accordance with RSA 482-A:3XIV(a)(3), RSA 482-A:8, and Env-Wt 202.01, as the project will have a significant environmental impact, as defined in Env-Wt 104.19, on the resources protected by RSA 482-A.
8. At the conclusion of the public hearing NHDES held the record open per rule Env-C 205.08(a) to allow for additional public comments until May 13, 2025.
9. During the public hearing and public comment period, many residents spoke in favor for the removal of Mill Pond Dam. Several residents also spoke in opposition of the dam removal with the following concerns including, but not limited to, detrimental impacts to fish, lowering of water levels of the Oyster River, impacting drinking water wells, and the transport of contaminated sediments impacting downriver and Great Bay.
10. NHF&G has reviewed public comments and found anadromous and catadromous will not be negatively impacted by the removal of the dam.
11. In response to concerns raised regarding private wells, NHDES finds the concerns have been addressed in the 'Oyster River Dam at Mill Pond the Feasibility Study' by VHB dated November 2020, stating, "In summary, the private wells identified within the Study Area obtain water from the deep bedrock aquifer, which is hydrogeologically isolated from the impoundment by low-permeability surficial layers of clay, silt, and till, therefore, no impact to private wells are expected as a result."
12. Memos 'Oyster River Dam at Mill Pond - Feasibility Study Town Council Questions' and 'Oyster River Dam at Mill Pond - Supplemental Analysis Public Questions and Comments' by VHB dated February 8, 2021 and September 2, 2021, respectively, previously addressed concerns raised during comment periods for the Town of Durham that were also raised at the public hearing held by NHDES.
13. The Technical Memorandum 'Ecological Risk Assessment - Mill Pond Sediment, Durham, New Hampshire' by Woodard & Curran dated January 21, 2025 (the "ERA"), stated, in summary, "any transport of sediments stemming from the removal of the Mill Pond dam is unlikely to cause despoliation of the downriver portions of the Oyster River."
14. NHDES' Environmental Health Program reviewed the ERA and determined, "Overall, I would agree with the ERA conclusions that there would not be an anticipated increase in hazard or risk to the oyster farms if any of the remaining Mill Pond sediments (left in place after the dredging) were to be transported downriver. Using the maximum estimated invertebrate tissue concentrations found in Table 5A and 5B in the ERA, I also do not anticipate an increase in hazard or risk to human health with the consumption of the oysters if any of the remaining Mill Pond sediments (left in place after the dredging) were to be transported downriver."

If you have any questions, please contact me at Eben.Lewis@des.nh.gov or (603) 559-1515.

Sincerely,



Eben M. Lewis, Southeast Region Supervisor, Wetlands Bureau, NHDES

Enclosures

cc: Peter Walker VHB  
Madeline Severance, NHB  
Kevin Lucey, Habitat Coordinator, NHDES Coastal Program  
William Thomas, River Restoration Coordinator, NHDES Dam Removal & River Restoration Program  
Chris Nash, NHDES Shellfish Program  
Durham Conservation Commission  
Oyster River LAC



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

**Robert R. Scott, Commissioner**



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**WETLANDS PERMIT 2024-00344 PAGE 1 OF 3**

**PERMITTEE:** TOWN OF DURHAM-DPW  
C/O RICH REINE  
100 STONE QUARRY DR  
DURHAM NH 03824

**NOTE CONDITIONS**

**PROJECT LOCATION:** MILL POND DAM, DURHAM

**WATERBODY:** OYSTER RIVER

**APPROVAL DATE:** JUNE 13, 2025

**EXPIRATION DATE:** JUNE 13, 2030

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The New Hampshire Department of Environmental Services' (NHDES) review of permit application 2024-00344 has found that it is consistent with RSA 482-A. NHDES hereby issues this Wetlands Permit authorizing the impacts described provided the Conditions imposed are met. To validate this Permit, the Permittee and the Principal Contractor are required to sign below.

**PERMIT DESCRIPTION:** Impact a total of 98,400 square feet of jurisdictional area to include 70,710SF of permanent impact and 27,690SF temporary impact, including 1,535 linear feet of impact along the bed and banks of the Oyster River for the removal of Mill Pond Dam, restore a portion of the Oyster River, establish native plant communities, remove and manage invasive plant species, and stabilize existing stormwater outfalls.

**THIS PERMIT IS SUBJECT TO THE FOLLOWING PROJECT-SPECIFIC CONDITIONS:**

1. In accordance with Env-Wt 307.16, all work, excluding channel construction and plantings, shall be done in accordance with the partially approved plans by VHB dated January 17, 2024 and revised through February 12, 2025, as received by the NH Department of Environmental Services (NHDES) on February 12, 2025.
2. This permit is contingent upon the submittal of the final channel construction design and restoration and planting plan for approval by NHDES.
3. This permit is contingent upon the submittal of an adaptive management and monitoring plan for coordination with NHDES, NHF&G, NOAA/NMFS, and NFWS.
4. Per Rule Env-Wt 311.01(b), this permit is contingent upon the final version of the 'Relocation and Monitoring Plan for Lemna trisulca Transplantation' from the University of New Hampshire to include comments from the Natural Heritage Bureau.
5. In accordance with Env-Wt 314.02(b) and (c), the permittee shall record the permit issued at the Strafford 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.
6. 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.
7. 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.
8. 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.

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9. 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.
10. In accordance with Env-Wt 307.15(a), heavy equipment shall not be operated in any jurisdictional area unless specifically authorized by this permit.
11. 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.
12. In accordance with Env-Wt 307.15(c), where construction requires the operation of heavy equipment in wetlands, the equipment shall either have low ground pressure, namely less than 4 psi, or not be located directly on wetland soils and vegetation; or be placed on timber or swamp mats that are adequate to support the equipment in such a way as to minimize disturbance of wetland soil and vegetation.
13. In accordance with Env-Wt 307.15(e)(1), swamp mats shall be placed in the wetland from the upland or from equipment positioned on swamp mats if working within a wetland.
14. In accordance with Env-Wt 307.15(e)(2) and (3), swamp mats shall be installed, used, and removed so as to minimize impacts to wetland areas, and be installed with adequate erosion and sediment controls at approaches to the mats to promote a smooth transition to, and minimize sediment tracking onto, the mats.
15. In accordance with Env-Wt 307.15(d), timber and swamp mats shall be in good condition to ensure proper installation, use and removal; and thoroughly cleaned before re-use.
16. In accordance with Env-Wt 307.05(a), prior to the installation of swamp mats, the mats and any heavy machinery used to install them shall be inspected for and cleaned of all vegetative matter by a method and in a location that prevents the spread of the vegetative matter to jurisdictional areas.
17. In accordance with Env-Wt 307.10(b), work shall be done during low flow or in the dry unless a dredge dewatering, diversion, or cofferdam plan has been approved as part of the project, the project has specific approval based on water depth to operate from a barge; or the work will be conducted in a lake or pond and turbidity containment can be achieved using turbidity controls.
18. 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.
19. 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.
20. All dredging activities shall meet all of the conditions listed in Rule Env-Wt 307.10(a) through (n).
21. In accordance with Env-Wt 307.03(e), all exposed soils and other fills shall be permanently stabilized within 3 days following final grading.
22. All work shall be conducted and maintained in such a way as to protect water quality as required by Rule Env-Wt 307.03(a) through (h).
23. In accordance with Env-Wt 307.04(a), activities that produce suspended sediment in jurisdictional areas that provide value as bird migratory areas or fish and shellfish spawning or nursery areas, shall be done so as to avoid and minimize discharges of dredged material or placement of fill material during spawning or breeding seasons by using water quality protection techniques as specified in Env-Wt 307 and timing of project as specified in Env-Wt 307.10(g) or (h), as applicable.
24. In accordance with Env-Wt 307.04(b), activities that produce suspended sediment in jurisdictional areas that provide value as bird migratory areas or fish and shellfish spawning or nursery areas, shall be done so as to not discharge sediment to fish and shellfish spawning or nursery areas or to amphibian and migratory bird breeding areas during spawning or breeding seasons, as applicable, which could necessitate suspending the activities.
25. In accordance with Env-Wt 307.03(f)(2), a coffer dam or other turbidity control shall be removed after work within the coffer dam or other turbidity control is completed, the contained water has returned to background clarity, and when removing the structure will not cause or contribute to a violation of Env-Wt 307.03(c)(6).
26. In accordance with Env-Wt 307.12(b), upon completion of construction, all disturbed wetland areas shall be stabilized with wetland seed mix containing non-invasive plant species only.
27. In accordance with Env-Wt 307.12(e), wetland soils from areas vegetated with purple loosestrife or other state-listed invasive plant species shall not be used in the area being restored.
28. 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.

29. 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.

30. In accordance with Env-Wt 307.12(c), any seed mix used shall not contain plant species that are exotic aquatic weeds.

31. In accordance with Env-Wt 307.12(a), within 3 days of final grading or temporary suspension of work in an area that is in or adjacent to surface waters, all exposed soil areas shall be stabilized by seeding and mulching, if during the growing season; or mulching with tackifiers on slopes less than 3:1 or netting and pinning on slopes steeper than 3:1 if not within the growing season.

32. 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.

**ANY INDIVIDUAL CONDUCTING WORK UNDER THIS PERMIT IS ADVISED OF THE FOLLOWING:**

1. This permit does not preclude the need to meet any other applicable state, federal, or municipal legal requirements.
2. The permit holder is responsible for reading, and ensuring compliance with, the applicable general conditions established in Env-Wt 307.
3. This permit does not in any way authorize the take of threatened or endangered species, as defined by RSA 212-A:2, or of any protected species or exemplary natural communities, as defined in RSA 217-A:3.
4. This approval does not convey any property right. The permittee is responsible for ensuring that they have the legal authority to access the subject lands and conduct the impacts described.

APPROVED:



Eben M. Lewis  
Southeast Region Supervisor, Wetlands Bureau  
Land Resources Management, Water Division

**THE SIGNATURES BELOW ARE REQUIRED TO VALIDATE THIS PERMIT (Env-Wt 314.01).**

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PERMITTEE SIGNATURE (required)

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PRINCIPAL CONTRACTOR SIGNATURE (required)



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

**Robert R. Scott, Commissioner**



**NOTICE TO RECIPIENTS OF  
MINIMUM IMPACT NH WETLANDS PERMITS**

Your permit was approved by the New Hampshire Wetlands Bureau as a minimum impact project, and your project is automatically approved under the Army Corp's New Hampshire Programmatic General Permit.

For the purpose of the NH PGP, Minimum Impact Projects do not include new construction of:

- Dams;
- Dikes;
- Water withdrawal of diversion projects which require fill in wetlands or surface waters;
- Wetlands restoration projects, or any projects which involve work in other than low flow conditions (July 1 – September 30);
- Any projects involving more than 3,000 square feet of a water body or wetland fill and secondary impacts.

Also, not included under Minimum Impact Projects are those projects that include the reconstruction or replacement of currently unserviceable structures/fills. The projects must be reviewed through the screening procedures of minor impact projects. The activities in section 10 waters not regulated by the Wetlands Bureau formerly authorized under the Nationwide Permit Program and listed in Appendix A of this document are designated non-reporting activities.

These approvals do not relieve you from obtaining any necessary local permits that may be required by your town.

If you have any questions, feel free to give us a call at 603-271-2147.

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This notice was sent with minimum impact permit.