



The State of New Hampshire
Department of Environmental Services



Robert R. Scott, Commissioner

Monadnock Rod and Gun Club, Inc.
P.O. Box 82
Jaffrey, NH 03452

Re: 595 Jaffrey Road, Route 202
Peterborough & Abutting Properties
LRM File #2018-02238
NHDES Site #202003003/201806033

**REVISED
ADMINISTRATIVE ORDER
No. 21-008**

June 25, 2021

A. INTRODUCTION

This Administrative Order is issued by the New Hampshire Department of Environmental Services to Monadnock Rod and Gun Club, Inc. under the authority of RSA 482-A:6, RSA 147-A:14, and RSA 485-C:16. This Administrative Order is effective upon issuance.

B. PARTIES

1. The New Hampshire Department of Environmental Services (“NHDES”) is a duly-constituted administrative agency of the State of New Hampshire, having its principal office at 29 Hazen Drive in Concord, New Hampshire.
2. The Monadnock Rod and Gun Club, Inc. (the “Gun Club”) was a New Hampshire non-profit corporation with a mailing address of P. O. Box 82, Jaffrey, NH 03452. The Gun Club has been administratively dissolved according to records maintained by the New Hampshire Secretary of State.

C. STATEMENTS OF FACTS AND LAW

1. RSA 482-A authorizes NHDES to regulate dredging, filling, and construction in or on any bank, flat, marsh, wetland, or swamp in and adjacent to any waters of the state. The Commissioner of NHDES has adopted NH CODE ADMIN. RULES Env-Wt 100 *et seq.* (the “Wetland Rules”) to implement this program, in accordance with RSA 482-A:11, I.
2. RSA 147-A authorizes NHDES to regulate the management and disposal of hazardous waste. Per RSA 147-A:3, the Commissioner of NHDES has adopted NH CODE ADMIN. RULES Env-Hw 100-1200 (the “Hazardous Waste Rules”) to implement this program.
3. RSA 485-C authorizes NHDES to regulate the protection and management of the groundwater of the state, including the investigation, management and remediation of contaminated groundwater.
4. The Gun Club owns/owned real property located at 595 Jaffrey Road, on Route 202, in Peterborough, New Hampshire; more particularly described on Peterborough Tax Map 3, as Lot 32. The Gun Club has operated a firearms and cannon range, archery practice area, stream fishing

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and a trout pond for its members for over 70 years, according to information posted on its website.

5. Scott and Bridgette Perry own real property located at 286 Old Jaffrey Road in Peterborough, New Hampshire; more particularly described on Peterborough Tax Map 3, as Lot 9-300. The Perrys purchased the property, comprising about 49 acres, in 1997. The Perry property abuts the Gun Club property.

6. Robert Morris owns real property located at 44 Windy Row in Peterborough, New Hampshire; more particularly described on Peterborough Tax Map 3, as Lot 13. Until recently, the Morris property, comprising about 30 acres, was owned by Robert C. Morris, Inc. The Morris property abuts the Perry and Gun Club properties.

7. The Commissioner of NHDES has adopted NH CODE ADMIN. RULES Env-Or 600 (the "Contaminated Site Management Rules") to establish procedures and requirements for the investigation, management, and remediation of contamination from the discharge of regulated contaminants that adversely affect human health or the environment resulting from human operations or activities.

8. On June 11, 2018, NHDES received a *Notification of Soil Remediation Standard Exceedance* from GeoInsight, Inc., pursuant to Env-Or 604. In the notice, the consultant reported that surficial soil sampling conducted in May 2018 on the Perry property showed concentrations of lead in excess of the NHDES Soil Remediation Standard of 400 milligrams per kilogram ("mg/kg"), as set forth in Table 600-2, in Env-Or 606.19(b).

9. On July 5, 2018, the Perrys notified NHDES, through counsel, of lead contamination on their property as a result of alleged activities originating on the Gun Club property.

10. Per Env-Or 602.07, *contamination* means the presence of any regulated contaminant other than naturally occurring substances at naturally occurring or background levels, in soil, groundwater, soil gas, air, sediment, surface water, construction/excavation debris, or any other material at a concentration that has the potential to adversely affect human health or the environment. *Lead* is a regulated contaminant.

11. On July 9, 2018, NHDES responded to the Perrys notification explaining that the department had limited authority to regulate active firing ranges in upland areas. NHDES had no record of any reported impacts to groundwater or surface waters in the area. NHDES staff noted that firing into or over wetlands and surface waters was more clearly prohibited. In the reply via email, NHDES staff noted that once an upland range became inactive, lead impacts to soil above standards may be regulated as abandoned waste.

12. On July 18, 2018, NHDES received a formal complaint from the Perrys, through counsel, of wetlands violations on their property. In their complaint, the Perrys asserted that Gun Club members had expanded their firearms, cannon, and archery ranges onto the Perry property; and filled wetlands while constructing a new long range. Mr. Perry reported that the area of encroachment was previously forested wetlands, and that the Gun Club removed trees and buried stumps on his property.

13. RSA 482-A:3, I, states that no person shall excavate, remove, fill, dredge, or construct any structures in or on any bank, flat, marsh, or swamp in and adjacent to any waters of the state without a permit from NHDES.

14. Env-Wt 103.24 defines *jurisdiction* as the regulatory authority conferred by RSA 482-A.
15. NHDES had no record of authorizing work or impacts in jurisdiction on the Perry property.
16. On July 27, 2018, NHDES sent a letter to then Gun Club president, Mark Carbone, notifying him of the complaint of wetlands violations, and providing him with an opportunity to respond. In the letter, NHDES staff noted the permit requirements under RSA 482-A, for work in jurisdiction, and let Mr. Carbone know that an inspection of the Perry property had been scheduled.
17. On August 27, 2018, the Gun Club acknowledged the alleged violator letter from NHDES, through counsel, and stated an intent to respond to the department.
18. Per RSA 482-A:14-b, II, municipalities may seek injunctive relief in superior court against existing or impending violations of RSA 482-A, or any rule or order issued under the chapter. The municipality shall give notice of any such action to the attorney general and the commissioner of environmental services, who may take such steps to ensure uniform statewide enforcement, including but not limited to joining the action, assuming sole prosecution of the action, or, as of right, dismissing the action without prejudice. Such notice shall be given at least 30 days prior to the commencement of the action, unless more immediate action is necessary to prevent irreparable environmental damage or other serious public harm, in which case such notice shall be given as soon as practicable, but in no event later than the date of commencement of the action. This does not impede municipalities from taking action based on other statutes or local ordinances.
19. On September 13, 2018, NHDES received from the Town of Peterborough formal notice, in accordance with RSA 482-A:14-b, of its intent to file an action in superior court against the Gun Club. In the letter from the town administrator, Peterborough notified NHDES that its consultant had conducted a wetlands impact assessment during an administrative inspection of the Gun Club property on July 25, 2018; and found that thousands of square feet of fill had been placed in jurisdiction. The town intended to seek injunctive relief against the Gun Club for the violations observed in 30 days from the date of the notice.
20. On October 18, 2018, NHDES personnel conducted an inspection of the Gun Club property, and abutting properties. During the inspection NHDES personnel observed and documented the impacts to jurisdiction consistent with the wetlands impact assessment conducted by the certified wetlands scientist (“CWS”) retained by Peterborough; and identified a culvert on the Perry property measuring approximately 140 feet long by 18 inches wide, directing wetland hydrology from the easterly side of the firing range into a defined stream channel on the westerly side.
21. NHDES had no record of any permits for the impacts to jurisdiction observed during the inspection of the Gun Club property, and the two abutting properties.
22. On November 8, 2018, Hillsborough Superior Court North issued a preliminary injunction against the Gun Club, in the action brought by Peterborough, prohibiting shooting on Gun Club property, and on the abutting properties encroached upon by the Gun Club.
23. On November 29, 2018, NHDES issued Letter of Deficiency (“LOD”) No. LRM 18-063 to the Gun Club. In the LOD, NHDES set out a summary of the jurisdictional impacts observed and documented by NHDES inspectors on both the Gun Club property, and the abutting properties (collectively the “Site”); and requested that the Gun Club retain a CWS within 20 days, and submit a restoration plan for the wetland impacts within 90 days.

24. On January 29, 2019, the Gun Club acknowledged the LOD from NHDES, through counsel, and notified NHDES that it was embroiled in two lawsuits; one brought by the town against the Gun Club, and another brought by the Gun Club against the Perrys for adverse possession of the real property impacted by the expansion of its range by the Gun Club. The Gun Club, through counsel, requested an extension of the deadlines suggested in the LOD until 60 days after the resolution of the legal proceeding brought against the Perrys by the Gun Club.

25. On September 10, 2019, the Hillsborough Superior Court North ruled against the Gun Club in the suit brought against the Perrys for adverse possession of part of the Perry property. Thereafter, NHDES received notice from the Gun Club, through counsel, that it would submit a restoration plan to NHDES within 60 days.

26. Per RSA 485-C:6, the Commissioner of NHDES shall establish and adopt ambient groundwater quality standards (“AGQS”) for regulated contaminants which adversely affect human health and the environment. AGQS shall apply to all regulated contaminants which result from human operations and activities. Except for discharges of domestic wastewater regulated under RSA 485-A:13, and RSA 485-A:29, no person shall violate AGQS.

27. Per RSA 485-C:4, III, the Commissioner of NHDES shall adopt rules, pursuant to RSA 541-A, relevant to AGQS as provided under RSA 485-C:6. Pursuant to RSA 485-C:4, and RSA 485-C:6, the AGQS are set forth in Env-Or 603. The AGQS for lead is 15 parts per billion (“ppb”), set out in Table 600-1, in Env-Or 603.03(c).

28. In February 2020, NHDES received a report prepared by GeoInsight titled *Initial Site Characterization and Preliminary Remedial Action Plan Firing Range Encroachment onto Land of Scott Perry*, dated January 31, 2020. In the report, the consultant set out key findings regarding lead contamination of soil and groundwater on the Perry property, and included an outline of a preliminary remedial action plan for the Perry property. GeoInsight reported that dissolved lead in a groundwater sample from one test pit on the Perry property was detected at a concentration of 1,030 ppb, more than 68 times the AGQS for lead.

29. Per Env-Or 602.15, *Initial Site Characterization* (“ISC”) means a preliminary assessment following a discharge that is performed to collect information regarding the subsurface conditions of a site, the extent of the discharge, and potential receptors in the area.

30. Per Env-Or 602.09, *discharge* means the release or addition of any regulated contaminant to land, groundwater, or surface water.

31. Env-Or 602.27 defines *remedial action* as any measure or combination of measures that will, when implemented, ensure attainment of a level of control of contaminants such that no contaminant will adversely affect human health or the environment.

32. *Remedial action plan* (“RAP”), as defined in Env-Or 602.28, includes proposed actions to: remove, treat, or contain contamination sources; contain contaminated groundwater within the limits of a groundwater management zone; restore groundwater quality to meet the groundwater quality criteria of Env-Or 603.01; and restore soil quality to meet soil remediation criteria of Env-Or 606.19.

33. On March 3, 2020, the Hillsborough Superior Court North held a hearing on the claim of damages to their Property made by the Perrys against the Gun Club. No representatives for the

Gun Club appeared at the hearing. The court heard from three witnesses for the Perrys, including an environmental consultant from GeoInsight who testified about the cost of remediating the contaminated soil on the Perry property; an environmental consultant who testified about the cost of restoring the wetlands on the Perry property; and the owner of an excavation company. The owner of the excavation company testified that it would be less expensive to remove the contaminated soil by accessing the Perry property through the Gun Club property.

34. The Hillsborough Superior Court North issued an *Order on Damages* dated March 25, 2020, in the suit originally brought by the Gun Club against the Perrys. The court awarded damages to the Perrys in the amount of \$648,402, based on the testimony and reports from the three witnesses; and ordered the Gun Club to provide access to the Perrys through Gun Club property, so that the Perrys may remediate and restore the impacted portions of their own property.

35. On April 10, 2020, NHDES received a copy of a boundary survey plan dated February 22, 2018, prepared for the Gun Club by Paquin Land Surveying, PLLC. The Paquin survey plan shows that the 200-yard berm, located at the northern end of the more recently constructed long range, goes beyond the Perry property and onto the Morris property. The construction of this berm for the long range involved impacts and fill in jurisdiction on the Morris property.

36. On June 17, 2020, NHDES sent a letter to the Gun Club in response to the reports prepared for the Perrys by GeoInsight. The GeoInsight reports documented the presence of lead in the soil on the Perry property, exceeding the soil remediation standard, and requiring remediation in accordance with the Contaminated Site Management Rules. The data in the GeoInsight reports suggests that the lead impacts to soil extend onto the Morris property, and the Gun Club property, based on the existing footprint of the shooting range. In its response, NHDES concurred in concept with GeoInsight's preliminary RAP to remove the contaminated soil in conjunction with wetland restoration on the Perry property. NHDES noted the AGQS exceedance for lead, as reported in the ISC conducted by GeoInsight, which indicates possible contamination of groundwater. NHDES requested that the Gun Club conduct a focused site investigation of the impacted areas and surrounding environment on the Site including the entirety of the closed shooting range, within 120 days.

37. Env-Or 606.01 (a) requires that a responsible party shall perform a site investigation following a discharge or groundwater quality violation if so requested by NHDES pursuant to Env-Or 606.02. Per Env-Or 606.01(b), the site investigation shall: 1) determine the source, nature, location, and full extent of contamination; 2) identify receptors and potential receptors; and 3) identify the need to conduct further investigation or remedial actions.

38. Env-Or 606.03(a) requires that the responsible party shall submit a report of the site investigation required by Env-Or 606.01, to NHDES for approval within 120 days of the department request for a site investigation.

39. Per RSA 147-A:9, I, any owner, operator, generator, or transporter who causes or suffers the treatment, storage, transportation or disposal of hazardous waste in violation of RSA 147-A or the Hazardous Waste Rules shall be strictly liable for costs directly or indirectly resulting from the violation relating to: a) containment of hazardous wastes; b) necessary cleanup and restoration of the site and the surrounding environment; and c) removal of the hazardous wastes.

40. Env-Hw 502.01(a) requires that all generators of waste shall determine if that waste is a hazardous waste as set forth in Env-Hw 401.01, prior to disposal.

41. Per Env-Hw 401.01(a), the purpose of Env-Hw 400 is to identify those wastes that are subject to regulation as hazardous wastes. Lead is a waste considered to exhibit the characteristic of toxicity, the maximum allowable concentration of which is listed in Env-Hw 403.06(d).
42. Per Env-Hw 401.03(b)(15), materials that are reclaimed from wastes and that are used beneficially shall be exempt from regulation under the Hazardous Waste Rules; unless the reclaimed material is burned for energy recovery or used in a manner constituting disposal.
43. Lead shot/bullets can be 90% or more lead, which can leach into the environment based on soil conditions. Lead can be toxic to soil fauna, vascular plants, and small mammals. In humans, lead exposure can affect the functioning of kidney, bone, the central nervous system, and have other health impacts.
44. Based on the results of toxicity testing for soils contaminated with lead shot, bullets, and fragments; the soils on the current and former shooting ranges, and surrounding environment, may need to be managed as a hazardous waste. Screening and removal of lead shot, bullets, and fragments from the soil is a common practice to recover lead for recycling and a means to reduce remedial disposal costs for any remaining contaminated soils.
45. Env-Or 602.29 defines *responsible party* as any person subject to the strict liability provisions of RSA 146-A:3-a, RSA 147-A:9, RSA 146-C:11, or RSA 147-B:10.
46. Each owner of each impacted property is a responsible party for their respective property under the strict liability provisions of RSA 147-A:9, and the Contaminated Site Management Rules.
47. Per RSA 147-B:10-a, II, Notwithstanding any other provision of law, an owner or former owner of property shall not be held strictly liable for the treatment or cleanup of hazardous waste or hazardous materials discovered on his property if:
- (a) He did not, in any way, cause or materially contribute to the hazardous substance problem.
 - (b) He reported the existence of the hazardous substance to the appropriate authorities within a reasonable time of discovery.
 - (c) He can prove that he had no knowledge or reason to know of the hazardous substance problem prior to his purchase of the property. To establish that the defendant had no reason to know, as provided in this subparagraph, the defendant must have undertaken, at the time of acquisition, all appropriate inquiry into the previous ownership and uses of the property consistent with good commercial or customary practice in an effort to minimize liability.
48. The Gun Club is the responsible party as to the containment, cleanup, and removal of hazardous wastes, and remediation of the Site. Mr. Morris and the Perrys appear to be exempt as responsible parties under RSA 147-B:10-a, II.
49. On June 19, 2020, NHDES issued Revised LOD No. LRM 18-063 to the Gun Club. In the revised LOD, NHDES updated its inventory of sources of information documenting impacts to jurisdiction on the Site; and requested that the Gun Club retain a CWS within 30 days, to submit a restoration plan for jurisdictional impacts within 90 days.
50. On October 30, 2020, NHDES staff responded to a Gun Club representative about voluntary compliance with the previous requests to remediate and restore the impacted properties. NHDES

has no record of receiving a report of the site investigation from the Gun Club, requested by NHDES on June 17, 2020.

51. On November 12, 2020, NHDES staff received email from Meridian Land Services, Inc., notifying the department that the environmental consultant had been retained by the Gun Club to bring the Site into compliance. In his email, the consultant requested a meeting to discuss a multi-phase approach to address remediation and restoration of the Site – and mentioned “access issues.”

52. On December 1, 2020, the Gun Club and its consultant reported to NHDES that the abutters [the Perrys] had denied the Gun Club permission to access the Perry property in any capacity.

53. On December 16, 2020, the Morris property was transferred from Robert C. Morris, Inc. to Robert Morris. According to records maintained by New Hampshire Secretary of State, Robert C. Morris, Inc. was created in 1967, and dissolved in 1997.

54. According to records maintained by New Hampshire Secretary of State, on January 1, 2021, the Gun Club was administratively dissolved.

55. Per RSA 292:25, I, every corporation organized under RSA 292 or by act of the legislature shall, during the calendar year 1990, and every 5 years thereafter, make a return in writing to the secretary of state upon blanks to be furnished by him and shall pay a fee of \$25. The return shall be signed by the president or other officer of said corporation. The return shall state the corporation's principal address and the names and addresses of all the officers and directors or the governing board of the corporation. Any corporation which does not renew its charter as provided in this subdivision shall have its charter repealed, revoked and annulled; shall lose any right or title to the name under which it was incorporated; and shall be so advised in writing by the secretary of state. Per RSA 292:25, II, the disposition of any corporate assets of any corporation that is dissolved under this section shall be performed in accordance with RSA 292:29.

56. Per RSA 292:29, I, any corporation whose charter is repealed, revoked and annulled pursuant to this subdivision shall, nevertheless, continue as a body corporate for the term of 3 years from the date such charter is repealed, revoked and annulled for the purpose of presenting and defending suits by or against it and of closing and settling its concerns and distributing its assets, including the disposition and transfer of all corporate assets and property, subject to paragraphs II and III. Per RSA 292:29, II, for the purpose of any suit or action by or against any such corporation, pending at the end of said term of 3 years, such corporation shall continue as a body corporate until 90 days after final judgment or decree in such suit or action. Per RSA 292:29, III, the superior court may at any time when it shall be made to appear, upon the petition of any interested party, that the protection of proprietary or other rights requires the doing of any act or thing by or in behalf of any such corporation, order the doing of such acts or things, and for this purpose may appoint and authorize an agent to act for and in the name of such corporation, and any action so ordered and done shall be effective corporate action. The probate court shall have concurrent jurisdiction with the superior court to grant relief in the case of petitions involving charitable corporations brought under this section. The attorney general shall be notified and given an opportunity to be heard in all cases involving charitable corporations. Per RSA 292:29, IV, all corporate assets and property are to be disposed of in accordance with the provisions for dissolution as set forth in the articles of agreement, the bylaws, and in accordance with RSA 292:8 and RSA 292:9.

57. According to its *Articles of Agreement* filed with the New Hampshire Secretary of State on March 18, 1949, during the formation of the Gun Club as a voluntary corporation, “[u]pon dissolution of the corporation for any reason whatsoever its property shall be turned into cash and divided equally among members in good standing at that time according to the by-laws.”

58. The Gun Club property remains closed to shooting. The lead shot, bullets, and fragments, discarded on all three impacted properties are abandoned or discarded wastes.

59. Per Env-Hw 103.03, *abandoned material* means any material that is: a) disposed of; b) burned or incinerated; or c) accumulated, stored, or treated, but not recycled, before or in lieu of being abandoned by being disposed of, burned, or incinerated.

60. Per RSA 147-A:2, III, *disposal* means the discharge, deposit, incineration, injection, dumping, spilling, leaking or placing of any waste into or onto any land or water so that the waste or any constituent of the waste may enter the environment, be emitted into the air, or be discharged into any waters, including groundwaters.

61. Per Env-Hw 103.33, *discharge* means the release of hazardous waste into or on any land, water, or air.

62. The definition of *waste* in RSA 147-A:2, XVIII, includes discarded or abandoned material in solid form, from community activities.

63. Per Env-Or 606.10, a responsible party required to conduct a site investigation under Env-Or 606.01 shall prepare a RAP unless exempted under Env-Or 606.11. The responsible party shall submit a report of the RAP to NHDES within 120 days following written notice from the department that a RAP is required.

64. Env-Or 611 sets out the requirements for managing contaminated soils. Per Env-Or 611.01(a), a responsible party shall manage contaminated soils in a manner that protects human health and the environment. Per Env-Or 611.01(b), a responsible party shall manage contaminated soils in accordance with applicable local, state and federal requirements including but not limited to: 1) RSA 147-A and the Hazardous Waste Rules; 2) RSA 149-M and rules adopted pursuant thereto, relative to management of solid waste; (3) RSA 485, RSA 485-A, and RSA 485-C and rules adopted pursuant thereto, relative to protection of groundwater; and (4) RSA 482-A and the Wetland Rules.

65. RSA 482-A:14, III, provides that failure, neglect or refusal to comply with RSA 482-A or the Wetland Rules, or an order or condition of a permit issued under RSA 482-A, and the misrepresentation by any person of a material fact made in connection with any activities regulated or prohibited by RSA 482-A shall be deemed violations of RSA 482-A.

66. In response to this Order, as originally issued, in a letter dated June 14, 2021; Robert C. Morris notified NHDES that he authorizes “the Monadnock Rod and Gun Club and its agents access to my property in order that they may conduct activities needed to repair and implement a wetland restoration plan for the Morris property, that includes the proper management of any contaminated soil, as required.” Mr. Morris indicated in his letter that he sent a courtesy copy to the Gun Club.

67. In response to this Order, as originally issued; the Perrys through counsel notified NHDES that pursuant to an acceptable site access agreement the Perrys will authorize the Gun Club and its

qualified contractors and agents access to their property to the extent necessary to comply with this Order, as revised; and that the Perrys will not impair or interfere with the implementation of this Order, as revised, which requires the Gun Club to fully restore and remediate the Perry property. The Perrys further asserted, through counsel, that to the extent the Perrys actually receive funds from the Gun Club in satisfaction of the Court's Order on Damages in the litigation titled *Monadnock Rod and Gun Club, Inc. v. Scott E. Perry, et al.*, Docket No. 216-2018-CV-00374 (for remediation of the environmental regulatory noncompliance specified in this Order, as revised), the Perrys will agree to direct such funds to defray the costs of implementation incurred by the Gun Club for the restoration or remediation of the Perry property as approved and conditioned by NHDES.

D. DETERMINATION OF VIOLATIONS

1. Monadnock Rod and Gun Club, Inc. violated RSA 482-A:3, I, by placing fill in jurisdiction on the Site; without a permit from NHDES.
2. Monadnock Rod and Gun Club, Inc. violated Env-Or 606, by failing to conduct the site investigation requested by NHDES, and by failing to submit to NHDES a report of the site investigation within 120 days of the department's request.
3. Monadnock Rod and Gun Club, Inc. violated RSA 485-C:6, IV, by contaminating groundwater of the state on the Perry property with lead at concentrations greater than the AGQS for lead in Env-Or 603.03.

E. ORDER

Based on the above findings and determinations, NHDES hereby orders the Gun Club, as follows:

1. The Gun Club shall conduct **a site investigation** of the Site to determine the source, nature, location, and full extent of the contamination on the Site in accordance with Env-Or 606. The site investigation of the Site shall be conducted by a qualified professional who shall identify receptors and potential receptors, and shall identify the need to conduct further investigations and/or remedial actions.
2. **Within 120 days of the date of this Order**, as revised, the Gun Club shall submit to NHDES a report of the site investigation of the Site, as required by Env-Or 606 and this Order, as revised.
3. **Within 120 days of the date of this Order**, as revised, the Gun Club shall submit to NHDES for review and approval a wetlands restoration plan for the Site; consistent with RSA 482-A and the Wetland Rules; which shall be prepared and stamped by a CWS, and shall include provisions for removal of all fill placed in jurisdiction; and for restoration of the impacted wetlands to the original conditions. The restoration plan shall take into account that all contaminated fill shall be managed and disposed of in accordance with RSA 147-A, the Hazardous Waste Rules, and the Contaminated Site Management Rules.
6. **Any wetland** restoration plan, submitted to NHDES for approval under this Order, shall be prepared and stamped by a CWS and shall include provisions for removal of all fill placed in jurisdiction; and for restoration of the impacted wetlands to the original conditions. **All contaminated fill shall be managed and disposed of in accordance with RSA 147-A, the Hazardous Waste Rules, and the Contaminated Site Management Rules.** The following, at a minimum, shall be submitted with the restoration plan:
 - a. A plan with dimensions, drawn to scale, showing:

- i. existing conditions on the site, with wetland boundaries delineated in accordance with Section F of the U.S. Army Corps of Engineers Wetlands Delineation Manual (1987) and the 2009 Regional Supplement: Northcentral and Northeast Region, Chapter 5, where necessary; and
 - ii. Proposed conditions after reestablishing jurisdictional areas;
- b. A detailed description of the proposed means of erosion control (silt fence, hay bales, etc.) and stabilization of the restoration areas;
 - c. A detailed description of the proposed planting plan for the stabilization and re-vegetation of the restoration areas and control of invasive species such as purple loosestrife (*Lythrum salicaria*) and common reed (*Phragmites australis*);
 - d. A description of the proposed construction sequence and methods for accomplishing restoration and anticipated restoration compliance dates; and
 - e. A description of the method of documenting at least 75% survival of all vegetation planted during the restoration project. This should include at a minimum monitoring progress reports for two successive growing seasons after the completion of the restoration project. A report shall be submitted to NHDES at the completion of the restoration, but no later than November 15, 2021. Progress reports for two successive growing seasons shall be submitted to NHDES on September 15, 2022, and September 15, 2023.
9. The Gun Club shall implement any restoration plans, or RAPs, submitted to NHDES for review and approval only after receiving written approval from, **and as conditioned by**, NHDES according to the approved schedule(s).
10. The Gun Club shall send **all** correspondence, data, reports, and other submissions made in connection with this Administrative Order, *other than appeals*, to NHDES as follows: Kerry Barnsley, Compliance Attorney, NHDES – Legal Unit, P.O. Box 95, Concord, NH 03302-0095 ~ Phone: (603) 271-7509 ~ Email: kerry.d.barnsley@des.nh.gov.

F. APPEAL

Any person aggrieved by the determination set out in paragraph “D.1” of this Order may appeal the Order to the New Hampshire Wetlands Council by filing an appeal that meets the requirements specified in RSA 482-A:10, RSA 21-O:14, and the rules adopted by the Wetlands Council, Env-WtC 100-200. The appeal must be filed **directly with the Wetlands Council within 30 days** of the date of this decision and must set forth fully **every ground** upon which it is claimed that the determination complained of is unlawful or unreasonable. Only those grounds set forth in the notice of appeal can be considered by the Wetlands Council.

Any person aggrieved by the determination set out in paragraph “D.2” of this Order may appeal the Order to the New Hampshire Waste Management Council by filing an appeal that meets the requirements specified in RSA 147-A:15, RSA 21-O:14, and the rules adopted by the Waste Management Council, Env-WMC 200. The appeal must be filed **directly with the Waste Management Council within 30 days** of the date of this decision and must set forth fully **every ground** upon which it is claimed that the decision complained of is unlawful or unreasonable. Only those grounds set forth in the notice of appeal can be considered by the Waste Management Council.

Any person aggrieved by the determination set out in paragraph “D.3” of this Order may appeal the Order to the New Hampshire Water Council by filing an appeal that meets the requirements specified in RSA 485-C:17, RSA 21-O:14, and the rules adopted by the Water Council, Env-WC

100-200. The appeal must be filed **directly with the Water Council within 30 days** of the date of this decision and must set forth fully **every ground** upon which it is claimed that the decision complained of is unlawful or unreasonable. Only those grounds set forth in the notice of appeal can be considered by the Water Council.

Information about the Councils, including a link to the Councils' rules, is available at <http://nhed.nh.gov/>. Copies of the Councils' rules also are available from the NHDES Public Information Center at (603) 271-2975.

G. OTHER PROVISIONS

Please note that RSA 482-A:13, RSA 482-A:14, RSA 147-A:16, RSA 147-A:17, RSA 147-A:17-a, RSA 485-C:18, and RSA 485-C:19 provide for administrative fines, civil penalties and forfeitures, and criminal penalties for the violations noted in this Order, as well as for failing to comply with the Order itself. The Gun Club remains obligated to comply with all applicable requirements. NHDES will continue to monitor compliance with applicable requirements and will take appropriate action if additional violations are discovered.

NHDES will take all necessary and feasible steps to assist companies and other entities affected by the outbreak of COVID-19, including those with employees who are unable to work because of illness or the need to care for a family member, those which have temporarily closed or reduced their hours, those unable to access necessary resources because of shortages, or any other company experiencing hardship because of the outbreak of COVID-19. All extension requests of any deadline set out in this Order, due to the COVID-19 pandemic, will be carefully considered. Approval of such requests will not be unreasonably withheld.

This Order, as revised, is being recorded in the chains of title of the Gun Club property, and abutting properties, in the Hillsborough County Registry of Deeds so as to automatically transfer with each property when any of the impacted properties referenced herein is transferred.



Robert R. Scott, Commissioner
Department of Environmental Services

- cc: NHDES Legal Unit
Mark Carbone, *former MRGCI president*, 534 Foristall Road, Rindge, NH 03461
- ec: Public Information Officer, NHDES PIP Office
K. Allen Brooks, Chief, AGO-Environmental Protection Bureau
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