



**US Army Corps  
of Engineers®**  
New England District  
696 Virginia Road  
Concord, MA 01742-2751

# PUBLIC NOTICE

**Comment Period Begins:** September 14, 2021

**Comment Period Ends:** October 14, 2021

**File Number:** NAE-2005-01142

**In Reply Refer To:** Mr. Taylor Bell

**Phone:** (978) 318-8952

**E-mail:** taylor.m.bell@usace.army.mil

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**SUBJECT:** This notice announces a request to modify the New Hampshire Aquatic Resource Mitigation Fund In-Lieu Fee ("ILF") Program Instrument for the addition of seven individual projects.

**ILF PROGRAM SPONSOR:** New Hampshire Department of Environmental Services  
29 Hazen Drive  
Concord, New Hampshire 0330

**BACKGROUND:** The New Hampshire Department of Environmental Services is the sponsor of the New Hampshire ILF Program which serves as an alternative form of compensatory mitigation for aquatic resource impacts. The New Hampshire ILF program is authorized by the New England District, Army Corps of Engineers (the "Corps"). A copy of the signed ILF agreement entitled "New Hampshire Aquatic Resource Mitigation Fund Final In-Lieu Fee Program Instrument" dated "May 2012", includes details about the ILF Program goals and objectives in general and can be found at the following link:  
<https://www.nae.usace.army.mil/Portals/74/docs/regulatory/Mitigation/NHinstrument051812.pdf>

Seven projects have been submitted as proposed additions to the ILF Instrument pursuant to 33 CFR 332, Compensatory Mitigation for Losses of Aquatic Resources (Federal Register: April 10, 2008, effective June 9, 2008). Pursuant to 33 CFR 332.8 (d), the District Engineer will provide public notice of the proposed addition of ILF program mitigation sites. As such, we are issuing a public notice to solicit comments for the instrument modification due to the proposed addition of ILF mitigation sites.

The New Hampshire ILF Program accrued funds from the sell of compensatory mitigation credits resulting from Army Corps of Engineers and New Hampshire Department of Environmental Service permitted impacts in the State of New Hampshire. The funds were made available through a competitive grant process for the preservation, restoration and enhancement of wetland and watercourse resources with associated upland buffers in the State of New Hampshire.

**PURPOSE:** The seven proposed projects would provide compensatory wetland and stream mitigation for permitted impacts to the Salmon Falls-Piscataqua River Service Area.

**GENERAL INFORMATION:** An ILF program involves the restoration, establishment, re-establishment, enhancement, rehabilitation and/or preservation of aquatic resources through funds paid to a governmental or non-profit natural resources management entity to satisfy compensatory mitigation requirements for Department of the Army permits. Similar to a mitigation bank, an ILF program sells compensatory mitigation credits to permittees whose obligation to provide compensatory mitigation is then transferred to the ILF program sponsor.

The operation and use of an ILF program are governed by an ILF program instrument. A group of federal and state regulatory and resource agency representatives known as the Interagency Review Team (IRT) oversee the establishment and management of the program. The IRT is chaired by the U.S. Army Corps of Engineers. The primary role of the IRT is to facilitate the establishment of the ILF program through the development of an ILF Instrument. The IRT also reviews ILF mitigation proposals and provides comments to the Corps. The approval of the use of the ILF program for specific projects is the decision of the Corps pursuant to Section 10 of the Rivers and Harbors Act of 1899 and/or Section 404 of the Clean Water Act (CWA). The Corps provides no guarantee that any particular individual or general permit proposing to use the ILF program for compensation mitigation would be authorized.

**PROJECT DESCRIPTION:** Each project has a map showing the location of the project with a summary. Additionally, information consistent with a prospectus is located here:  
[https://ribits.ops.usace.army.mil/ords/f?p=107:378::NO::P378\\_PROGRAM\\_ID:21](https://ribits.ops.usace.army.mil/ords/f?p=107:378::NO::P378_PROGRAM_ID:21)

**ESSENTIAL FISH HABITAT:** The Magnuson-Stevens Fishery Conservation and Management Act, as amended by the Sustainable Fisheries Act of 1996 (Public Law 104-267), requires all federal agencies to consult with the National Marine Fisheries Service on all actions, or proposed actions, permitted, funded, or undertaken by the agency, that may adversely affect Essential Fish Habitat (EFH). Essential Fish Habitat describes waters and substrate necessary for fish for spawning, breeding, feeding or growth to maturity.

The District Engineer has made a preliminary determination that the site-specific adverse effect will not be substantial, if there is any impact at all. Further consultation with the National Marine Fisheries Service regarding EFH recommendations is being conducted and will be concluded prior to the final decision.

**NATIONAL HISTORIC PRESERVATION ACT:** Based on the initial review, the District Engineer has determined that none of these projects may affect properties in, or eligible for listing in, the National Register of Historic Places. Additional review and consultation to fulfil requirements under Section 106 of the National Historic Preservation Act of 1966, as amended, will be ongoing as part of the proposal review process and the permit review process for those requiring Corps authorization.

**ENDANGERED SPECIES CONSULTATION:** The New England District, Army Corps of Engineers, has reviewed the list of species protected under the Endangered Species Act of 1973, as amended, that might occur at the project sites. It is our preliminary determination that the proposed projects, situated or will be operated/used in such a manner that it is not likely to adversely affect any federally listed endangered or threatened species or their designated critical habitat. By this Public Notice, we are requesting that the appropriate federal agency concur with our determination.

**EVALUATION:** After the end of the comment period, the district engineer will review all comments received and make an initial determination as to the potential of the proposed project to provide compensatory mitigation for activities authorized by DA permits. That determination will reflect the national concern for both protection and utilization of important resources. The benefits, which reasonably may be expected to accrue from the proposal, must be balanced against its reasonably foreseeable detriments. Factors relevant to the proposal will be considered including conservation, economics, esthetics, general environmental concerns, wetlands, historical properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food, and

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fiber production, mineral needs, considerations of property ownership, and in general, the needs and welfare of the people.

The Corps is soliciting comments from the public; Federal, State, and local agencies and officials; American Indian Tribes; and other interested parties in order to consider and evaluate the proposed activity. All comments received will be considered by the Corps during the formulation of the initial determination of potential for the proposed activity.

**COMMENTS:** In order to properly evaluate the proposals, we are seeking public comment. Anyone wishing to comment is encouraged to do so. Comments should be submitted in writing by the above date. If you have any questions, please contact Mr. Taylor Bell at (978) 318-8952, (800) 343-4789 or (800) 362-4367, if calling from within Massachusetts.

Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider the application. Requests for a public hearing shall specifically state the reasons for holding a public hearing. The Corps holds public hearings for the purpose of obtaining public comments when that is the best means for understanding a wide variety of concerns from a diverse segment of the public.

The initial determinations made herein will be reviewed in light of facts submitted in response to this notice. All comments will be considered a matter of public record. Copies of letters of objection will be forwarded to the applicant who will normally be requested to contact objectors directly in an effort to reach an understanding.

**THIS NOTICE IS NOT AN AUTHORIZATION TO DO ANY WORK.**



Robert J. DeSista  
Deputy Chief, Regulatory Division

If you would prefer not to continue receiving Public Notices by email, please contact Ms. Tina Chaisson at (978) 318-8058 or e-mail her at [bettina.m.chaisson@usace.army.mil](mailto:bettina.m.chaisson@usace.army.mil). You may also check here ( ) and return this portion of the Public Notice to: Bettina Chaisson, Regulatory Division, U.S. Army Corps of Engineers, 696 Virginia Road, Concord, MA 01742-2751.

NAME: \_\_\_\_\_  
ADDRESS: \_\_\_\_\_  
PHONE: \_\_\_\_\_

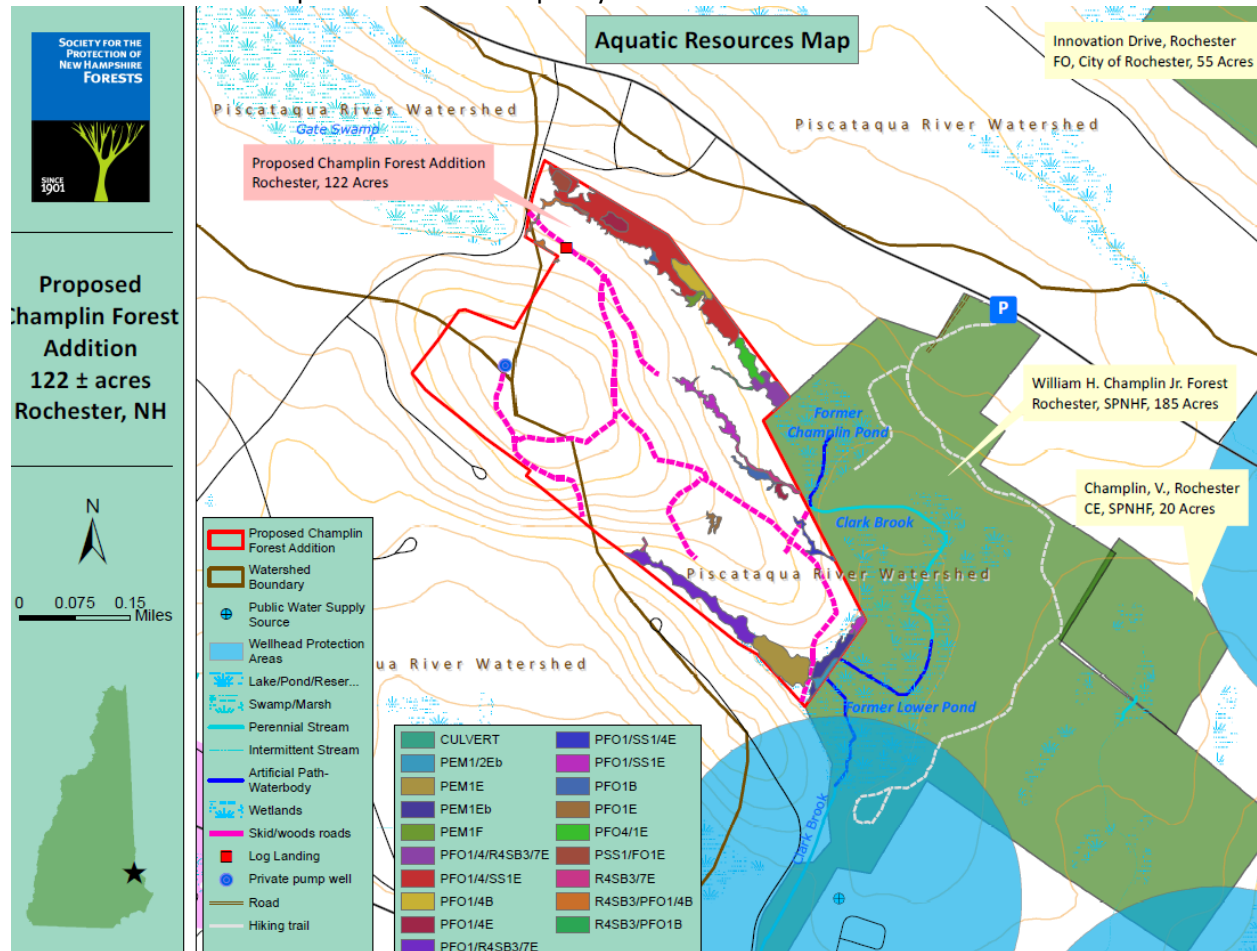
## **SALMON FALLS-PISCATAQUA SERVICE AREA**

### **New Hampshire Aquatic Resource Mitigation Fund 2021 Proposals**

<b>Project Name</b>	<b>Applicant</b>	<b>Town</b>
Champlin Forest Addition	The Society for the Protection of New Hampshire Forests	Rochester
Chesley Brook Geomorphic Culvert Replacement	Town of Lee	Lee
Jones Brook	Southeast Land Trust of New Hampshire	Milton
North Mill Pond	City of Portsmouth	Portsmouth
Oyster River Restoration Topaz Drive Culvert Replacement	The Nature Conservancy	Barrington
Pike-Lamprey River	Southeast Land Trust of New Hampshire	Durham
Sam Plummer Road Stream Crossing Restoration	Strafford County Conservation District	Milton

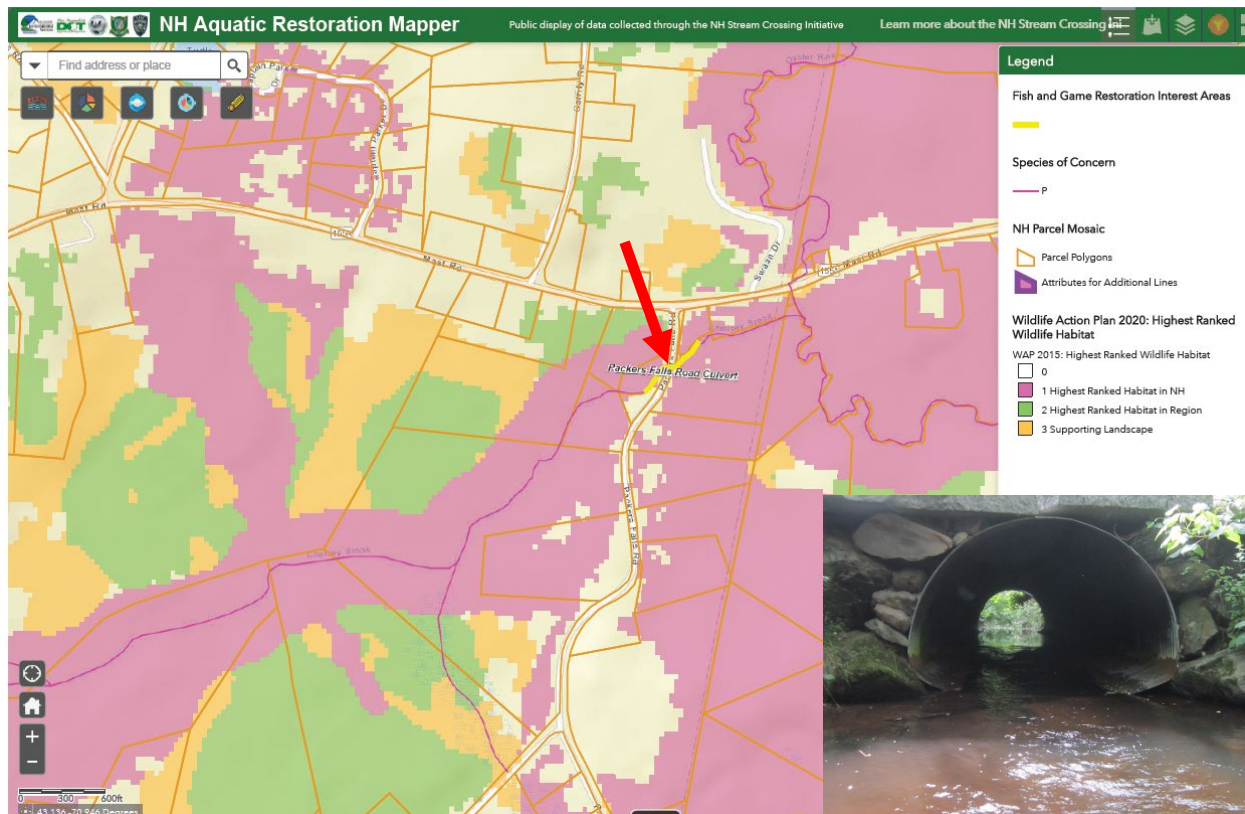
## Champlin Forest Addition, Rochester NH

The Society for the Protection of New Hampshire Forests (Forest Society) is requesting \$110,000 to protect a 122-acre parcel the "Champlin Forest Addition" and significantly enlarge the 185-acre William H. Champlin, Jr. Forest in Rochester, NH. Through a fee acquisition, The Forest Society would protect land within a suburban area continually faced with development pressures and result in over 300 contiguous acres of forests and wetland open for public use. The property has high-value aquatic resources with 14 acres of forested and scrub-shrub wetland and 3,350 linear feet along an intermittent stream that feeds the perennial waters of Clark Brook, which lies in a wellhead. The project would protect 108 acres of forested upland on Gonic Hill, one of the highest points in Rochester, and provide a substantial buffer to help secure the water quality of these wetlands and Clark Brook.



## **Chesley Brook Geomorphic Culvert Replacement, Lee**

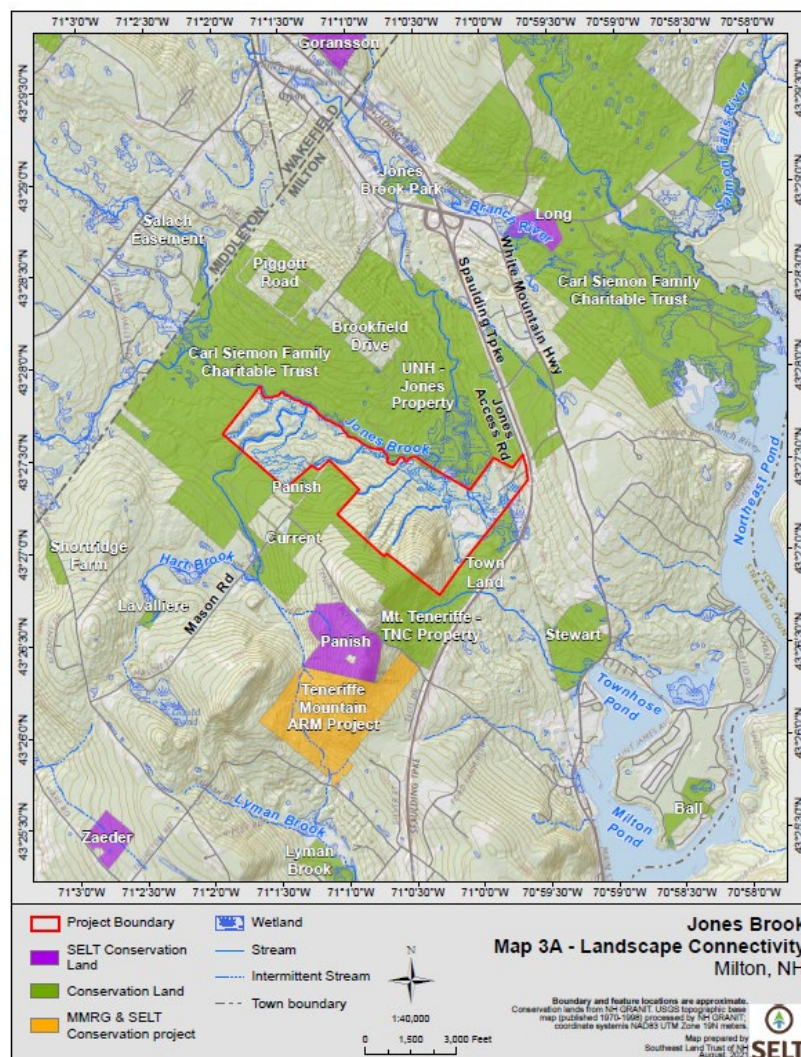
The Town of Lee is seeking \$245,000 to replace a deficient culvert with a geomorphically compatible structure to enhance aquatic connectivity and fish passage of Chesley Brook. The current culvert is a 7' wide by 5' tall corrugated metal pipe-arch, that is significantly undersized for the 11' stream width. The metal pipe impairs fish and wildlife passage, and inhibits natural water and sediment transport, resulting in a large scour pool and downstream erosion. Chesley Brook receives cold-water inputs from the Spruce Hole Bog formation, providing cool base flows year-round that are critical to local populations of brook trout and the state-endangered American brook lamprey; Chesley Brook is remarkable in New Hampshire as the only known watercourse to host both these fish species together. The project site is located 1,000 feet upstream from the confluence to the Oyster River (a NH Designated River), and is the first of only two stream crossings along the waterway. The Town of Lee, with project partners, will replace the metal pipe with a 15' span and 5' rise box culvert embedded with natural sediment to simulate the natural geomorphology of the stream. Replacing this stream crossing with a fully passable box culvert will create continuous connectivity for the first 1.8 miles of Chesley Brook and regain access to supporting habitat for two state-listed species of special concern; American eel and American brook lamprey. The larger span will create water velocities and depths, and substrate transport consistent with the natural stream. At the outlet, a log cross vane will be installed to provide low-flow depths and protect both the banks and stream channel from erosion. Downstream from the log vane, the existing scour pool will be filled with substrate matching that of the existing stream, reducing the susceptibility of aquatic species to predators. Invasives found near the project will be removed and the banks will be planted with native, riparian species to provide riparian cover.





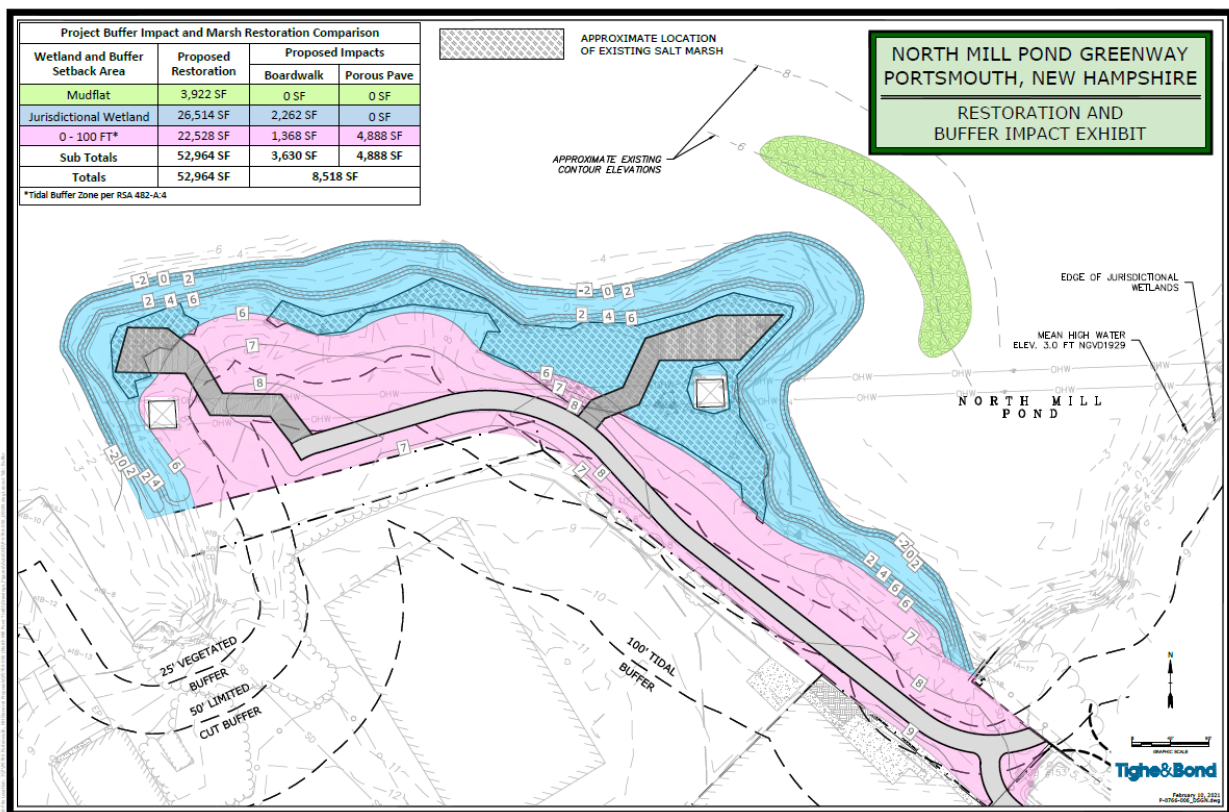
## Jones Brook, Milton

The Southeast Land Trust of New Hampshire (SELT) has requested \$475,000 to permanently protect +/- 563 acres of the Jones Brook-Branch River catchment area through a conservation easement. The property has diverse aquatic resources which include +/- 123 acres of wetlands dispersed across 18 wetland units, 19 vernal pools, and 4.7 miles of streams. The project provides significant benefits to fish and wildlife habitat and 97% of the property is ranked high quality habitat by the NH Fish & Game 2020 Wildlife Action Plan and a total of 51 wildlife species of NH Special Concern are documented on the property.). Hart Brook and Jones Brook contain excellent habitat and confirmed occurrences of: Bridle Shiner (NH Threatened Species) and Brook Trout (NH Special Concern) and there are documented exemplary natural communities of Northern hardwood- black ash– conifer swamp and Red oak- pine rocky ridge natural communities (both S3; NH Natural Heritage Bureau). This area has been identified in the *Land Conservation Priorities for the Protection of Coastal Resources* (2021) as having the greatest pollutant attenuation due to high functioning buffers and ~63 acres are in 100-year Floodplain. Protection of this parcel has water supply and quality benefits in that the entire property is within Somersworth Water Works Source Water Protection Area and is situated atop important groundwater resources, with 88 acres in High Transmissivity Aquifer and another 37.4 acres designated as highly productive aquifer for potential future use (GA2). The property is a large missing ‘puzzle’ piece which is surrounded by a ~3,955 acres block of conservation land.



## North Mill Pond, Portsmouth

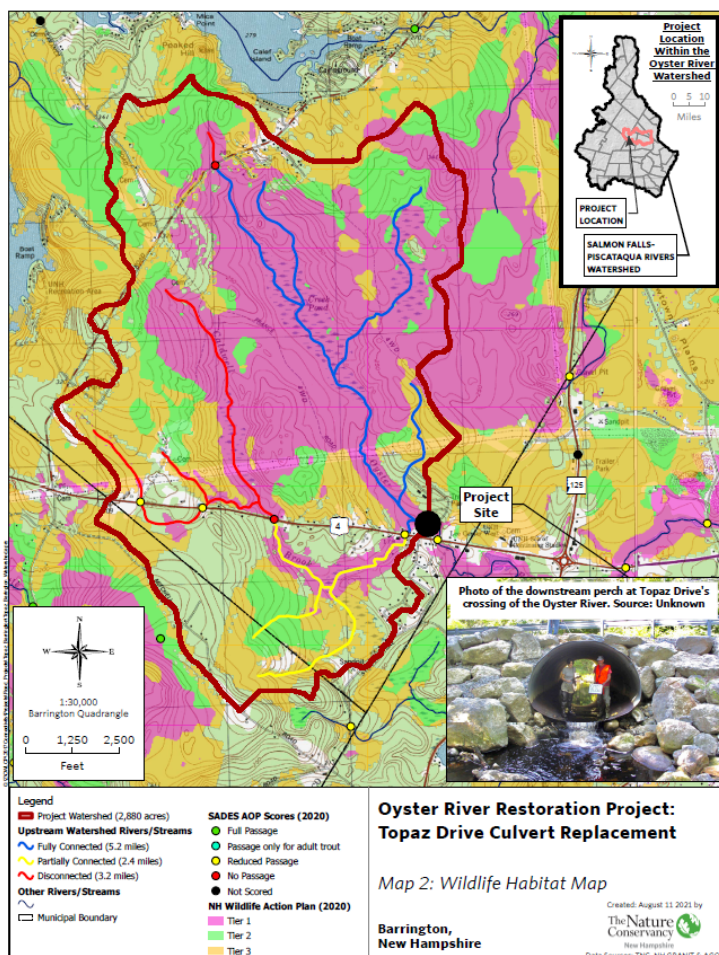
The City of Portsmouth is requesting \$419,306 to restore a degraded tidal shoreline to improved water quality, wildlife habitat connectivity, and support marsh migration within North Mill Pond. The site is significantly degraded by former developed activities and is currently an abandoned industrial area that has become overgrown with invasive plants and the shoreline is eroding and degrading water quality and habitat within North Mill Pond. The project will result in +/- .46 acres of wetland restoration, +/- .27 acres of wetland creation, consisting of rocky intertidal tide pool habitat, and low marsh and high marsh. In addition, approximately .41 acres of upland enhancement will occur in coastal bluff habitat. The design includes a salvaged-rock lower shelf to create an intertidal shoreline to provide habitat for juvenile fishes and invertebrates. The landward side of the intertidal shore will be infilled and planted with *Spartina alterniflora* to create a low marsh. A second, higher shelf will be created using coir logs that will raise the elevation to allow the growth of a high marsh consisting principally of *Spartina patens* and other salt tolerate species. At the most landward level, coastal bluff plantings will be installed to provide important food, shelter, nesting sites, and overwintering areas for wildlife. To address issues from the surrounding developed land, stormwater will be captured by a combination of treatment devices, materials for the adjacent community park and walkway (a separate City project) will use only pervious surfaces and adjacent public spaces will have fencing and signs to prevent people and their dogs from entering the restored areas.





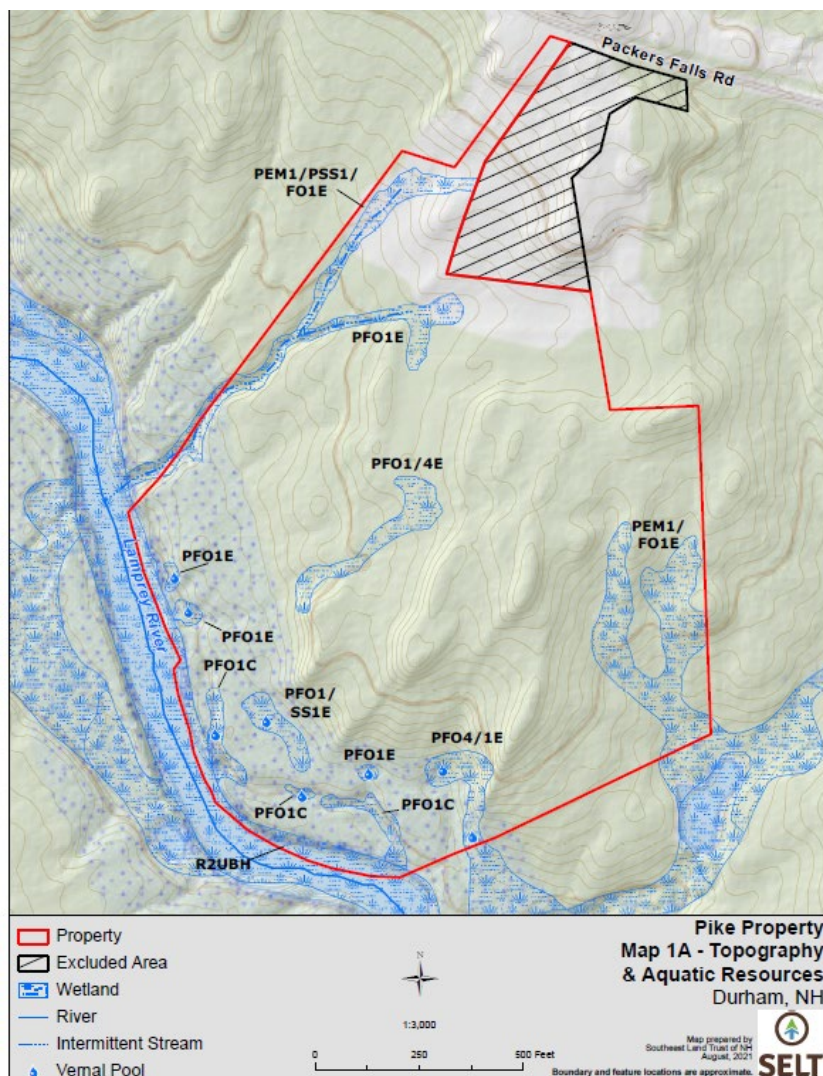
## Oyster River Restoration Topaz Drive Culvert Replacement, Barrington

The New Hampshire Chapter of The Nature Conservancy is seeking \$300,000 to fully restore aquatic fish and wildlife passage and geomorphic compatibility at a degraded stream crossing on the Oyster River in Barrington. The current culvert is a 9.5' wide by 7' tall metal elliptical-shaped pipe that is perched by over one foot and is a complete barrier for all aquatic organisms. This project is a long-standing priority to address aquatic connectivity in the Salmon Falls-Piscataqua Rivers watershed to restore aquatic connectivity for several Species of Greatest Conservation Need in New Hampshire that occur in the vicinity including American brook lamprey, American eel, brook trout, Blanding's turtle, and spotted turtle. The American brook lamprey, is a state endangered species ranked as critically imperiled and is known to occur in New Hampshire only in the Oyster River watershed downstream of Topaz Drive and its access to upstream habitat is blocked by the currently perched culvert. Restoring aquatic connectivity at the Topaz Drive crossing is expected to benefit American brook lamprey by allowing range expansion into unoccupied and high quality upstream habitat. The proposed stream crossing is a 30' wide, open-bottom steel bridge that is fully compliant with the 2009 NH Stream Crossing Guidelines. The project will result in 5.2 miles of fully reconnected upstream habitat and will restore terrestrial wildlife passage in an area identified as a high priority road segment for wildlife passage, including Blanding's turtle and spotted turtle, in the TNC *Connect the Coast* wildlife corridor analysis. The project location sits between multiple conservation focus areas identified by *Connect the Coast*, including the Creek Pond Marsh/Tamposi Reserve to the north, the Oyster River to the east, the Lower Lamprey River to the south, and high-ranked wildlife habitat by the NHFG Wildlife Action Plan to the west, the site is also prioritized in the 2021 update of *New Hampshire's Coastal Watershed Conservation Plan*.



### Pike – Lamprey River, Durham

The Southeast Land Trust of New Hampshire is requesting \$220,000 to permanently conserve +/-37.4 acres along the federally designated Wild & Scenic Lamprey River in Durham through fee ownership subject to a conservation easement. The property includes a diverse landscape including horse pasture, forest, intermittent streams, wetlands, and vernal pools. The aquatic resources that would be protected include +/-5.6 acres of wetlands across 11 wetland units, 4 vernal pools, +/-1,230' of frontage along the Lamprey River, and 1,150' of intermittent stream tributaries. All of the wetlands and streams on the property flow to the federally designated Wild & Scenic designated Lamprey River which is also a NHDES Designated River. The project has water quality benefits in that the area is identified in the *Land Conservation Priorities for the Protection of Coastal Resources (2021)* as having pollutant attenuation benefits and a priority for Public Water Supply, and +/- 12 acres of the project lie within UNH/Durham Water System Water Supply Intake Protection Area. The project has significant wildlife benefits and 91% of the property is high-ranked habitat (2020 NHFG Wildlife Action Plan), and this portion of the Lamprey River is habitat for wood turtle (species of concern), Blanding's turtle (state endangered), spotted turtle (state threatened), alewife (Special Concern), sea lamprey (Vulnerable & Species of Concern), American eel (Vulnerable & Special Concern), and overlies New England Cottontail focus area. The project supports landscape connectivity efforts in the region by building upon Durham's 54-acre Thompson Forest and the SELT 28-acre Burrows easement.



### **Sam Plummer Road Stream Crossing Restoration, Milton**

The Strafford County Conservation District is requesting \$97,000 to replace an undersized and deteriorating metal pipe culvert which conveys a perennial tributary to Lyman Brook in Milton. The existing structure is hydraulically undersized and vulnerable to flooding with hydraulic models predicting overtopping at just the 2-year storm event. During high-flows the undersized pipe impounds water, deposits mobile sediments upstream of the culvert, generates excessive scour at its outlet, and provides no capacity for natural wood and mobile sediments to move through the system. The current crossing is also a barrier to fish and wildlife passage. The proposed project will replace the structure with an open-bottom bottom span that can pass the 100-year peak flows, and allow for sediments and mobile wood to pass through the crossing, and be fully passable by all aquatic organisms. Replacing this barrier will regain headwater access to approximately 1.2 miles of excellent instream coldwater habitat and benefit multiple aquatic species including the Northern two-lined salamander and Northern; both species that require cold, headwater streams for breeding and larval development. Although there are not documented brook trout in this tributary, opening up full aquatic passage provides the opportunity for brook trout reintroduction and project partners will be actively involved with this effort and the goal to support a self-sustaining local population of brook trout.

#### **Sam Plummer Culvert Replacement Wildlife Habitat Map**

