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December 24, 2024

Daniel Demers, Water Quality Certification Supervisor
Watershed Management Bureau, Water Division
NH Department of Environmental Services
29 Hazen Drive, PO Box 95
Concord, NH 03302-0095

Re: Water Quality Certification – WQC #2024-4041-001, 325 Little Harbor Road, Portsmouth

Dear Mr. Demers:

Attached herein are our formal responses to your *Incompleteness Letter* dated September 5, 2024.

Please bear in mind, this project has already received oversight and approvals from the following entities:

- a.) City of Portsmouth Conditional Use Permit
- b.) NHDES Shoreland Program – Shoreland Permit: 2024-00562
- c.) NHDES Wetlands Bureau – Wetland Permit: 2023-01406
- d.) NHDES Alteration of Terrain Bureau – Permit: AoT-02104
- e.) NH Governor and Executive Council – ITEM #150C
- f.) US Army Corps of Engineers – Provisional Permit – 2023-00723

Through our most recent coordination with the Army Corps of Engineers, we have reduced the impacts proposed to the neighboring salt marsh by 1,746 square feet and our proposed impacts below Mean High Water (MHW) have decreased by 2,397 square feet. As a result of this coordination, the Army Corps has issued a Provisional Approval pending issuance of the *Water Quality Certification* (WQC) and the *Coastal Zone Management* (CZM) Federal Consistency Concurrence statement. We have coordinated with Christopher Williams, Program Coordinator of the NHDES Coastal Program, and they are poised to issue the CZM concurrence once the WQC is issued.

Given the aforementioned state approvals have been granted and these state programs, largely, are the chief regulatory tools that assist in protecting and improving New Hampshire's surface water quality, we're confident that, this project, as proposed, conforms with NH's Surface Water Quality Standards (Env-Wq 1700) and it *will not* result in any water quality degradation that would violate the Code of Federal Regulations 40 CFR part 131.12.

Should you have any questions or require additional information, please contact us anytime.

Sincerely,
TFMoran, Inc.

Jay Aube, CWS
Senior Environmental Scientist, Project Manager



The State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES

Robert R. Scott, Commissioner



September 5, 2024

VIA EMAIL

Jason Aube, Director of Environmental Permitting
TFMoran, Inc
170 Commerce Way, Suite 102
Portsmouth, NH, 03801
E-mail: jaube@tfmoran.com

Subject: Application for Water Quality Certification – Incompleteness Letter
Lady Isle Bridge Replacement and Tidal Area Restoration Project
Portsmouth, NH (NHDES WQC #2024-404I-001)

Dear Mr. Aube:

The purpose of this letter is to notify TFMoran, Inc (the Applicant) that the New Hampshire Department of Environmental Services (NHDES), Watershed Management Bureau, has determined that the Application for Water Quality Certification (WQC), submitted to NHDES on July 17, 2024 (Application), for the Lady Isle Bridge Replacement and Tidal Area Restoration Project, in Portsmouth, NH (Project), is incomplete.

The Applicant submitted the Application to NHDES to obtain a certification in accordance with 33 U.S. Code § 1341 (Section 401 of the federal Clean Water Act), and RSA 485-A:12, III. The purpose of a certification is to ensure, with reasonable assurance, that construction of the Project will comply with New Hampshire's surface water quality standards, which are specified in RSA 485-A:8 and New Hampshire Code of Administrative Rules Env-Wq 1700. NHDES's certification is required before the US Army Corps of Engineers (USACE) can issue an individual dredge and fill permit for the Project. The Project involves the proposed removal of an existing bridge and construction of a replacement bridge within a tidal area of Little Harbor in Portsmouth, Rockingham County, New Hampshire, in order to provide road access to Lady Isle (also known as Belle Isle).

NHDES determined that the Applicant did not submit enough information to assess the Application. In accordance with RSA 485-A:12, III-a(a), the Applicant must submit the requested information within 120 days of the date of this letter (January 3, 2025), or NHDES is required to deny the WQC Application. The process to request an extension to the 120-day deadline is outlined in RSA 485-A:12, III-a(a).

Requested Information:

The Applicant is herein requested to provide the following information, for NHDES to assess the Application for completeness:

1. Section III. (Additional Submittal Information) of the Application for WQC includes a request for "The type of activity (e.g., construction, operation, other action such as water withdrawal) and the start and end dates of the activity." In the Application, the Applicant stated, "The project contractors would like to start construction as soon as possible and it is estimated that it will take 6-months to complete."

Please also provide the length of time after receipt of the approved WQC that the Project is planned to start.

2. Section III. (Additional Submittal Information) of the Application for WQC includes a request for “The characteristics of the discharge and/or withdrawal: Latitude and longitude (dd:mm:ss).”

Please provide the latitude and longitude of the Project.

3. Section III. (Additional Submittal Information) of the Application for WQC includes a request for “a pollutant loading analysis to show the difference between predevelopment and post development pollutant loads for a typical year.” In the Application, the Applicant discusses, in narrative form, anticipated changes to hydraulic capacity, water velocity and turbidity dynamics, as a result of the Project. However, a pollutant loading analysis was not submitted with the Application.

Please submit a pollutant loading analysis to show the difference between predevelopment and postdevelopment pollutant loads, due to the activity, for a typical year.

4. In the application, the Applicant stated, “Aquatic Resource Functions and Values assessments were provided with the NHDES Wetlands Permit Application. These functional assessments concluded that while the proposed project may temporarily affect the functions and values of these resources, the net effect of eliminating this tidal restriction, coupled with the proposal to restore salt marsh and enhance the riparian buffer with native vegetation, would significantly improve the ecological integrity of these resources.”

Please submit the referenced Aquatic Resource Functions and Values assessments.

5. In the application, the Applicant stated, “The frequency of the discharge associated with the proposed fill for the construction of the bridge approach may be no more than 4-days.”

Please clarify the duration of the discharge associated with the proposed fill for the construction of the bridge approach (i.e., if the discharge *shall* be no more than four days or *might* be more than four days).

Please submit the requested additional information to the following mailing or email address (email is preferred):
401 Certification Program, NHDES Watershed Management Bureau, P.O. Box 95, Concord, NH 03301-0095;
wqc@des.nh.gov.

Please contact me with any question or comments, regarding this letter at daniel.j.demers@des.nh.gov or call me at (603) 271-0699.

Sincerely,



Daniel J. Demers
Water Quality Certification Supervisor
Watershed Management Bureau

Ec. Judith E. Sears Houston, NHDES: judith.e.houston@des.nh.gov
Ted Diers, NHDES: theodore.e.diers@des.nh.gov
Stephanie Morrison, US Army Corps of Engineers: StephanieAnn.ProkopMorrison@usace.army.mil

**Response to NHDES Incompleteness Letter dated September 5, 2023, relative to
Application for Water Quality Certification: WQC #2024-4041-001.**

Requested Information:

The Applicant is herein requested to provide the following information, for NHDES to assess the Application for completeness:

1. Section III. (Additional Submittal Information) of the Application for WQC includes a request for “The type of activity (e.g., construction, operation, other action such as water withdrawal) and the start and end dates of the activity.” In the Application, the Applicant stated, “The project contractors would like to start construction as soon as possible and it is estimated that it will take 6-months to complete.”

Please also provide the length of time after receipt of the approved WQC that the Project is planned to start.

Response: After receipt of the approved *Water Quality Certification*, the project is slated to commence April 1, 2025. Construction of the *new*, most westerly bridge approach, the project phase which triggered the need for the Army Corps of Engineers Individual Permit, will take 30-days to complete. As conditioned within NHDES Wetlands Permit 2023-01406 (condition #5), the existing causeway removal/tidal area restoration activities will commence on November 15th, and it will take approximately 4-months to complete.

2. Section III. (Additional Submittal Information) of the Application for WQC includes a request for “The characteristics of the discharge and/or withdrawal: Latitude and longitude (dd:mm:ss).”

Please provide the latitude and longitude of the Project.

Response: The latitude and longitude of the project area is:

- a.) **Degrees, Minutes, Seconds:** Latitude = 43° 3' 52" N, Longitude = 71° 15' 13" W
- b.) **Decimal Degrees:** Latitude = 43.064, Longitude = -70.746

3. Section III. (Additional Submittal Information) of the Application for WQC includes a request for “a pollutant loading analysis to show the difference between predevelopment and post development pollutant loads for a typical year.” In the Application, the Applicant discusses, in narrative form, anticipated changes to hydraulic capacity, water velocity and turbidity dynamics, as a result of the Project. However, a pollutant loading analysis was not submitted with the Application.

Response: We have completed the *Simple Method Pollutant Loading Spreadsheet Model* for your review. We do feel, however, that this analysis is not applicable to this project as the land use within the *Pre-Development Sub Area* is an existing bridge that spans a tidal resource. All stormwater associated with this impervious area sheets to the tidal resource without any opportunity for treatment.

This project proposes a 15.9 (1,273 square feet) decrease in surface area over public waters and an existing 21,000 square foot *Pervious Disturbed Lawn* area (.48 acres) that is periodically fertilized will be

converted to *Pervious Undisturbed Forest/ Meadow*. This land conversion/ restoration will be achieved through the planting of native trees, shrubs and groundcovers and it will significantly increase the site's ability to attenuate nutrients and it significantly enhances the overall ecological integrity of the neighboring aquatic resource as well.

Through the removal of two existing causeways within public waters and the construction of a new bridge on wooden piles, we will increase the hydraulic capacity of this tidal crossing by more than 300%. The existing tidal crossing restricts water passage in a way that, during the ebb and flow of the tides, particularly between *Mean Low Water* (MLW) and the *Mean Tide Line* (MTL), the erosive force of the tide is amplified through this undersized tidal crossing. This, in turn, through the agitation of the fine sediments, increases turbidity. Through the elimination of this tidal restriction, tide waters will be allowed to pass through the area unimpeded and this, in turn, will likely reduce turbidity and it will allow the area to return to its original condition, a uniform mud flat.



Figure 1: Existing tidal restriction to be eliminated and scoured area to be restored to mud flat.

4. In the application, the Applicant stated, “Aquatic Resource Functions and Values assessments were provided with the NHDES Wetlands Permit Application. These functional assessments concluded that while the proposed project may temporarily affect the functions and values of these resources, the net effect of eliminating this tidal restriction, coupled with the proposal to restore salt marsh and enhance the riparian buffer with native vegetation, would significantly improve the ecological integrity of these resources.”

Please submit the referenced Aquatic Resource Functions and Values assessments.

Response: The Aquatic Resources Functions and Values assessments submitted with the approved NHDES Wetlands Permit Application (2023-01406) are included with this response.

In the application, the Applicant stated, “The frequency of the discharge associated with the proposed fill for the construction of the bridge approach may be no more than 4-days.”

Please clarify the duration of the discharge associated with the proposed fill for the construction of the bridge approach (i.e., if the discharge *shall* be no more than four days or *might* be more than four days).

Response: To clarify, the frequency of the discharge associated with construction of the new, most westerly bridge approach will be no more than 4-days.

Interpreting the Results of the U.S. Army Corps of Engineers Wetland Function- Value Evaluation Form



GROUNDWATER RECHARGE/DISCHARGE— This function considers the potential for a wetland to serve as a groundwater recharge and/or discharge area. It refers to the fundamental interaction between wetlands and aquifers, regardless of the size or importance of either.

CONSIDERATIONS/QUALIFIERS

1. Public or private wells occur downstream of the wetland.
2. Potential exists for public or private wells downstream of the wetland.
3. Wetland is underlain by stratified drift.
4. Gravel or sandy soils present in or adjacent to the wetland.
5. Fragipan does not occur in the wetland.
6. Fragipan, impervious soils, or bedrock does occur in the wetland.
7. Wetland is associated with a perennial or intermittent watercourse.
8. Signs of groundwater recharge are present or piezometer data demonstrates recharge.
9. Wetland is associated with a watercourse but lacks a defined outlet or contains a constricted outlet.
10. Wetland contains only an outlet, no inlet.
11. Groundwater quality of stratified drift aquifer within or downstream of wetland meets drinking water standards.
12. Quality of water associated with the wetland is high.
13. Signs of groundwater discharge are present (e.g., springs).
14. Water temperature suggests it is a discharge site.
15. Wetland shows signs of variable water levels.
16. Piezometer data demonstrates discharge.
17. Other



FLOODFLOW ALTERATION (Storage & Desynchronization) — This function considers the effectiveness of the wetland in reducing flood damage by water retention for prolonged periods following precipitation events and the gradual release of floodwaters. It adds to the stability of the wetland ecological system or its buffering characteristics and provides social or economic value relative to erosion and/or flood prone areas.

CONSIDERATIONS/QUALIFIERS

1. Area of this wetland is large relative to its watershed.
2. Wetland occurs in the upper portions of its watershed.
3. Effective flood storage is small or non-existent upslope of or above the wetland.
4. Wetland watershed contains a high percent of impervious surfaces.
5. Wetland contains hydric soils which are able to absorb and detain water.
6. Wetland exists in a relatively flat area that has flood storage potential.
7. Wetland has an intermittent outlet, ponded water, or signs are present of variable water level.
8. During flood events, this wetland can retain higher volumes of water than under normal or average rainfall conditions.
9. Wetland receives and retains overland or sheet flow runoff from surrounding uplands.
10. In the event of a large storm, this wetland may receive and detain excessive flood water from a nearby watercourse.
11. Valuable properties, structures, or resources are located in or near the floodplain downstream from the wetland.
12. The watershed has a history of economic loss due to flooding.
13. This wetland is associated with one or more watercourses.
14. This wetland watercourse is sinuous or diffuse.
15. This wetland outlet is constricted.
16. Channel flow velocity is affected by this wetland.
17. Land uses downstream are protected by this wetland.
18. This wetland contains a high density of vegetation.
19. Other

FISH AND SHELLFISH HABITAT (FRESHWATER) — This function considers the effectiveness of seasonal or permanent watercourses associated with the wetland in question for fish and shellfish habitat.



CONSIDERATIONS/QUALIFIERS

1. Forest land dominant in the watershed above this wetland.
2. Abundance of cover objects present.

STOP HERE IF THIS WETLAND IS NOT ASSOCIATED WITH A WATERCOURSE

3. Size of this wetland is able to support large fish/shellfish populations.
4. Wetland is part of a larger, contiguous watercourse.
5. Wetland has sufficient size and depth in open water areas so as not to freeze solid and retain some open water during winter.
6. Stream width (bank to bank) is more than 50 feet.
7. Quality of the watercourse associated with this wetland is able to support healthy fish/shellfish populations.
8. Streamside vegetation provides shade for the watercourse.
9. Spawning areas are present (submerged vegetation or gravel beds).
10. Food is available to fish/shellfish populations within this wetland.
11. Barrier(s) to anadromous fish (such as dams, including beaver dams, waterfalls, road crossing) are absent from the stream reach associated with this wetland.
12. Evidence of fish is present.
13. Wetland is stocked with fish.
14. The watercourse is persistent.
15. Man-made streams are absent.
16. Water velocities are not too excessive for fish usage.
17. Defined stream channel is present.
18. Other

Although the above example refers to freshwater wetlands, it can also be adapted for marine ecosystems. The following is an example provided by the National Marine Fisheries Service (NMFS) of an adaptation for the fish and shellfish function.

FISH AND SHELLFISH HABITAT (MARINE) — This function considers the effectiveness of wetlands, embayments, tidal flats, vegetated shallows, and other environments in supporting marine resources such as fish, shellfish, marine mammals, and sea turtles.

CONSIDERATIONS/QUALIFIERS

1. Special aquatic sites (tidal marsh, mud flats, eelgrass beds) are present.
2. Suitable spawning habitat is present at the site or in the area.
3. Commercially or recreationally important species are present or suitable habitat exists.
4. The wetland/waterway supports prey for higher trophic level marine organisms.
5. The waterway provides migratory habitat for anadromous fish.
6. Essential fish habitat, as defined by the 1996 amendments to the Magnuson-Stevens Fishery & Conservation Act, is present (consultation with NMFS may be necessary).
7. Other



SEDIMENT/TOXICANT/PATHOGEN RETENTION — This function reduces or prevents degradation of water quality. It relates to the effectiveness of the wetland as a trap for sediments, toxicants, or pathogens in runoff water from surrounding uplands or upstream eroding wetland areas.

CONSIDERATIONS/QUALIFIERS

1. Potential sources of excess sediment are in the watershed above the wetland.
2. Potential or known sources of toxicants are in the watershed above the wetland.
3. Opportunity for sediment trapping by slow moving water or deepwater habitat are present in this wetland.
4. Fine grained mineral or organic soils are present.
5. Long duration water retention time is present in this wetland.
6. Public or private water sources occur downstream.
7. The wetland edge is broad and intermittently aerobic.
8. The wetland is known to have existed for more than 50 years.
9. Drainage ditches have not been constructed in the wetland.

STOP HERE IF WETLAND IS NOT ASSOCIATED WITH A WATERCOURSE.

10. Wetland is associated with an intermittent or perennial stream or a lake.
11. Channelized flows have visible velocity decreases in the wetland.
12. Effective floodwater storage in wetland is occurring. Areas of impounded open water are present.
13. No indicators of erosive forces are present. No high water velocities are present.
14. Diffuse water flows are present in the wetland.
15. Wetland has a high degree of water and vegetation interspersion.
16. Dense vegetation provides opportunity for sediment trapping and/or signs of sediment accumulation by dense vegetation is present.
17. Other



NUTRIENT REMOVAL/RETENTION/TRANSFORMATION — This function considers the effectiveness of the wetland as a trap for nutrients in runoff water from surrounding uplands or contiguous wetlands and the ability of the wetland to process these nutrients into other forms or trophic levels. One aspect of this function is to prevent ill effects of nutrients entering aquifers or surface waters such as ponds, lakes, streams, rivers, or estuaries.

CONSIDERATIONS/QUALIFIERS

1. Wetland is large relative to the size of its watershed.
2. Deep water or open water habitat exists.
3. Overall potential for sediment trapping exists in the wetland.

4. Potential sources of excess nutrients are present in the watershed above the wetland.
 5. Wetland saturated for most of the season. Ponded water is present in the wetland.
 6. Deep organic/sediment deposits are present.
 7. Slowly drained fine grained mineral or organic soils are present.
 8. Dense vegetation is present.
 9. Emergent vegetation and/or dense woody stems are dominant.
 10. Opportunity for nutrient attenuation exists.
 11. Vegetation diversity/abundance sufficient to utilize nutrients.
- STOP HERE IF WETLAND IS NOT ASSOCIATED WITH A WATERCOURSE.
12. Waterflow through this wetland is diffuse.
 13. Water retention/detention time in this wetland is increased by constricted outlet or thick vegetation.
 14. Water moves slowly through this wetland.
 15. Other

PRODUCTION EXPORT (Nutrient) — This function evaluates the effectiveness of the wetland to produce food or usable products for humans or other living organisms.



CONSIDERATIONS/QUALIFIERS

1. Wildlife food sources grow within this wetland.
2. Detritus development is present within this wetland.
3. Economically or commercially used products found in this wetland.
4. Evidence of wildlife use found within this wetland.
5. Higher trophic level consumers are utilizing this wetland.
6. Fish or shellfish develop or occur in this wetland.
7. High vegetation density is present.
8. Wetland exhibits high degree of plant community structure/species diversity.
9. High aquatic vegetative diversity/abundance is present.
10. Nutrients exported in wetland watercourses (permanent outlet present).
11. “Flushing” of relatively large amounts of organic plant material occurs from this wetland.
12. Wetland contains flowering plants that are used by nectar-gathering insects.
13. Indications of export are present.
14. High production levels occurring, however, no visible signs of export (assumes export is attenuated).
15. Other

SEDIMENT/Shoreline Stabilization — This function considers the effectiveness of a wetland to stabilize streambanks and shorelines against erosion.



CONSIDERATIONS/QUALIFIERS

1. Indications of erosion or siltation are present.
2. Topographical gradient is present in wetland.
3. Potential sediment sources are present up-slope.
4. Potential sediment sources are present upstream.
5. No distinct shoreline or bank is evident between the waterbody and the wetland or upland.
6. A distinct step between the open waterbody or stream and the adjacent land exists (i.e., sharp bank) with dense roots throughout.
7. Wide wetland (>10') borders watercourse, lake, or pond.
8. High flow velocities in the wetland.
9. The watershed is of sufficient size to produce channelized flow.
10. Open water fetch is present.
11. Boating activity is present.
12. Dense vegetation is bordering watercourse, lake, or pond.
13. High percentage of energy-absorbing emergents and/or shrubs border a watercourse, lake, or pond.
14. Vegetation is comprised of large trees and shrubs that withstand major flood events or erosive incidents and stabilize the shoreline on a large scale (feet).
15. Vegetation is comprised of a dense resilient herbaceous layer that stabilizes sediments and the shoreline on a small scale (inches) during minor flood events or potentially erosive events.
16. Other



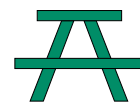
WILDLIFE HABITAT — This function considers the effectiveness of the wetland to provide habitat for various types and populations of animals typically associated with wetlands and the wetland edge. Both resident and/or migrating species must be considered. Species lists of observed and potential animals should be included in the wetland assessment report.¹

CONSIDERATIONS/QUALIFIERS

1. Wetland is not degraded by human activity.
2. Water quality of the watercourse, pond, or lake associated with this wetland meets or exceeds Class A or B standards.
3. Wetland is not fragmented by development.
4. Upland surrounding this wetland is undeveloped.
5. More than 40% of this wetland edge is bordered by upland wildlife habitat (e.g., brushland, woodland, active farmland, or idle land) at least 500 feet in width.
6. Wetland is contiguous with other wetland systems connected by a watercourse or lake.
7. Wildlife overland access to other wetlands is present.
8. Wildlife food sources are within this wetland or are nearby.
9. Wetland exhibits a high degree of interspersed vegetation classes and/or open water.
10. Two or more islands or inclusions of upland within the wetland are present.
11. Dominant wetland class includes deep or shallow marsh or wooded swamp.
12. More than three acres of shallow permanent open water (less than 6.6 feet deep), including streams in or adjacent to wetland, are present.
13. Density of the wetland vegetation is high.
14. Wetland exhibits a high degree of plant species diversity.
15. Wetland exhibits a high degree of diversity in plant community structure (e.g., tree/shrub/vine/grasses/mosses)
16. Plant/animal indicator species are present. (List species for project)
17. Animal signs observed (tracks, scats, nesting areas, etc.)
18. Seasonal uses vary for wildlife and wetland appears to support varied population diversity/abundance during different seasons.
19. Wetland contains or has potential to contain a high population of insects.
20. Wetland contains or has potential to contain large amphibian populations.
21. Wetland has a high avian utilization or its potential.
22. Indications of less disturbance-tolerant species are present.
23. Signs of wildlife habitat enhancement are present (birdhouses, nesting boxes, food sources, etc.).
24. Other

¹In March 1995, a rapid wildlife habitat assessment method was completed by a University of Massachusetts research team with funding and oversight provided by the New England Transportation Consortium. The method is called WEThings (wetland habitat indicators for non-game species). It produces a list of potential wetland-dependent mammal, reptile, and amphibian species that may be present in the wetland. The output is based on observable habitat characteristics documented on the field data form. This method may be used to generate the wildlife species list recommended as backup information to the wetland evaluation form and to augment the considerations. Use of this method should first be coordinated with the Corps project manager. A computer program is also available to expedite this process.

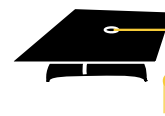
RECREATION (Consumptive and Non-Consumptive) — This value considers the suitability of the wetland and associated watercourses to provide recreational opportunities such as hiking, canoeing, boating, fishing, hunting, and other active or passive recreational activities. Consumptive opportunities consume or diminish the plants, animals, or other resources that are intrinsic to the wetland. Non-consumptive opportunities do not consume or diminish these resources of the wetland.



CONSIDERATIONS/QUALIFIERS

1. Wetland is part of a recreation area, park, forest, or refuge.
2. Fishing is available within or from the wetland.
3. Hunting is permitted in the wetland.
4. Hiking occurs or has potential to occur within the wetland.
5. Wetland is a valuable wildlife habitat.
6. The watercourse, pond, or lake associated with the wetland is unpolluted.
7. High visual/aesthetic quality of this potential recreation site.
8. Access to water is available at this potential recreation site for boating, canoeing, or fishing.
9. The watercourse associated with this wetland is wide and deep enough to accommodate canoeing and/or non-powered boating.
10. Off-road public parking available at the potential recreation site.
11. Accessibility and travel ease is present at this site.
12. The wetland is within a short drive or safe walk from highly populated public and private areas.
13. Other

EDUCATIONAL/SCIENTIFIC VALUE — This value considers the suitability of the wetland as a site for an “outdoor classroom” or as a location for scientific study or research.



CONSIDERATIONS/QUALIFIERS

1. Wetland contains or is known to contain threatened, rare, or endangered species.
2. Little or no disturbance is occurring in this wetland.
3. Potential educational site contains a diversity of wetland classes which are accessible or potentially accessible.
4. Potential educational site is undisturbed and natural.
5. Wetland is considered to be a valuable wildlife habitat.
6. Wetland is located within a nature preserve or wildlife management area.
7. Signs of wildlife habitat enhancement present (bird houses, nesting boxes, food sources, etc.).
8. Off-road parking at potential educational site suitable for school bus access in or near wetland.
9. Potential educational site is within safe walking distance or a short drive to schools.
10. Potential educational site is within safe walking distance to other plant communities.
11. Direct access to perennial stream at potential educational site is available.
12. Direct access to pond or lake at potential educational site is available.
13. No known safety hazards exist within the potential educational site.
14. Public access to the potential educational site is controlled.
15. Handicap accessibility is available.
16. Site is currently used for educational or scientific purposes.
17. Other

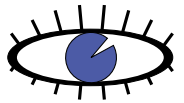


UNIQUENESS/HERITAGE — This value considers the effectiveness of the wetland or its associated waterbodies to provide certain special values. These may include archaeological sites, critical habitat for endangered species, its overall health and appearance, its role in the ecological system of the area, its relative importance as a typical wetland class for this geographic location. These functions are clearly valuable wetland attributes relative to aspects of public health, recreation, and habitat diversity.

CONSIDERATIONS/QUALIFIERS

1. Upland surrounding wetland is primarily urban.
2. Upland surrounding wetland is developing rapidly.
3. More than 3 acres of shallow permanent open water (less than 6.6 feet deep), including streams, occur in wetlands.
4. Three or more wetland classes are present.
5. Deep and/or shallow marsh or wooded swamp dominate.
6. High degree of interspersed vegetation and/or open water occur in this wetland.
7. Well-vegetated stream corridor (15 feet on each side of the stream) occurs in this wetland.
8. Potential educational site is within a short drive or a safe walk from schools.
9. Off-road parking at potential educational site is suitable for school buses.
10. No known safety hazards exist within this potential educational site.
11. Direct access to perennial stream or lake exists at potential educational site.
12. Two or more wetland classes are visible from primary viewing locations.
13. Low-growing wetlands (marshes, scrub-shrub, bogs, open water) are visible from primary viewing locations.
14. Half an acre of open water or 200 feet of stream is visible from the primary viewing locations.
15. Large area of wetland is dominated by flowering plants or plants that turn vibrant colors in different seasons.
16. General appearance of the wetland visible from primary viewing locations is unpolluted and/or undisturbed.
17. Overall view of the wetland is available from the surrounding upland.
18. Quality of the water associated with the wetland is high.
19. Opportunities for wildlife observations are available.
20. Historical buildings are found within the wetland.
21. Presence of pond or pond site and remains of a dam occur within the wetland.
22. Wetland is within 50 yards of the nearest perennial watercourse.
23. Visible stone or earthen foundations, berms, dams, standing structures, or associated features occur within the wetland.
24. Wetland contains critical habitat for a state- or federally-listed threatened or endangered species.
25. Wetland is known to be a study site for scientific research.
26. Wetland is a natural landmark or recognized by the state natural heritage inventory authority as an exemplary natural community.
27. Wetland has local significance because it serves several functional values.
28. Wetland has local significance because it has biological, geological, or other features that are locally rare or unique.
29. Wetland is known to contain an important archaeological site.
30. Wetland is hydrologically connected to a state or federally designated scenic river.
31. Wetland is located in an area experiencing a high wetland loss rate.
32. Other

VISUAL QUALITY/AESTHETICS — This value considers the visual and aesthetic quality or usefulness of the wetland.



CONSIDERATIONS/QUALIFIERS

1. Multiple wetland classes are visible from primary viewing locations.
2. Emergent marsh and/or open water are visible from primary viewing locations.
3. A diversity of vegetative species is visible from primary viewing locations.
4. Wetland is dominated by flowering plants or plants that turn vibrant colors in different seasons.
5. Land use surrounding the wetland is undeveloped as seen from primary viewing locations.
6. Visible surrounding land use form contrasts with wetland.
7. Wetland views absent of trash, debris, and signs of disturbance.
8. Wetland is considered to be a valuable wildlife habitat.
9. Wetland is easily accessed.
10. Low noise level at primary viewing locations.
11. Unpleasant odors absent at primary viewing locations.
12. Relatively unobstructed sight line exists through wetland.
13. Other

ENDANGERED SPECIES HABITAT — This value considers the suitability of the wetland to support threatened or endangered species.

ES

CONSIDERATIONS/QUALIFIERS

1. Wetland contains or is known to contain threatened or endangered species.
2. Wetland contains critical habitat for a state or federally listed threatened or endangered species.

Wetland Function-Value Evaluation Form

Total area of wetland ~30 acres Human made? no Is wetland part of a wildlife corridor? yes or a "habitat island"? no

Adjacent land use Residential, some undeveloped buffer Distance to nearest roadway or other development 0 feet, within ROW

Dominant wetland systems present E2US1/3, E2EM1 Contiguous undeveloped buffer zone present Yes

Is the wetland a separate hydraulic system? No If not, where does the wetland lie in the drainage basin? Lowest reach

How many tributaries contribute to the wetland? 0 Wildlife & vegetation diversity/abundance (see attached list)

Wetland I.D. Belle-Isle Bridge













Latitude 43.064431 Longitude -70.746319

Prepared by: Jay Aube Date 5/5/2023

Wetland Impact:
Type Dredge/ Fill Area SF

Evaluation based on:
Office yes Field yes

Corps manual wetland delineation
completed? Y N/A N

Function/Value	Suitability Y / N	Rationale (Reference #)*	Principal Function(s)/Value(s)	Comments
 Groundwater Recharge/Discharge	N	4,5,6,15	N	No aquifer interface, tidal/ estuarine.
 Floodflow Alteration	Y	1,3,4,5,6,7,8,9,10,18	Y	Wetlands capable of retaining flood waters from neighboring residential area.
 Fish and Shellfish Habitat	Y	1,3,4,5	Y	Shellfish and recreational fish species present.
 Sediment/Toxicant Retention	Y	1,2,3,4,6,7,10,13,15	Y	Marsh can trap sediment and compounds from adjacent impervious areas.
 Nutrient Removal	Y	3,6,8,9,10,11	Y	salt marsh species able to remove and transform compounds.
 Production Export	Y	1,2,3,4,5,6,8,9,10,13	Y	Estuarine environment, highly productive.
 Sediment/Shoreline Stabilization	Y	1,3,5,6,8,10,11,14	Y	Shoreline is moderately stable.
 Wildlife Habitat	Y	7,8,10,12,16,17,18,19,20,21	Y	Evidence of wildlife present. T & E species utilize this area.
 Recreation	Y	2,5,7,9	N	Private property, can access by boat/ kayak.
 Educational/Scientific Value	Y	1,5	N	Private property, no public access.
 Uniqueness/Heritage	Y	4,6,24	N	Private property, no public access.
 Visual Quality/Aesthetics	Y	1,2,3,8,12	N	Private property, visible from boat/ kayak and local school observation deck.
ES Endangered Species Habitat	Y	1,2	Y	Sturgeon and Sea Turtles may utilize the area but it is not suitable for reproduction. Endangered Marsh elder on the shoreline.
Other Ecological Integrity	Y		Y	Ecologically, an exceptional resource for all trophic levels.

Notes: Ecological Integrity Score = .78 of possible 1.0

* Refer to backup list of numbered considerations.



Civil Engineers
Structural Engineers
Traffic Engineers
Land Surveyors
Landscape Architects
Scientists

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200

Ecological Integrity of the Tidal Wetland

Methods

Tidal marshes are among the most productive and most disturbed ecosystems. Undeveloped, undisturbed natural buffers are critical to supporting the health of aquatic ecosystems. Natural buffers protect tidal resources by anchoring and stabilizing the shoreline, reducing erosion, and absorbing nutrients and contaminants found in stormwater. *Ecological Integrity* is a measure of the extent to which natural ecosystems and their buffers have been altered.

The ecological integrity of the tidal wetland was assessed using the *Method for Evaluation and Inventory of Vegetated Tidal Marshes in New Hampshire (June 1993)* and data from the NH Fish and Game Wildlife Action Plan (WAP).



Figure 1. Overview of the tidal resource area, depicting the existing causeways that act as a tidal restriction. It is worth noting, however, that these causeways will be removed as part of the proposed project.



Ecological Integrity of the Tidal Wetland

EU= Evaluation Unit (the Tidal Wetland)

Percent of wetland plant community dominated by invasive plant species	Score
Less than 5% of EU dominated by invasive species	1.0
5% to 20% of EU dominated by invasive species	.5
More than 20% of the EU dominated by invasive species	.1
Number of Tidal Restrictions	
No Tidal Restrictions	1.0
One Tidal Restriction between the EU and free tidal flow	.5
More than one Tidal Restriction between the EU and free tidal flow	.1
Type of Tidal Restriction	
No restriction affecting tidal flow	1.0
Flow through bridge appears adequate	.5
Flow through bridge appears inadequate and/ or flow restricted by culvert(s)	.1
Ditching on the Surface of the EU	
No ditching within the EU	1.0
Ditches present in linear pattern	.5
Ditches present in grid pattern	.1
Dominant Land Use in the 500-Foot Zone of Influence Surrounding the EU	
Forested, Fields, Open Water or Open Space	1.0
Agriculture or Rural Residential	.5
Commercial, Industrial, High Density Residential or Heavily used Highways	.1



Ratio of the Number of Occupied Buildings within the EU or within the Zone of Influence Surrounding the EU	
Less than 0.1 Buildings/ acre.	1.0
From 0.1 to 0.5 Buildings/ acre.	.5
More than 0.5 Buildings/ acre.	.1
Percent of the EU/ Upland Border which has a buffer of woodland or idle land at least 500-feet in width.	
More than 70%	1.0
From 30% to 70%	.5
Less than 30%	.1
Square footage of roads, driveways, and parking lots within 150-feet of the EU.	
Ratio less than 1,500 square feet/ acre	1.0
Ration between 1,500 square feet to 6,000 square feet/ acre	.5
Ratio greater than 6,000 square feet/ acre	.1
SCORE = 1.0+.1+.1+1.0+1.0+1.0+.5+.5 = 6.2 6.2/8 = 0.775	.78

Summary:

The tidal wetland adjacent to the project area is composed largely of mudflats and contains a few small areas of saltmarsh. Less than 5% of the tidal wetland is dominated with invasive species, namely with Glossy Buckthorn (*Frangula alnus*). A tidal restriction is present in the form of two causeways (see Figure 1). There are no ditches within the area that alter how the resource drains. The dominant land use within the 500-foot zone of influence surrounding the EU is open water with forested buffer zones. The ratio of the occupied buildings within the zone of influence is less than 0.1 buildings per acre. The previous development of the existing bridge (to be replaced) removed some of the woodland buffer, but a decent portion of the woodland buffer remains. The impervious area within 150-feet of the tidal wetland is around 5,000-6,000 square feet per acre. The existing bridge and causeways contribute most of this impervious area.

In summary, the tidal wetland has undergone some degradation by anthropogenic sources. Tidal flows have been restricted, and portions of the woodland buffer have been previously cleared for bridge development. The bridge itself adds significant impervious area within the vicinity of the EU. It certainly contributes stormwater runoff and associated pollutants to the resource.



References

Ammann, A.P. and A.L. Stone. 1993. *Method for Evaluation and Inventory of Vegetated Tidal Marshes in New Hampshire*.

NH Fish and Game Department Wildlife Action Plan (WAP).

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Narrative on Coastal Functional Assessment

Introduction

This *Coastal Functional Assessment* was conducted to support a NHDES Wetlands Permit Application to impact the Developed Upland Tidal Buffer Zone and the Intertidal Zone to replace an existing failing bridge with a new wooden bridge that spans the entire tidal resource on wooden piles. This project also proposes to remove the existing causeways from public waters and connect the residential island to municipal utilities. After the causeways are removed, the salt marsh area will be restored and the existing bridge approaches will be regraded and planted with native vegetation.

The jurisdictional areas adjacent to the project site are predominantly Estuarine, Intertidal, Unconsolidated Shore, Cobble-Gravel (E2US1) and Estuarine, Intertidal, Unconsolidated Shore, Mud (E2US3). Isolated narrow bands of fringe salt marsh exist along the neighboring shorelines (E2EM1).

The upland area adjacent to the wetland is an approximately 12-acre island. The island consists of a single residential property that previously utilized some areas for equestrian purposes. The mainland consists of wooded area with intermittent forested freshwater wetlands. No impacts are proposed to the freshwater wetlands. While the bulk of areas to be impacted are previously developed, open areas, the NH Fish and Game Wildlife Action Plan (WAP) identifies the habitat adjacent to the area to be impacted as salt marsh and hemlock hardwood pine. The WAP indicates the Tidal Wetland resources are of the *Highest Ranked Habitat in NH*.

Methods

The wetland boundaries, more particularly, the *Highest Observable Tide Line* (HOTL), was delineated using the methods prescribed by NHDES Administrative Rule Env-Wt 602.23. The wetlands boundaries, including the limits of the 100-foot tidal buffer zone, are depicted on the attached site plans. The wetlands were classified based on the Classification of Wetlands and Deepwater Habitats of the United States, adapted from Cowardin, Carter, Golet and LaRoe (1979), August 2013, FGDC-STD-004-2013.)

The Coastal Functional Assessment (CFA) was conducted by performing field visits on May 1, 2023 and May 15, 2023. The wetlands were assessed using the *Army Corps of Engineers Highway Methodology* (September 1999, NAEPP-360-1-30a).

The *Ecological integrity* of the wetlands was assessed using the *Method for Evaluation and Inventory of Vegetated Tidal Marshes in New Hampshire* (June 1993) and data from the NH Fish and Game Wildlife Action Plan (WAP).



Results:

Groundwater Recharge/ Discharge

This function considers the potential for a wetland to serve as a groundwater recharge and/or discharge site. More particularly, this function refers to the interaction between wetlands and aquifers. Given there are no aquifers in the area and the wetland is estuarine, this wetland *does not* provide this function.

Floodflow Alteration

This function analyzes the effectiveness of the wetland in reducing flood damage by retaining flood waters for prolonged periods of time. During storm events and tidal surges, this wetland serves this function by providing floodwater storage capacity and this aides in protecting the neighboring community.

Fish and Shellfish Habitat

This function considers a wetland's ability to provide embayments, tidal flats, vegetated shallows, and other environments in support of fish, shellfish, marine mammals. Consultation with the National Oceanic and Atmospheric Association (NOAA) Marine Fisheries section indicates the area is considered *Essential Fish Habitat* (EFH) for the Atlantic Sturgeon (*Acipenser oxyrinchus*), Shortnose Sturgeon (*Acipenser brevirostrum*) and four (4) species of sea turtles. Anadromous fish, including the striped bass (*Morone saxatilis*), are known to seasonally utilize the area to forage on sea worms/ nereids (*Echiurus echiurus*), sand eels (*Ammodytes marinus*), Silversides (*Menidia menidia*) and Green Crabs (*Carcinus maenas*) during high tide.

The existing tidal restriction created by the causeway increases tidal velocities and has artificially created a mico-niche habitat with a rock and rubble substrate. Species identified in this area include Common Periwinkle (*Littorina littorea*), Smooth Periwinkle, (*Littorina obtusata*), Rough Periwinkle (*Littorina saxatilis*), Acorn Barnacles (*Semi balanua balanoides*), Blue Mussel (*Mytilus edulis*), Eastern Oyster (*Crassostrea virginica*), Softshell Clam (*Mya arenaria*), Atlantic Surf Clam (*Spisula solidissima*), Iris Moss (*Chondurus crispus*), Red Algae species, (Rhodophyta), Rockweed (*Ascophyllum nodosum*), Bladder Wrack (*Fucus vesiculosus*), Sugar Kelp (*Saccharina latissimi*), Sea felt (*Pylaiella littoralis*), Doubled Ribbon Weed (*Ulva linza*) and other green algae Chlorophyta species.

There is no eel grass within the area. The NH Wildlife Action Plan (WAP) identifies the wetland as Highest Ranked Wildlife Habitat in NH. Fish and Shellfish Habitat is considered a principal function of this wetland.

Sediment/ Toxicant Retention

This function considers the effectiveness of a wetland to act as a trap for sediments, toxicants, and pathogens within runoff. This wetland function had a significant level of qualifiers based on the periodic, tidally influenced, slow moving waters. Additionally, the immediate uplands that surround the wetland are well vegetated. The neighboring residential community and island property areas are contributors of

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sediments and toxicants. This wetland acts to filter and trap these sediments and toxicants, and therefore, it is a principal function of this wetland.

Nutrient Removal/ Retention/ Transformation

This function recognizes a wetland's ability to serve as a trap for nutrients in runoff from surrounding uplands or contiguous wetlands. The adjacent residential neighborhood is likely a contributor of phosphorous and nitrogen. Due to the high level of saturation and presence of deep organic/ sediment deposits, this wetland acts to absorb nutrients and it transfers them to other trophic levels, and therefore, nutrient removal/ retention/ transformation is a principal function of this wetland

Production Export

This function considers the wetland's ability to export resources to other areas. For example, rosette terns utilize the area to forage for silversides and transport the nutrients off-site. As evidenced by the *Fish and Shellfish Habitat* function above, this tidal marsh area is highly productive. Evidence of multiple trophic levels utilizing this area was observed, and therefore, production export is a principal function of this wetland.

Sediment/ Shoreline Stabilization

This function relates to a wetland's effectiveness to stabilize shorelines and prevent erosion. The shoreline is well anchored by mature trees and saplings. Some vegetation along the shoreline and their root systems anchor the shoreline, and therefore, sediment/ shoreline stabilization is a principal function of this wetland.

Wildlife Habitat

This function considers a wetland's ability to provide wildlife habitat. According to the NH Wildlife Action Plan (WAP), this wetland is considered Highest Ranked Habitat in NH. Consultation with National Oceanic and Atmospheric Association (NOAA) Marine Fisheries indicates the area may be used by Atlantic and Shortnose Sturgeon. Wildlife Habitat is a principal function of this wetland.

Recreation

This function considers the effectiveness of the wetland to provide recreational opportunities such as canoeing, boating, fishing, and other passive recreational activities. Although the area cannot be directly accessed by the abutting private properties, the area is accessible from other public boat launches. The area is frequented by kayakers and recreational anglers. Due to the lack of direct access, recreation is not considered a primary principal function of this wetland.

Education/ Scientific Value

This value considers the effectiveness of the wetland to serve as an "outdoor classroom." The area does not offer direct public access, and therefore, education/ scientific value is not a key function of this wetland.



Uniqueness/ Heritage

This value relates to the effectiveness of a wetland to produce certain *special values* such as archeological sites, unusual aesthetic quality, historical events, and unique plants. Given NH has a relatively small coastal shoreline, this area is certainly unique to NH. Although the proposed impact area is not within any known archaeological sites, the surrounding area was once inhabited by Native Americans. Additionally, the threatened plant species, Marsh Elder (*Iva Frutescens*), is near the impacts area. Unfortunately, the site cannot be accessed by the public, and therefore, Uniqueness/ Heritage is not a principal function of this wetland.

Visual Quality/ Aesthetics

This value considers the wetland's overall visual quality and aesthetics. The area surrounding the wetland is private property. While the area can be accessed by boat and kayak, due to the lack of access, visual quality/ aesthetics is not considered a key function of this wetland.

Endangered Species Habitat

Endangered species habitat relates to the effectiveness of the wetland to support endangered species habitat. Consultation with the National Oceanic and Atmospheric Association (NOAA) Marine Fisheries indicates the area is considered *Essential Fish Habitat* (EFH) for the Atlantic Sturgeon (*Acipenser oxyrinchus*), Shortnose Sturgeon (*Acipenser brevirostrum*). This wetland *does not* provide the key features necessary for spawning (salinity level, substrate, and cover) and therefore, is not considered critical habitat (CH). The Roseate Tern (*Sterna dougallii*) forages on small fish within this wetland during high tide. The threatened species, Marsh Elder (*Iva Frutescens*), is present on the bank of the salt marsh but, they (8-plants) will be transplanted during the growing season before this project begins. Endangered Species Habitat is considered a key function of this wetland.

Ecological Integrity

Ecological Integrity is a measure of the extent to which natural ecosystems and their buffers have been altered. For the most part, aside from residential docking structures, the tidal resource has not undergone a tremendous amount of alteration. A large portion of the Zone of Influence is a residential neighborhood which likely contributes to untreated stormwater runoff to the resource. The Ecological Integrity Score of Resource is .78 out of a possible 1.0. Ecological Integrity is a principal function of this resource.

Summary

This wetland serves many functions including floodflow storage capacity, fish and shellfish habitat, sediment and toxicant retention, nutrient removal, resource export, sediment and shoreline stabilization, wildlife habitat, endangered species habitat and ecological integrity and therefore, it is considered a high value, high functioning resource of the State of New Hampshire.

A low impact vibratory system will be used to install the new piles and, to the greatest extent practicable, this work will occur during low tide.

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To minimize impacts to wildlife species that utilize this resource, the project will adhere to the time of year restrictions and will remove causeways from public waters between December 15th and March 15th.

In summary, as result of incorporating the aforementioned conservation measures and as a result of removing the existing tidal restriction, the natural hydraulic capacity and aquatic organism pathways will be restored and this significantly enhances the functions and values of this resource. The proposed salt marsh and upland tidal buffer zone restoration will significantly enhance the neighboring resources as well. While this project proposes to remove an unnaturally occurring micro-niche habitat, doing so poses no threat or harm to threatened or endangered species. This project may temporarily affect, but is unlikely to adversely affect the principal functions and values of this resource and will result in significant increases in the functions and values of this resource.

References

ACOE *Army Corps of Engineers Highway Methodology* (September 1999, NAEPP-360-1-30a).

Cowardin, L.M., V. carter, F.C Golet, and E.T. LaRoe. 1979. *Classification of Wetlands and Deep-Water Habitats of the United States*. U.S. Fish and Wildlife Service FWS/OBS-79/31.

Ammann, A.P. and A.L. Stone. 1993. *Method for Evaluation and Inventory of Vegetated Tidal Marshes in New Hampshire*.



Date (MM/DD/YYYY):	12/23/2024		
Project Name:	Lady Isle Bridge Replacement and Tidal Area Restoration Project		
Town/City:	Portsmouth		
Impacted Surface Waters:	Back Channel of the Piscataqua River		
Applicant:	Jay Aube of TFMoran, Inc.		
DES File #:	NHDES WQC#2024-404I-001		

TOTAL PRE-DEVELOPMENT (PRE-DEV) AREA (ACRES) =	0.18
TOTAL PRE-DEV EFFECTIVE IMPERVIOUS AREA (ACRES) =	0.18
TOTAL PRE-DEV PERCENT EFFECTIVE IMPERVIOUS (%) =	100.0%
TOTAL POST DEVELOPMENT (POST-DEV) AREA (ACRES) =	0.15
TOTAL POST-DEV EFFECTIVE IMPERVIOUS AREA (ACRES) =	0.15
TOTAL POST-DEV PERCENT EFFECTIVE IMPERVIOUS (%) =	100.0%
TOTAL POST-DEV AREA THAT IS FERTILIZED ANNUALLY (ACRES) =	0.00
TOTAL POST-DEV PERCENT OF AREA THAT IS FERTILIZED ANNUALLY (%) =	0.0%

	TSS (LBS/YR)	TP (LBS/YR)	TN (LBS/YR)
PRE DEVELOPMENT LOADS (NO BMPS)	277.4	0.9	3.4
PRE DEVELOPMENT LOADS (WITH BMPS)	277.4	0.9	3.4
PRE DEVELOPMENT LOAD REDUCTION DUE TO BMPS	0.0	0.0	0.0
PROPOSED PERCENT REDUCTION IN FERTILIZER APPLICATION RATE	NA	0.0%	0.0%
POST DEVELOPMENT LOADS (NO BMPS)	233.4	0.8	2.8
POST DEVELOPMENT LOADS (WITH BMPS)	233.4	0.8	2.8
POST DEVELOPMENT LOAD REDUCTION DUE TO BMPS	0.0	0.0	0.0
POST DEVELOPMENT - PRE DEVELOPMENT (SHOULD BE 0 OR NEGATIVE)	-44.0	-0.1	-0.5
% DIFFERENCE FROM PRE DEVELOPMENT LOADS (SHOULD BE 0 OR NEGATIVE)	-15.8%	-15.8%	-15.8%
TOTAL REMOVAL EFFICIENCY NEEDED TO MEET PRE-DEVELOPMENT LOAD	-18.8%	-18.8%	-18.8%

2020-03-02	(603) 271-2304 PO Box 95, Concord, NH 03302-0095 www.des.nh.gov	Tab 6 of 9
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DEPARTMENT OF THE ARMY
US ARMY CORPS OF ENGINEERS
NEW ENGLAND DISTRICT
696 VIRGINIA ROAD
CONCORD MA 01742-2751

November 25, 2024

Regulatory Division
File Number: NAE-2023-00723

ADL 325 Little Harbor Road Trust
c/o Stephen Roberts ESQ
127 Parrott Avenue
Portsmouth, NH 03801

Sent by email: sroberts@hpgrlaw.com

Dear Mr. Roberts:

The U.S. Army Corps of Engineers (USACE) has reviewed your application to place fill material in a total of 1,697 SF of salt marsh and 2,902 SF of tidal waters in the Piscataqua River, Portsmouth NH for the replacement of the Lady Isle bridge (formerly Belle Island). The work is described on the plans titled "revised bridge design alternative analysis" and dated "08/14/24".

Enclosed is a "provisional permit." The provisional permit is not valid and does not authorize you to do the work. The provisional permit only describes the work that will be authorized, as well as lists the special conditions which will be placed on your final Department of the Army (DOA) permit, if the State of New Hampshire Section 401 Water Quality Certification (WQC) requirements are satisfied as described below. No work is to be performed in the waterway or adjacent wetlands until you have received a validated copy of the DOA permit.

By Federal law, a DOA permit cannot be issued until a WQC has been either issued or waived. As of this date, the NH Department of Environmental Services has not issued a WQC for your proposed work. Upon receipt of the request for certification the "reasonable period of time" for review will be jointly agreed to by the federal agency and certifying authority. However, the State may request on a case-by-case basis, and the USACE may grant up to a one-year extension of time, before a waiver is deemed to occur.

Once the State has issued the required WQC or a waiver has occurred, we will send you a copy of the initial proffered permit. If the State denies the required WQC then the DOA permit is denied without prejudice. If you should subsequently obtain a WQC you should contact this office to determine how to proceed with your permit application.

By Federal law, no DA permit shall be authorized until a Coastal Zone Management (CZM) Federal Consistency Concurrence has been issued. As of this date, the CZM Federal Consistency Concurrence for your proposed work has not been issued. If the state does not act within six months from their receipt of your CZM consistency determination, then concurrence with your CZM consistency determination will automatically be presumed and we'll resume processing your application. Please inform our office if you do not receive a CZM consistency decision

The DOA permit process does not supersede any other Federal, state, and/or local agency's jurisdiction.

If you have any questions regarding this correspondence, please contact Stephanie Morrison of my staff at (978) 318-8003.

Sincerely,

Frank J. Del Giudice
Chief, NH & VT Section
Regulatory Division

Enclosures:
Jason Aube, TFMoran; jaube@tfmoran.com



**US Army Corps
of Engineers®**
New England District

PROVISIONAL PERMIT

NOT VALID

DO NOT BEGIN WORK

DEPARTMENT OF THE ARMY PERMIT

Permittee: ADL 325 Little Harbor Road Trust, Stephen Roberts ESQ

Permit No: NAE-2023-00723

Issuing Office: New England District

NOTE: The term "you" and its derivatives, as used in this permit, means the permittee or any future transferee. The term "this office" refers to the appropriate district or division office of the Corps of Engineers having jurisdiction over the permitted activity or the appropriate official of that office acting under the authority of the commanding officer.

You are authorized to perform work in accordance with the terms and conditions specified below.

Project Description:

Replacement of an existing causeway bridge with a pile supported bridge to provide private residential access to Lady Isle (formally known as Belle Isle) in Portsmouth NH. The new bridge will require the placement of fill material (rip rap) with permanent impacts totaling 1,697 SF for salt marsh (E2EM) and 2,903 SF for tidal waters (E2US).

The work is shown on the enclosed plans titled; revised bridge design alternative analysis dated 08/14/2024.

Project Location:

The project will occur at the bridge span on Belle Isle Road in Portsmouth NH which connects Lady Isle to the mainland.

Permit Conditions:

General Conditions:

1. The time limit for completing the work authorized ends 5 years from the date of issuance of the proffered permit (date to be determined). If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least one month before the above date is reached.
2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.
3. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and State coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.
4. If you sell the property associated with this permit, you must obtain the signature of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.
5. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit. For your convenience, a copy of the certification is attached if it contains such conditions.
6. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.

Special Conditions:

1. Your use of the permitted activity must not interfere with the public's right to free navigation on all navigable waters of the United States.
2. You must install and maintain, at your expense, any safety lights and signals prescribed by the United States Coast Guard (USCG), through regulations or otherwise, on your authorized facilities. The USCG may be reached at the following address and telephone number: Steven Pothier, U.S. Coast Guard, Waterways Management Branch, First Coast Guard District (dpw), 408 Atlantic Avenue, Boston, Massachusetts 02110; (617) 823-3947; or steven.r.pothier@uscg.mil.
3. The permittee shall ensure that a copy of this permit is at the work site (and the project office) authorized by this permit whenever work is being performed, and that all personnel with operational control of the site ensure that all appropriate personnel performing work are fully aware of its terms and conditions. The entire permit shall be made a part of any and all contracts and sub-contracts for work that affects areas of Corps jurisdiction at the site of the work authorized by this permit. This shall be achieved by including the entire permit in the specifications for work. The term "entire permit" means this permit (including its drawings, plans, appendices and other attachments) and also includes permit modifications.

If the permit is issued after the construction specifications, but before receipt of bids or quotes, the entire permit shall be included as an addendum to the specifications. If the permit is issued after receipt of bids or quotes, the entire permit shall be included in the contract or sub-contract. Although the permittee may assign various aspects of the work to different contractors or sub-contractors, all contractors and sub-contractors shall be obligated by contract to comply with all environmental protection provisions contained within the entire permit, and no contract or sub-contract shall require or allow unauthorized work in areas of Corps jurisdiction.
4. The permittee shall complete and return the enclosed Mitigation Work Start Notification Form to this office at least two weeks before the anticipated starting date.
5. The permittee shall complete and return the enclosed Compliance Certification Form to this office at least within one month following the completion of the authorized work.
6. Compensatory mitigation shall consist of purchasing 0.039 wetland credits from the State of New Hampshire Aquatic Resource Mitigation Fund (ARM FUND) for impacts to salt marsh resource areas in the Salmon Falls-Piscataqua River Service Area. The permittee shall pay the State of New Hampshire Aquatic Resource Mitigation Fund the above credits for impacts associated with federally regulated resources. This amount may only be valid for a period of one year from the date on the authorization letter, therefore the fee is subject to change. No discharge authorized by this permit may be conducted until the receipt of payment has been received from the New Hampshire Department of Environmental Services. The required verification shall reference this project's permit number (NAE-2023-00723).
7. All placement of fill (rip rap) material for the support of the westerly bridge retaining should be done during periods of low-flow or no-flow, when the tide is waterward of the work to prevent impacts to listed species in the area and prevent turbidity from entering the water column.

Further Information:

1. Congressional Authorities: You have been authorized to undertake the activity described above pursuant to:
 - ☒ (X) Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).
 - ☐ () Section 14 of the Rivers and Harbors Act of 1899 (33 U.S.C. 408).
 - ☒ (X) Section 404 of the Clean Water Act (33 U.S.C. 1344).
 - ☐ () Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413).
2. Limits of this authorization.
 - a. This permit does not obviate the need to obtain other Federal, State, or local authorizations required by law.
 - b. This permit does not grant any property rights or exclusive privileges.
 - c. This permit does not authorize any injury to the property or rights of others.
 - d. This permit does not authorize interference with any existing or proposed Federal project.

3. Limits of Federal Liability. In issuing this permit, the Federal Government does not assume any liability for the following:
- a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from Natural causes.
 - b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.
 - c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.
 - d. Design or construction deficiencies associated with the permitted work.
 - e. Damage claims associated with any future modification, suspension, or revocation of this permit.
4. Reliance on Applicant's Data: The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.
5. Reevaluation of Permit Decision. This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:
- a. You fail to comply with the terms and conditions of this permit.
 - b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (See 4 above).
 - c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.
- Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you to comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measures ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.
6. Extensions. General Condition 1 establishes a time limit for the completion of the activity authorized by this permit. Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interested decision, the Corps will normally give favorable consideration to a request for an extension of this time limit.
7. This permit also constitutes your approval under Section 14 of the Rivers and Harbors Act of 1899 (33 U.S.C. 408) as it has been determined that the activities authorized do not impair the usefulness of the USACE Navigation project and are not injurious to the public interest. See Special Condition [X] above.

Your signature below, as permittee, indicates that you accept and agree to comply with the terms and conditions of this permit.

(Permittee)

(Date)

This permit becomes effective when the Federal official, designated to act for the Secretary of the Army, has signed below.

(District Engineer)

(Date)

When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.

(Transferee)

(Date)



**US Army Corps
of Engineers®**
New England District

COMPLIANCE CERTIFICATION FORM
(Minimum Notice: Permittee must sign and return notification
within one month of the completion of work.)

Permit Number: NAE-2023-00723

Project Manager: Stephanie Morrison

Name of Permittee: ADL 325 Little Harbor Road Trust, Stephen Roberts

Permit Issuance Date: November 25, 2024

Please sign this certification and return it to our office upon completion of the activity and any mitigation required by the permit. You must submit this after the mitigation is complete, but not the mitigation monitoring, which requires separate submittals.

E-MAIL TO: cenae-r@usace.army.mil; or stephanieann.prokopmorrison@usace.army.mil
*
*MAIL TO: *
* U.S. Army Corps of Engineers, New England District *
* Regulatory Division *
* 696 Virginia Road *
* Concord, Massachusetts 01742-2751 *

Please note that your permitted activity is subject to a compliance inspection by an U.S. Army Corps of Engineers representative. If you fail to comply with this permit you are subject to permit suspension, modification, or revocation.

I hereby certify that the work authorized by the above referenced permit was completed in accordance with the terms and conditions of the above referenced permit, and any required mitigation was completed in accordance with the permit conditions.

Signature of Permittee

Date

Printed Name

Date of Work Completion

() _____
Telephone Number

() _____
Telephone Number

*NEW HAMPSHIRE
DEPARTMENT OF STATE*



I, David M. Scanlan, Secretary Of State, of the State of New Hampshire, do hereby certify that the Governor and Executive Council, at their meeting on August 30, 2024, approved ITEM #150C, ADL 325 Little Road Trust's request to perform work on Piscataqua River in Portsmouth, NH.

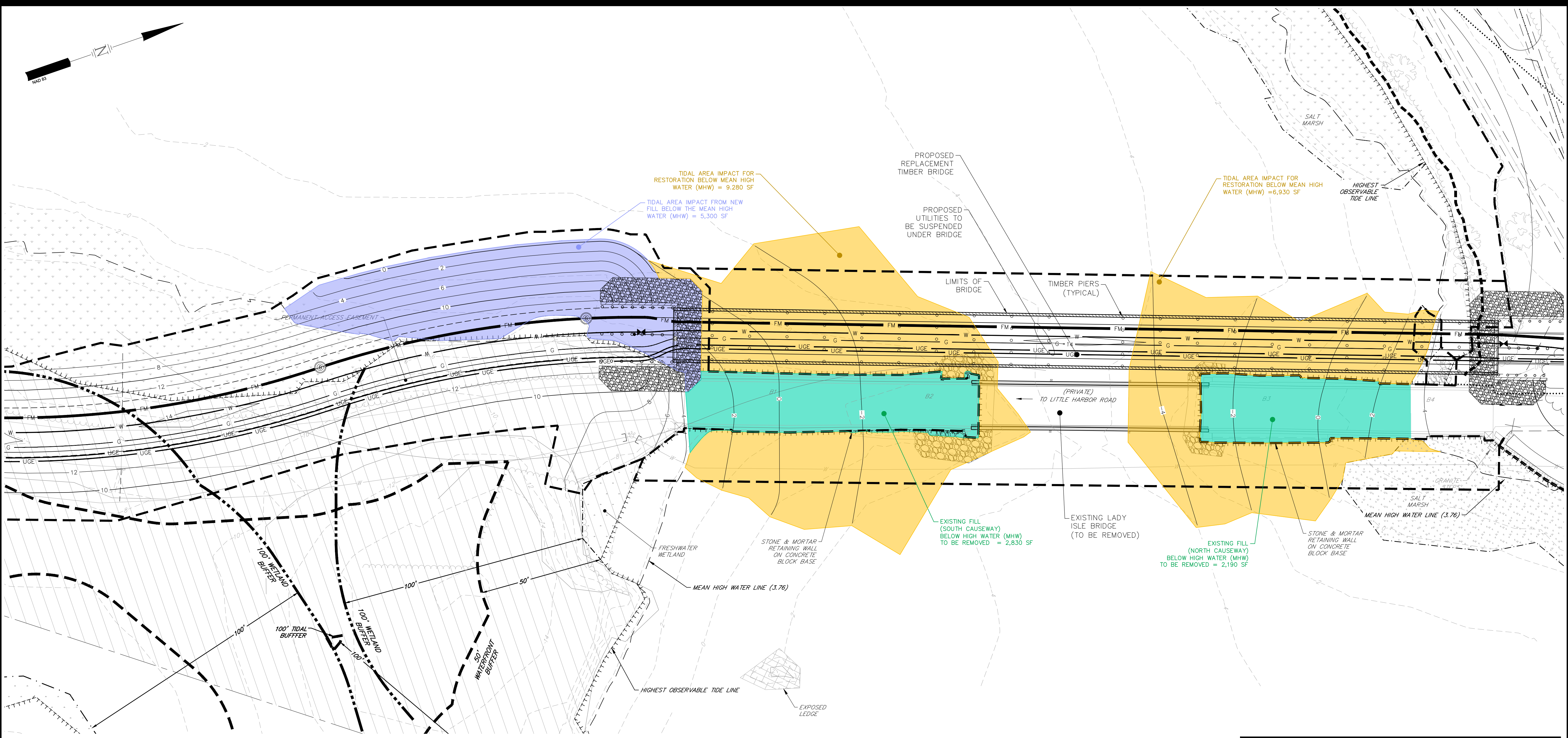


In Testimony Whereof, I hereto set my hand and cause to be affixed the Seal of the State of New Hampshire, this thirtieth day of August, in the year of Our Lord, two thousand and twenty-four.

A handwritten signature in black ink, appearing to read "David M. Scanlan".

Secretary of State

May 23, 2023 - 3:03pm
F:\MISC Projects\47099 - Little Harbor Rd & Gosport Rd - Portsmouth\47099-01 - DiLorenzo - 325 Little Harbor Road\Design\PRODUCTION DWGS BRIDGE\47099-01_Bridge Tidal Impact Plan.dwg



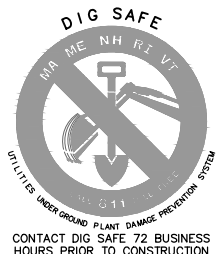
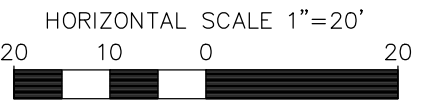
LEGEND

- G GAS LINE
- W WATER LINE
- UGE UNDERGROUND UTILITIES LINE
- FM SEWER - FORCE MAINE
- SEWER MANHOLE
- SALT WATER MARSH
- FRESH WATER WETLAND
- RIPRAP ABUTMENTS
- EDGE OF WOODS
- HIGHEST OBSERVABLE TIDE LINE (HOTL)
- MEAN HIGH WATER LINE (MHW)

TIDAL AREA IMPACTS BELOW MEAN HIGH WATER (MHW)	
DESCRIPTION	AREA (SF)
NEW FILL FOR BRIDGE ABUTMENT	5,300
FILL REMOVAL OF EXISTING CAUSEWAYS	5,020
NET INCREASE IN FILL BELOW MHW	280

TIDAL AREA RESTORATION BELOW MEAN HIGH WATER (MHW)	
DESCRIPTION	AREA (SF)
REMOVAL OF EXISTING FILL (SOUTH CAUSEWAY)	2,830
REMOVAL OF EXISTING FILL (NORTH CAUSEWAY)	2,190
FILL REMOVAL OF EXISTING CAUSEWAYS (TOTAL)	5,020
GRADING TO MATCH EXISTING GRADES	16,210
TOTAL RESTORATION	21,230

NOTE:
THE MEAN HIGH WATER (MHW) ELEVATION OF 3.76 FEET WAS DETERMINED BY THE NATIONAL OCEANIC AND ATMOSPHERIC ASSOCIATION (NOAA) SEAVEY ISLAND, MAINE TIDAL STATION 8419870 USING NAVD 88 DATUM.



REV	DATE	DESCRIPTION	DR	CK

BRIDGE PERMITTING PLANS

TAX MAP 205 LOT 2
ARMY CORP OF ENGINEERS IMPACT PLAN
LADY ISLE BRIDGE REPLACEMENT
325 LITTLE HARBOR ROAD, PORTSMOUTH, NH
OWNED BY & PREPARED FOR
ADL 325 LITTLE HARBOR ROAD TRUST

1"=40' (11"x17')
SCALE: 1"=20' (22"x34')
MAY 24, 2023

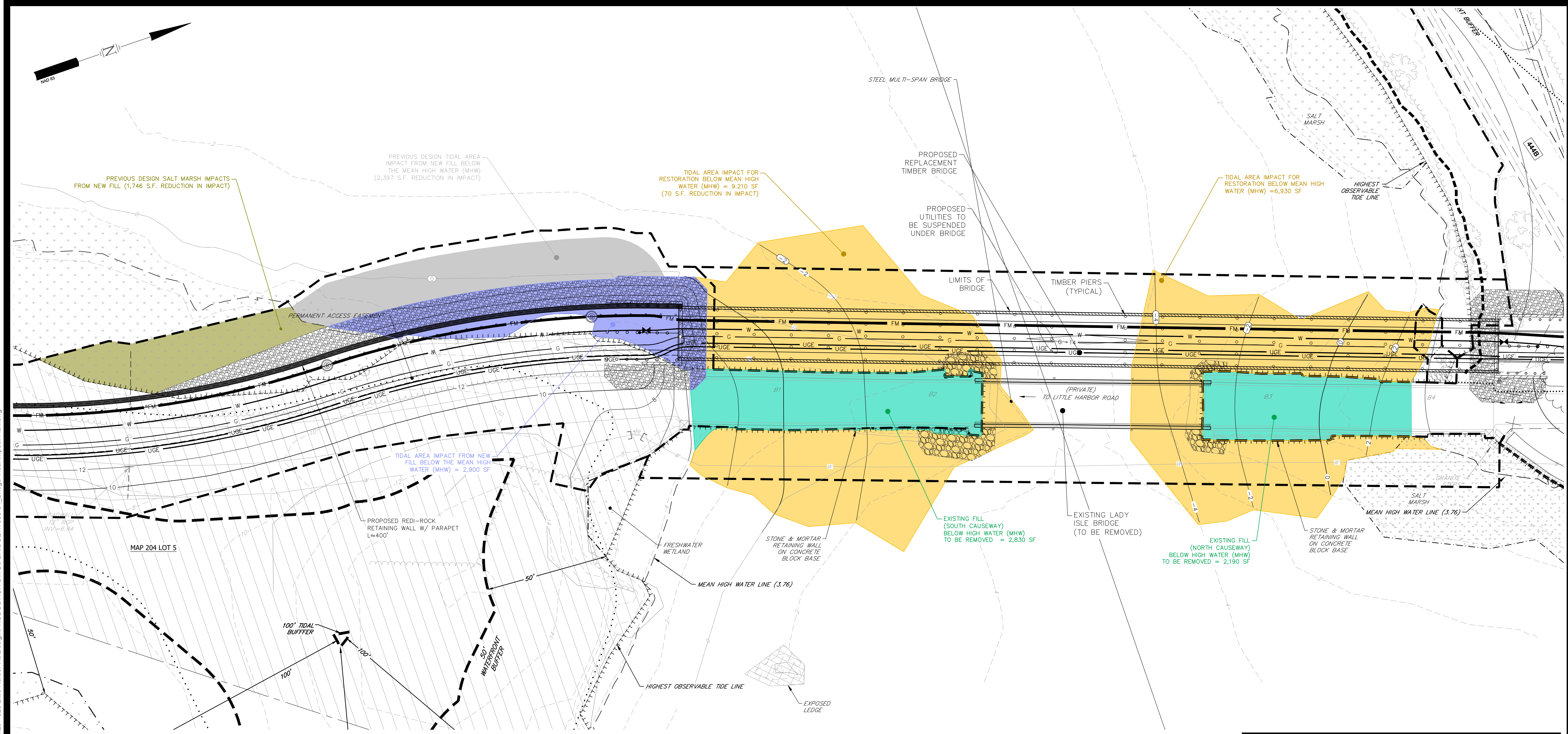
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Civil Engineers
Structural Engineers
Traffic Engineers
Land Surveyors
Landscape Architects
Scientists
170 Commerce Way, Suite 102
Portsmouth, NH 03801
Phone (603) 431-2222
Fax (603) 431-0910
www.tfmoran.com

47099.01	DR JKC	FB	-	BR-03
CK JCC	CADFILE	47099-01_BRIDGE TIDAL IMPACT PLAN		

Aug 14, 2024 - 8:10am F:\MISC Projects\47099 - Little Harbor Rd & Gosport Rd - Portsmouth\47099-01 - DiLorenzo - 325 Little Harbor Road\Design\PRODUCTION DWGS BRIDGE\47099-01_Bridge Tidal Impact Plan.dwg



LEGEND

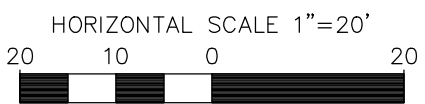
- G GAS LINE
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REV	DATE	DESCRIPTION	DR	CK
3	8/13/2024	ADDITION OF RETAINING WALL TO LIMIT FILL	JKC	JCC
2	10/13/2023	NO REVISIONS THIS SHEET		

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1"=40' (11"x17')
SCALE: 1"=20' (22"x34') **MAY 24, 2023**

Seacoast Division



Civil Engineers
Structural Engineers
Traffic Engineers
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47099.01	DR JKJ	FB		BR-03
CK JCC	CADFILE	47099-01_BRIDGE TIDAL IMPACT PLAN		