



The State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES



Thomas S. Burack, Commissioner

February 17, 2011

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

RE: SB 124-FN - An Act relative to the Comprehensive Shoreland Protection Act

Dear Chairman Odell:

Thank you for this opportunity to comment on SB 124 an act relative to the Comprehensive Shoreland Protection Act (CSPA). The Department of Environmental Services (DES) does not support this legislation.

DES has been working very closely with Senator Bradley and others on Senate Bill 154, Reforming the Comprehensive Shoreland Protection Act, which will also be heard by this committee later this morning. We believe that SB 154 as amended based on discussions this week goes a long way towards addressing many of the concerns that have been raised with the CSPA.

SB 124 proposes a variety of technical adjustments to the CSPA including revisions to the definition of the reference line on certain waters, the addition of limits on dwelling unit density, and changes to the permitting process requirements. These changes would reverse modifications made during the 2009 legislative session after discussions with many stakeholders. For example, SB 124 would restore the Official List of Public Waters (the OLPW) as the reference document for establishing the lakes and ponds regulated under the CSPA. It was agreed in 2009 that the Consolidated List of Water Bodies is preferred for a number of reasons that we would be happy to explain at your request. SB 124 would also restore the limits of "flowage rights" as the reference line on those artificial impoundments where they may exist. This was changed in 2009 because the use of flowage rights historically complicated the determination of CSPA jurisdictional boundaries and often increased the area around a water body subject to the CSPA. Finally, the requirement to notify each abutter by certified mail on public access and utility projects was removed in 2009 because it created a possible financial burden for state agencies, such as the Department of Transportation, who were constructing projects with public benefits. In summary, the reversal of these changes would not be beneficial to applicants for CSPA permits.

Thank you for the opportunity to comment on this bill. Please feel free to call Rene Pelletier at 271-2951, or me at 271-2958, if you have any questions or need additional information.

Sincerely,

Thomas S. Burack
Commissioner

cc: Senator Gallus
Representatives Sapareto and Eaton