



The State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES



Thomas S. Burack, Commissioner
February 10, 2011

The Honorable Andrew Renzullo, Chairman
House Resources, Recreation and Development Committee
Legislative Office Building, Room 305
Concord, New Hampshire 03301

Re: HB 439, relative to claiming an invasive species as a habitat.

Dear Chairman Renzullo:

Thank you for the opportunity to comment on HB 439, which seeks to amend RSA 212-A:13 by prohibiting invasive species from being considered habitat for an endangered species. The Department of Environmental Services (DES) recommends that this bill be retained in committee pending the outcome of ongoing discussions amongst the four state agencies involved with the control of invasive aquatic plant species in New Hampshire. These discussions and the expected outcomes are briefly described below.

DES, the Department of Agriculture, Markets and Food (DAMF), the Fish and Game Department, and the Department of Resources and Economic Development each have a role in the control of invasive aquatic plants in New Hampshire's waterbodies. We have recently initiated a facilitated process for staff from all four agencies to improve our collective activities for the control of invasive aquatic plants. The ultimate result of this process is expected to be the development of an improved process for the management and mitigation of areas infested with invasive aquatic plants that will be described in a formal memorandum of agreement (MOA) signed by all four agencies.

HB 439 relates to one issue that is specifically being discussed by the agencies: How to balance the need for invasive aquatic plant control in areas of significant infestation with the need to protect endangered species, which must occur under both New Hampshire's Endangered Species Conservation Act (RSA 212-A) and the federal Endangered Species Act (Public Law 93-205). In all cases, permits for herbicide application must reasonably ensure the protection of endangered species. And, in some cases, in particularly sensitive areas where endangered fish species are known to exist, permits from DAMF may not be appropriate if compliance with the Endangered Species Act cannot be assured because harm could be caused to endangered species. However, we also recognize the damage that can be done by the spread of invasive aquatic plants, such as variable and Eurasian milfoil, which can be controlled by strategic herbicide applications. Therefore, the agencies recognize the need to strike a balance and are in the process of working together toward this end.

In conclusion, since the agencies are in the process of working on the issue that is the focus of HB 439, we believe that it would be inappropriate to enact this legislation at this time.

Thank you for the opportunity to comment on this bill. Please feel free to call Jody Connor at 271-3414, or me at 271-2958, if you have any questions or need additional information.

Sincerely,

Thomas S. Burack
Commissioner

cc: Representatives Drisko, Russell and Christensen

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