

APPENDIX D

DEPARTMENT OF TRANSPORTATION

MEMORANDUM OF AGREEMENT
Between
The New Hampshire Department of Transportation
and
The Office of State Planning

Whereas; The State of New Hampshire wishes to participate in the Coastal Program, authorized by congress in the Coastal Zone Management Act (CZMA) and administered by the Department of Commerce, and

Whereas; The CZMA requires that an approvable Coastal Program includes the state's ability to control competing and conflicting uses in the Coastal Zone, and

Whereas; Infrastructure, including highways and sewers, is a prerequisite to high density development, and

Whereas; The state's policy on development in the Great Bay portion of the Coastal Zone is to ensure that development is limited to a low and moderate density, thus preserving its rural character and scenic beauty, and

Whereas; The Council on Resources and Development (CORD) has adopted the Coastal Program policies,

Then; It is hereby agreed that, in accordance with the Governor's 10 Year Highway Plan (adopted by the Governor and Council in November of 1985 and October of 1986), it is anticipated that there will be no new state funded highway improvements built in or adjacent to the Coastal Zone as defined by the Draft Environmental Impact Statement for the New Hampshire Coastal Program (Ocean, Harbor, and Great Bay Area), except for planned safety improvements to Route 4. This will not increase development pressures within the area of Great Bay and therefore will be consistent with the Coastal Program policies.

Any changes in the above which may affect this agreement will be reviewed and may require a program change to the New Hampshire Coastal Program. In any case, no new highway locations will be considered until extensive environmental analyses are completed in conjunction with the Office of State Planning.

David G. Scott 2/4/87
Date
David G. Scott
Acting Director
Office of State Planning
Chairman, CORD

Wallace E. Stickney 2/17/87
Date
Wallace Stickney
Commissioner
Department of Transportation

APPENDIX E

WATER SUPPLY AND POLLUTION
CONTROL DIVISION

MEMORANDUM OF AGREEMENT

Between

The Department of Environmental Services

and

The Office of State Planning

Whereas; The State of New Hampshire wishes to participate in the Coastal Program, authorized by the Coastal Zone Management Act (CZMA) and administered by the Department of Commerce, and

Whereas; The CZMA requires that an approvable Coastal Program includes the state's ability to control competing and conflicting uses in the Coastal Zone, and

Whereas; Infrastructure, including highways and sewers, is a prerequisite to high density development, and

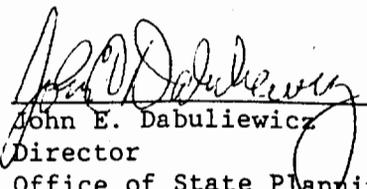
Whereas; The state's policy on development in the Great Bay portion of the Coastal Zone is to limit public investment in infrastructure in order to limit development to a mix of low and moderate density, thus preserving its rural character and scenic beauty, and

Whereas; The Council on Resources and Development has adopted the Coastal Program policies,

Therefore; It is hereby agreed that, within or adjacent to the first tier boundary around Great Bay as defined by the New Hampshire Coastal Program and Final Environmental Impact Statement, the Department of Environmental Services will provide financial support only to extend into or operate sewer lines in areas where two thirds of the population predates 1972, pursuant to the provisions of the Clean Water Act as amended. Furthermore, financial support will not be provided to extend sewer lines unless pollution will be abated (as opposed to prevented). In accordance with these policies, areas of low density development adjacent to Great Bay will not have their current capacity increased (for the purpose of increasing density) with state or federal financial support.

Although local government and privately funded sewer extensions are not precluded, they will be regulated to insure the capacity of the treatment systems is sufficient to support such extensions. Privately built treatment facilities, not owned and operated by counties or municipalities after construction, are public utilities as outlined in RSA 362.

Costs for the expansion of public water supplies are, as a matter of course, borne by the developer. The Department will not provide funds for the extension of water supplies into the Great Bay Coastal Zone unless to abate a public health problem. The Department adopts and administers administrative rules for public water supplies.


John E. Dabuliewicz
Director
Office of State Planning
Chairman, CORD
6/6/88
Date


Alden H. Howard
Commissioner
Department of Environmental Services
June 6 1988
Date

APPENDIX F

OFFICE OF STATE PLANNING

4-C: 22 Local Water Resources Management and Protection Plans.

I. Through participation in the water protection assistance program, each municipality shall be encouraged to prepare, adopt, and include in its master plan a local water resources management and protection plan, hereafter referred to as the local water plan, which is consistent with the criteria established by the office under RSA 4-C: 20. Prior to adoption by a municipality, the local water plan shall be submitted to the office for verification that the plan is consistent with the established criteria. In accordance with recommended procedures for effective master planning which call for continuing evaluation, and in accordance with the provisions of RSA 674: 2, the local water plan shall be reviewed and updated from time to time as changed conditions and new information justify. Revisions to the local water plan shall be submitted to the office, prior to adoption, for review and comment regarding consistency with the office's established criteria. No water resources management and protection plan shall take effect as part of a municipal master plan or zoning ordinance unless prior to its adoption by the municipality, the office of state planning has reviewed and provided written comments regarding the consistency of the plan or ordinance with criteria developed pursuant to RSA 4-C: 20, I. Both towns submitting plans and the office of state planning shall make every reasonable effort to assure that such plans are submitted and reviewed in a timely fashion to assure that such plans shall be reviewed prior to the next town meeting following such submission. The written report shall be submitted to the municipality proposing the plan and shall be kept on file at the office of state planning with the proposed plan to be made available to the public upon reasonable request and payment for any costs incurred in the duplication of the report.

II. Municipalities shall be encouraged to strengthen the effectiveness of their local water plans by adopting ordinances and taking other appropriate measures to ensure implementation of water protection measures consistent with their plans. Assistance shall be available through the program to advise municipalities on such appropriate measures.

III. If a municipality determines there is an immediate need to develop or amend subdivision or site plan review regulations in the manner provided by RSA 675: 6 or to prevent deterioration of a critical water resource through a zoning ordinance or amendment in the manner provided by RSA 674: 23, II, it may adopt such temporary measures for protection of water resources. Such measures shall be valid as provided in RSA 674: 23, III.

Source. 1987, 283: 3, eff. May 25, 1987.

APPENDIX G

DEPARTMENT OF RESOURCES AND
ECONOMIC DEVELOPMENT

217-A: 1

FORESTS, ETC.

CHAPTER 217-A

NEW HAMPSHIRE NATIVE PLANT PROTECTION

217-A: 1	Title.	217-A: 7	Cooperation with Other State Agencies.
217-A: 2	Findings and Declarations.	217-A: 8	Rulemaking.
217-A: 3	Definitions.	217-A: 9	Prohibited Acts.
217-A: 4	Investigation and Research.	217-A: 10	Exemption.
217-A: 5	Listing of Species Requiring Protection; Rulemaking.	217-A: 11	Penalty.
217-A: 6	Conservation Programs.	217-A: 12	Enforcement.

217-A: 1 Title. This chapter shall be known and may be cited as "The New Hampshire Native Plant Protection Act of 1987".

Source. 1987, 220: 1, eff. May 18, 1987.

217-A: 2 Findings and Declarations. Because there are no laws protecting any of our native plants, every year hundreds of our native plants are dug up and removed without permission from public and private property. Many of these are taken out-of-state and sold for profit. Therefore, the legislature finds and declares that:

I. For human needs and enjoyment, the interests of science, and the economy of the state, native plants throughout this state should be protected and conserved; and that their numbers should be maintained and enhanced to insure their perpetuation as viable components of their ecosystems for the benefit of the people of New Hampshire.

II. Native species of plants within this state and the nation that are endangered, threatened, or otherwise reduced in number or may become so because of loss, modification, or severe curtailment of their habitats, or because of exploitation for commercial, scientific, educational, or private use, should be accorded protection as is necessary to maintain and enhance their numbers.

III. This state shall assist in the protection of species of plants that are determined to be endangered, threatened, or of special concern by prohibiting the taking, possession, transportation, processing, sale or offer for sale, exportation from this state, or shipment within this state of such species without required and valid federal and state permits.

IV. The commercial sale of seeds, plants, and nursery stock is regulated by the New Hampshire department of agriculture under RSA 433.

Source. 1987, 220: 1, eff. May 18, 1987.

217-A: 3 Definitions. In this chapter:

I. "Commercial" means all types of activities, uses, and purposes of an industrial or trade nature including, but not limited to, the buying and selling or barter and exchange of commodities and activities conducted for the purpose of such buying and selling or barter and exchange.

II. "Department" means the department of resources and economic development.

III. "Endangered species" means any species of plant that is in danger of extinction throughout all or a significant portion of its range within the state, or any species determined to be an endangered species pursuant to the Endangered Species Act.

IV. "Endangered Species Act" means the Endangered Species Act of 1973, Public Law 93-205, as amended.

V. "Person" means an individual, corporation, company, association, society, firm, partnership, joint stock company, or any department or instrumentality of the federal government, of any state or its political subdivisions, or of any foreign government.

VI. "Plant" means any member of the plant kingdom, including seeds, roots, and other parts of plants.

VII. "Protect" and "protection" means to use and the use of all methods and procedures that are necessary to bring any species to the point at which the measures provided pursuant to this chapter are no longer necessary. Such methods and procedures include, but are not limited to, all activities associated with scientific resources management such as research, census, law enforcement, habitat acquisition, and maintenance.

VIII. "Protected species" means any plant species designated as endangered, threatened, or of special concern under this chapter.

IX. "Special concern species" means any species of plant that does not meet the criteria for endangered or threatened but which, in the judgment of the department, because of its beauty, economic value, excessive collecting, or other unique qualities requires monitoring or regulation under this chapter.

X. "Species" includes any species, subspecies, or variety of plant.

XI. "Take" means to pick, collect, cut, transplant, uproot, dig, remove, damage, destroy, trample, kill, or otherwise disturb, or to attempt to engage in any such conduct.

XII. "Threatened species" means any species of plant likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range within the state, or any species of plant determined to be a threatened species pursuant to the Endangered Species Act.

XIII. "Natural Areas Council" means an association of representatives from state agencies and private conservation groups who meet every other month to exchange information and discuss protection priorities for natural areas in New Hampshire. Member organizations shall include:

- (a) The division of forests and lands.
- (b) The division of parks and recreation.
- (c) The fish and game department.
- (d) The office of state planning.
- (e) The department of agriculture.
- (f) The water resources council.
- (g) The University of New Hampshire department of botany and plant pathology.
- (h) The Audubon Society of New Hampshire.
- (i) The New Hampshire Association of Conservation Commissions.
- (j) The Society for Protection of New Hampshire Forests.
- (k) The Nature Conservancy.

Source. 1987, 220: 1, eff. May 18, 1987. referred to in par. IV, is classified principally to 16 U.S.C. § 1531 et seq.

References in text. The Endangered Species Act of 1973, Public Law 93-205, re-

217-A: 4 Investigation and Research. The department shall conduct investigations on all species of plants indigenous to and throughout this state necessary to develop information relating to population, distribution, habitat needs, limiting factors, and other biological and ecological data, and to determine protective measures and requirements necessary for

their survival. The department may, at its discretion, withhold from any person information about the location and population of a species if it determines that disclosures of such information would threaten the survival of that or another species in any way.

Source. 1987, 220: 1, eff. May 18, 1987.

217-A: 5 Listing of Species Requiring Protection; Rulemaking.

I. The commissioner of the department shall, on the basis of research and investigations and other available scientific data on plant species, and after public hearing, adopt, pursuant to RSA 541-A, a list of plant species occurring in the state which are threatened by the loss, drastic modification, or severe curtailment of their habitats, their over-collection for aesthetic, commercial, educational, recreational, or scientific purposes, the effect on such species of disease, pollution, or predation, or other factor or combination of factors, natural or man-made.

II. The department, with the advice of the Natural Areas Council, shall make determinations required by paragraph I solely on the basis of the best scientific and commercial information available and after appropriate consultation with federal agencies, other interested state agencies, other states having a common interest in the species, and interested persons and organizations. In determining whether any species of plant shall be a protected species, the department shall consider any present or future actions by the federal government, other states, agencies or political subdivisions of this state, or by any other person that may affect the species under consideration.

III. The department shall, within one year of the effective date of this chapter, publish the rules adopted under RSA 541-A, including a list of all species of plants within the state that it determines, in accordance with paragraphs I and II, to be protected species. Such a list shall refer to the listed species by scientific and common name or names, if any.

IV. Excepting those species of plants determined to be endangered or threatened pursuant to the Endangered Species Act, the department shall determine whether any plant species should be listed as a protected species upon presentation of substantial evidence in the petition of any interested party. The department shall review each species listed as an endangered species or as a threatened species every 5 years to determine if the conditions that led to the original listing are still present.

Source. 1987, 220: 1, eff. May 18, 1987.

References in text. The Endangered Species Act, referred to in par. IV, is classified principally to 16 U.S.C. § 1531 et seq.

Editor's note. The effective date of this chapter, to which reference is made at the beginning of par. III, was May 18, 1987.

217-A: 6 Conservation Programs.

I. The department shall establish programs for the protection of listed species.

II. To administer this chapter, the department may enter into agreements with federal agencies, other states, agencies or political subdivisions of this state, or with individuals or private organizations for administration and management of any program established under this section or utilized for the protection of listed plant species.

III. The department is authorized, with the approval of governor and council, to receive and expend funds, donations, grants, or other moneys, gifts, or bequests to accomplish the purposes of this chapter.

IV. The department is authorized to acquire, by purchase or gift and after the approval of governor and council, real property for the purposes of this chapter.

Source. 1987, 220: 1, eff. May 18, 1987.

CROSS REFERENCES

Acquisition of lands and funding for public forest lands generally, see RSA 219.

217-A: 7 Cooperation with Other State Agencies. All state departments and agencies, in consultation with and with the assistance of the department, shall use their authority to further the purposes of this chapter by carrying out programs for the protection of endangered or threatened plant species, and by taking actions necessary to ensure that any action authorized, funded, or carried out by them will not jeopardize the continued existence of any protected plant species.

Source. 1987, 220: 1, eff. May 18, 1987.

217-A: 8 Rulemaking.

I. The commissioner of the department shall adopt rules, after public hearing and under RSA 541-A, relative to criteria for listing endangered and threatened plant species.

II. The commissioner of the department shall adopt rules, under RSA 541-A, relative to:

(a) Procedures for requests by persons or agencies for listing of species as endangered or threatened.

(b) Conservation programs to protect endangered or threatened plant species.

(c) Form and content of agreements with persons or state and federal agencies to protect endangered or threatened plant species.

(d) Procedures for application for and acceptance of funds for programs to protect endangered or threatened plant species.

(e) Procedures for purchasing or accepting gifts of real property for purposes of this chapter.

(f) Purposes for which exemptions may be granted under RSA 217-A: 10, III.

Source. 1987, 220: 1, eff. May 18, 1987.

CROSS REFERENCES

Adoption of rules listing endangered plant species, see RSA 217-A: 5.

217-A: 9 Prohibited Acts. It shall be a violation of this chapter for any person, other than the owner of the land on which a plant listed under RSA 217-A: 5 is located, to uproot, dig, take, remove, damage, destroy, possess, sell, or offer for sale in intrastate, interstate or foreign commerce, import, export, deliver, carry, transport or ship any endangered or threatened species from public highways, public property, waters of the state or from the property of another without required and valid state or federal permits, or both. Nothing in this section shall limit the rights of private property owners to take plants from their own lands.

Source. 1987, 220: 1, eff. May 18, 1987.

217-A: 10 Exemption.

I. Nothing in this chapter or any rule adopted under this chapter shall interfere with any act authorized, permitted, or exempted by the Endangered Species Act or any regulation promulgated under that act.

II. Any protected plant species may be transported to, possessed at, and sold from a location certified by the New Hampshire department of agriculture under RSA 433: 29, or a similar certification issued under the laws of another state.

III. The department may permit, under such terms and conditions as it may prescribe, any act otherwise prohibited by this section for scientific purposes or to enhance the propagation or survival of the affected species.

Source. 1987, 220: 1, eff. May 18, 1987. cies Act, referred to in par. I, is classified
References in text. The Endangered Spe- principally to 16 U.S.C. § 1531 et seq.

217-A: 11 **Penalty.** Any person violating the provisions of this chapter or any rule adopted under this chapter shall be guilty of a violation. Each such prohibited act with respect to each plant shall constitute a separate violation.

Source. 1987, 220: 1, eff. May 18, 1987.

CROSS REFERENCES

Classification of crimes, see RSA 625: 9.
Sentences, see RSA 651.

217-A: 12 **Enforcement.**

I. Any peace officer shall have the authority to enforce this chapter, and may:

(a) Conduct searches as provided by law, and execute a warrant to search for and seize any equipment, business records, merchandise, or plants taken, possessed, transported, sold, offered for sale, bartered, shipped, or otherwise used in connection with any violation of this chapter.

(b) Arrest any person, without a warrant, who the officer has probable cause to believe is violating this chapter or any rule adopted under this chapter.

(c) At the time of arrest of any person in connection with any violation, search the person, premises, or business records and seize any plants, records, or property taken or used in connection with any alleged violation.

II. Any warrant for the arrest of a person shall be issued upon sworn complaint as in other criminal cases, and any search warrant shall be issued only upon a written showing of probable cause, supported by oath or affirmation, describing the places to be searched and the persons or things to be seized.

III. Equipment, merchandise, plants, or records seized under paragraph I shall be held by any peace officer pending disposition of court proceedings, and thereafter shall be forfeited to the state for disposition as the department may deem appropriate. The department may direct the transfer of plants so seized to a qualified biological or to a botanical, educational, or scientific institution for identification, safekeeping, and preservation for court proceedings. Upon conviction of the person or persons from whom the seizure was made, the court shall assess the costs of transfer and safekeeping on the convicted person and shall declare all plant materials seized forfeited to this state. Such items shall be deposited in a herbarium approved by the department, or, if alive, shall be used for scientific, propagative, or educational purposes or returned to their wild habitat.

Source. 1987, 220: 1, eff. May 18, 1987.