



The State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES



Thomas S. Burack, Commissioner
January 13, 2011

The Honorable Bob Odell, Chairman
Energy and Natural Resources Committee
Legislative Office Building, Room 102
Concord, NH 03301

RE: SB 21 relative to the definition of wetlands

Dear Senator Odell:

Thank you for the opportunity to comment on SB 21, which would amend RSA 482-A:2 (X) by modifying the definition of "wetlands" to exclude man-made wetlands. The Department of Environmental Services (DES) does not support this bill as drafted, primarily because it would cause permitting delays for projects in federal jurisdictional wetlands that would no longer be covered by the state program. However, we believe that modifications to the bill that narrow the coverage of the proposed exemptions could be developed that would maintain consistency with federal requirements and address most of the concerns that the bill seeks to address.

Since 1992, the US Army Corps of Engineers (ACOE) has issued a State Programmatic General Permit (SPGP) to the State of New Hampshire every 5 years. Under the SPGP, projects that propose wetlands impacts may receive federal approval through an expedited review process that essentially involves a concurrent review by DES for state and federal requirements, with subsequent audit by the ACOE. If, as proposed by SB 21, the state review were based on criteria that are less stringent than federal law, then the SPGP would be at risk. Without the SPGP, applicants would be required to apply separately for both state and federal permits to two separate agencies, DES and the ACOE, for all projects located in federal jurisdiction. Based on the experience of New Hampshire prior to 1992 and other states that do not have a SPGP, this would likely cause a delay of many months in the issuance of wetlands permits decisions. Such delays would have detrimental effects not only on applicants but also on the New Hampshire economy as a whole.

Thank you for the opportunity to comment on this legislation. If you have any questions or need additional information, please do not hesitate to call Collis Adams at 271-4054 or me at 271-2958.

Sincerely,

Thomas S. Burack
Commissioner

cc: Senator Morse