



The State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES



Thomas S. Burack, Commissioner
January 26, 2010

The Honorable Judith Spang, Chairman
Resources, Recreation and Development Committee
Legislative Office Building, Room 305
Concord, New Hampshire 03301

Re: HB 1239, relative to the processing of certain environmental permits and administrative fines for violations of dredge and fill requirements.

Dear Chairman Spang:

Thank you for the opportunity to comment on HB 1239 relative to the processing of certain environmental permits and administrative fines for violations of dredge and fill requirements. For reasons described below, the Department of Environmental Services (DES) supports Section 1 but has concerns with Section 2 of this bill.

Section 1 of HB 1239 amends RSA 482-A by the addition of a new subparagraph, RSA 482-A:3, XIV(f), that provides DES with clear authority to suspend review of an application until an applicant has corrected an "enforcement action", as defined in this new subparagraph. This would provide DES with the discretionary authority to suspend the review of a new permit application for a property until historic violations have been fully resolved. DES supports this section because it makes sense that an applicant would be required to resolve past violations before a new permit application is reviewed and potentially a new permit issued.

DES believes that Section 2 of the bill is unnecessary, because RSA 482-A already authorizes DES to issue such orders and citations. (See, e.g., RSA 482-A:6, III and IV.) Also, since the existing statutory language in RSA 482-A is substantially the same as that contained in other statutes that DES implements, if the Legislature were to change the language of RSA 482-A and not change the other statutes then a question could arise as to the meaning of the language in the statutes that were not amended. For these reasons, DES believes it is inadvisable to retain the language that appears in Section 2 (lines 8 through 15 of the bill as introduced).

Thank you for this opportunity to comment on this bill. Please feel free to call me at 271-2958, or Collis Adams at 271-4054, if you have any questions or need additional information.

Very truly yours,

For Thomas S. Burack
Commissioner

cc: Representative Gottling
Representative Sad

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