

# 5

## Project Commitments

This chapter reviews the commitments contained in the 2007 FEIS and the 2008 ROD in light of project changes and updated environmental conditions and regulatory standards. The 2008 ROD documents the commitments for the larger Newington-Dover, Spaulding Turnpike Improvements Project, which has been under construction since 2010. The 2007 FEIS and 2008 ROD are available on the Project's website, at <http://www.newington-dover.com/index.html>.

In addition to the review of previous environmental commitments, this chapter also discusses new mitigation elements for new impacts identified within this FSEIS, including measures to minimize wetland impacts, minimize the visual impact of the project, mitigate or minimize adverse effects on cultural resources, and avoid impacts to fisheries.

### 5.1 Status of the 2007 FEIS and 2008 ROD Environmental Commitments

As part of the NEPA process for the larger Newington-Dover, Spaulding Turnpike Improvements Project, the 2008 ROD stipulated a number of mitigation measures to avoid, lessen, remedy, or compensate for impacts. The mitigation measures outlined in the 2007 FEIS and 2008 ROD were identified to address the Spaulding Turnpike Improvements Project's direct and indirect effects, which in turn, minimized, rectified, or compensated for negative impacts. These mitigation measures and commitments were determined through coordination with Federal and state agencies with jurisdiction over the resources in question. **Appendix L, *Newington-Dover 11238 FEIS Environmental Commitments (2007)***, documents the current status of the 2007 FEIS and 2008 ROD commitments. Commitments which are identified as "on-going" would apply to the GSB Project ("Contract S").

<sup>86</sup> It is expected that the US Army Corps of Engineers will authorize the project via a NH Statewide Programmatic General Permit (*i.e.*, the removal and restoration will not require an individual permit).

### 5.2 New Recommended Commitments

Mitigation measures and BMPs to be incorporated to minimize or eliminate impacts to natural, cultural, and social resources are described in further detail in the resource-specific sections of **Chapter 3** of this FSEIS. Final mitigation measures and environmental commitments have been memorialized in the 2022 FSEIS/SROD pursuant to 49 USC 304a(b) [and 23 USC 139(n)(2)].

#### Wetlands and Surface Waters

- › NHDOT will submit a permit application to the NHDES Wetlands Bureau for the wetland impacts resulting from the Preferred Alternative. NHDOT will coordinate with state and federal resource agencies, and the communities of Newington and Dover to identify the project-specific mitigation required for the GSB Project.
- › NHDOT will apply for a US Army Corps of Engineers permit for the wetland impacts resulting from the Preferred Alternative.<sup>86</sup>
- › Applicable erosion and sediment control BMPs would be used throughout construction to protect wetlands and surface waters from sediment, erosion, pollution, and contaminants.
- › Unpaved staging areas are to be protected with temporary geotextile fabric under crushed stone.
- › Disturbed areas will be restored to as near pre-existing conditions as practicable once construction is complete. All disturbed and graded areas would be seeded and mulched as needed. Disturbed areas that have been seeded and mulched would be considered stable once 85-percent vegetative growth has been achieved.
- › Appropriate pollution preventative measures and BMPs as outlined within the *New Hampshire Stormwater Manual Vol. 3 – Erosion Control and Sediment Controls During Construction* (December 2008), available online at NHDES's website, shall be employed to assure that any detrimental impacts are minimized to the extent practicable.

#### Water Quality and Pollutant Loading

- › NHDOT will require contractors to address the provisions of USEPA's Construction General Permit (CGP), submit a Notice of Intent (NOI) to USEPA, and develop a combined Stormwater Pollution Prevention Plan (SWPPP) and marine sediment containment/protection measures, which will describe how the construction methods will minimize disturbance of marine sediments and contain the movement of sediment, as well as minimize any land-based erosion or discharge of stormwater during construction.
- › NHDOT will require contractors to receive NHDOT's approval of their SWPPP prior to initiation of construction activities.
- › NHDOT will require contractors to have a qualified environmental and erosion control monitor onsite to inspect, document and report on daily activities within the proposed project limits and construction staging areas.

- › Where dewatering activity may be needed, NHDOT will require contractors to provide a dewatering and erosion control plan that is consistent with NPDES Remedial Permit for Dewatering Activity in New Hampshire including contingency measures for extreme wet weather events.

### **Floodplains and Hydrodynamics**

- › Upon completion of construction, the temporary stone causeways and trestles in the Little Bay shall be removed. Disturbed areas will be restored to as near pre-existing conditions as practicable once construction is complete.

### **Wildlife and Fisheries**

- › Erosion and sediment control BMPs composed of wildlife friendly materials such as woven organic material would be used during the construction period, as recommended by the NHF&GD.
- › Tree and shrub clearing and ground disturbing impacts would be reduced to the extent practicable during design and construction to limit unnecessary impacts on wildlife habitat.
- › Areas of disturbance along the shoreline of Little Bay would be stabilized and plantings installed as appropriate as part of site restoration.
- › The contractor would be required to inspect all construction BMPs on a daily basis to ensure that they are properly installed and maintained.
- › Standard BMPs will be required for in-water and shoreside construction to address potential fuel or oil spills from the construction equipment, and to mitigate the potential for suspension of sediments and consequent siltation.
- › The Project would comply with the NMFS/FHWA Best Management Practices Manual for Transportation Activities in the Greater Atlantic Region (April 2018).
- › Care will be taken to minimize impacts to shellfish beds, particularly those adjacent to Dover Point. If needed and determined practical, shellfish may be relocated outside of the temporary impact area associated with the temporary construction causeway.

### **Threatened and Endangered Species**

- › If a threatened, endangered, or rare plant species is encountered during construction that was not documented prior to construction, construction activities in that area would temporarily cease until the plant has been relocated.
- › The existing bridge structure will be re-surveyed to identify any use by NLEB following the procedures in Appendix D of the *Programmatic Biological Opinion for Transportation Projects within the Range of the Indiana Bat and Northern Long-eared Bat* (revised February 5, 2018).
- › The following AMMs shall be followed to comply with the NLEB effect determination (refer to the USFWS concurrence letter in **Appendix H**).
  - Ensure all operators, employees, and contractors working in areas of known or presumed bat habitat are aware of all FHWA/FRA/FTA (Transportation Agencies) environmental commitments, including all applicable AMMs.

- Direct temporary lighting away from suitable habitat during the active season.
  - When installing new or replacing existing permanent lights, use downward-facing, full cut-off lens lights (with same intensity or less for replacement lighting).
  - Modify all phase/aspects of the project (e.g., temporary work areas) to minimize tree removal.
  - Ensure tree removal is minimized to that specified in project plans and ensure that contractors understand clearing limits and how they are marked in the field.
- › Wildlife friendly erosion control methods shall be implemented during construction such as woven organic material for erosion control blankets. Welded plastic, biodegradable plastic, or threaded erosion control materials shall not be used as part of construction.
  - › Since soil disturbance is anticipated to occur as part of the Project, the contractor(s) shall be required to develop and implement an appropriate Invasive Species Control and Management Plan which adheres to NHDOT's publication *Best Management Practices for the Control of Invasive and Noxious Plant Species* (2018) during construction to minimize the spread of invasive plant species within the area of ground disturbance. Only clean equipment that is free of plant material and debris shall be delivered to the Project site and utilized during construction. All machinery entering and leaving any area containing invasive plants will be inspected for foreign plant matter (stems, flowers roots, etc.) and embedded soil. If foreign plant matter/soil is present, the operator shall remove the plant material and soil from the machine using acceptable methods.

### **Air Quality**

- › The NHDOT will require the contractors involved with construction to include air pollution control devices on heavy diesel construction equipment, in accordance with applicable state and federal laws at the time of construction.
- › Construction mitigation measures will include wetting and stabilization to suppress dust generation, cleaning paved roadways, and scheduling construction to minimize the amount and duration of exposed earth.

### **Parks, Recreation, and Conservation Lands**

- › Public access to Hilton Park, outside of the staging and construction work zone, shall be maintained. However, temporary restrictions on public access may be necessary during delivery of materials to the staging areas.
- › Unpaved areas within the fenced-off staging area of Hilton Park are to be protected with temporary geotextile fabric under crushed stone.
- › Disturbed areas of Hilton Park shall be restored to pre-existing conditions once construction is complete.
- › The replacement or relocation of the Hilton Park pavilion will be evaluated in coordination with the NHDOT Bureau of Turnpikes.
- › Potential periodic closures of the navigational channel during work on the GSB's center spans will be closely coordinated with the USCG, the NH Port Authority, the NH Marine

Patrol, Pease Development Authority Division of Ports and Harbors, marine businesses and marine users to minimize impacts to marine traffic.

### Cultural Resources

- › The identification of measures to mitigate the adverse effects resulting from the Preferred Alternative are stipulated in a new MOA, which was executed on November 10, 2021. The final mitigation measures, as stipulated in the MOA, include the following:
  - Marketing the GSB for re-use in compliance with 23 USC Section 144;
  - Documentation of the GSB in accordance with the Historic American Engineering Record standards;
  - Promoting and providing access to the NHDOT Historic Bridge Inventory and the NHDOT Bridge Management Plan;
  - Development of an interpretive program including on-site interpretive panels and an installation at the Woodman Museum in Dover;
  - Supporting the future rehabilitation and reuse of the state-owned Newington Depot property on Bloody Point including the assessment of the feasibility for the rehabilitation of the Newington Railroad Depot and possible transfer of the building along with the state-owned land to the Town of Newington; and
  - Completion of a feasibility study of a future link between the Dover Community Trail and the new GSB, including development of interpretive signage to highlight the history of the Newington-Dover Branch Line.
- › The archeological remnants of the Enoch Pinkham brickyard located within Hilton Park shall be protected by temporary fencing and avoided from staging and construction activities during construction.

### Contamination and Hazardous Materials

- › The OSHA Lead in Construction Standard (29 CFR 1926.62) must be invoked during any activities that disturb the lead paint on the GSB. Other hazardous materials such as heavy metals may be present in the coating which will also require management under the applicable OSHA Standards.
- › Arsenic impacted soils will be managed in accordance with a Project-specific Soil Management Plan (SMP).
- › Undocumented releases of OHM will be reported to NHDES as appropriate and remediated per applicable regulations.
- › Hazardous materials (asbestos, lead-based paint, PCBs, mercury, etc.) will be inventoried prior to any structural demolition or renovation work in accordance with Section 5.2 of the NHDOT *Standard Specifications for Road and Bridge Construction*. If these hazardous materials are found to be present in the structures, they would be properly abated by a licensed contractor in accordance with state and local regulations and shipped to a receiving facility licensed to handle the specific type of solid waste under the appropriate shipping documents such as manifests.

- › A SMP shall be developed in accordance with NHDOT specifications that would be based upon the results of subsurface investigations for the Project. A typical SMP outlines standards and procedures for the identification and disposal of contaminated materials that may be encountered during construction.
- › Tracking protocols for contaminated soils will be detailed from the point of excavation to designated testing areas and to the ultimate disposal site or within the project limits.
- › A Health and Safety Plan shall be developed which provides the minimum health and safety specifications that contractors must meet during construction including requirements for environmental monitoring, personnel protective equipment, site control and security, and training.
- › The NHDOT has determined that roadside Limited Reuse Soils (LRS) may be encountered in all topsoil within the limits of the existing right-of-way, regardless of its depth. Contractors will be advised that roadside LRS occurs within the limits of disturbance. In instances where topsoil is not present, soil from the top of ground to a depth of 6 inches is considered to be LRS. Soils excavated from beyond and/or below the specified LRS limits that do not exhibit visual or olfactory evidence of potential contamination shall not require handling as impacted material.
- › The SMP will provide guidance for the identification, handling, storage, reuse, and disposal of LRS soils generated during construction activities.
- › In the event that PFAS-impacted groundwater is encountered during construction phases, dewatering activities shall be conducted in accordance with applicable NHDES rules and/or Groundwater Management Plans.
- › The Contractor will develop a Project Operations Plan, which shall specify the Contractor's means and methods for handling and managing LRS, and Contaminated Soil and Groundwater. This will include the implementation of the BMPs described in the SMP. Following approval of the Project Operations Plan, the Contractor shall be required to notify the NHDOT's Bureau of Environment at least two weeks prior to beginning excavation.

### Visual

- › Disturbed areas in Dover and Newington used for construction staging would be restored to as near pre-existing conditions as practicable once construction is complete.
- › As needed, the visual character of the disturbed areas would be restored with replacement plantings. Replacement plantings should be native and indigenous to the area for visual consistency with the surrounding landscape and natural environment.

### Construction

- › Mitigation measures would be implemented in accordance with applicable laws and regulations during construction. Examples of resource-specific, construction-related mitigation measures include but are not limited to siltation or erosion control barriers, spill prevention plans, and wetting soils during excavation.

### **Social and Economic Resources and Environmental Justice**

- › Public involvement efforts will be undertaken to accommodate and encourage participation by traditionally underserved groups, to ensure program access and minimize the potential for disproportionate project impacts on protected groups.

### **Navigation**

- › Potential periodic closures of the navigational channel during construction will be closely coordinated with the USCG, the NH Port Authority, the NH Marine Patrol, Pease Development Authority Division of Ports and Harbors, marine businesses and marine users to minimize impacts to marine traffic.
- › The plans for construction of the Project will be submitted to the USCG to address the reasonable needs of navigation and to procure the necessary USCG permit.<sup>87</sup>

### **Public Involvement**

- › NHDOT will continue to engage and coordinate with the public and other stakeholders to ensure that public transportation needs and community goals are considered.

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<sup>87</sup> A USCG permit review would require a Coastal Zone Management Consistency Determination and may require a Water Quality Certificate.