



The State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES



Thomas S. Burack, Commissioner

January 27, 2015

The Honorable Chris Christensen, Chair
Resources, Recreation and Development Committee
Legislative Office Building, Room 305
Concord, NH 03301

RE: HB 272, An act designating the Ham Branch watershed in Easton as a protected river and exempting the Ham Branch watershed from the comprehensive shoreland protection act.

Dear Chairman Christensen and Members of the Committee:

Thank you for the opportunity to comment on HB 272. This bill would designate the Ham Branch River watershed for inclusion under the New Hampshire Rivers Management and Protection Program (RMPP) without adding the river and its tributaries into the jurisdiction of RSA 483-B, the Shoreland Water Quality Protection Act. The Department of Environmental Services (NHDES) supports the designation of the river into the Rivers Program.

The purpose of the RMPP is to protect the state's significant river resources for the benefit of present and future generations through a unique combination of state and local resource management and protection. The Rivers Management and Protection Act of 1988 (RSA 483) established a statewide rivers program based on a unique cooperative approach between the state and local communities. A key feature of the program is the development of a Local River Advisory Committee for each designated river.

The Ham Branch River flows north through the town of Easton and the nomination includes the mainstem of the river from its headwaters to the town line as well as thirteen of its tributary streams. In total, 23.1 miles of 1st, 2nd and 3rd order rivers and streams in the Ham Branch River watershed are being nominated for inclusion into the RMPP.

As many individuals testified at the public hearing for this nomination, the residents of Easton understand that they, along with the state and the White Mountain National Forest, are the stewards of the Ham Branch River and the unique characteristics it possesses. The town is to be commended for its efforts to protect the river and the surrounding valley through which it flows. The testimony at the public meeting was overwhelmingly supportive and the various town boards and commissions are also on record as supporting the nomination.

Water quality monitoring conducted by NHDES during the summer of 2014 indicates that the Ham Branch possesses excellent water quality, including high levels of dissolved oxygen and low levels of bacteria and other pollutants. In addition, the river has been identified by the New Hampshire Fish and Game Department as a significant fishery because it supports native wild

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brook trout, and the Ammonoosuc Chapter of Trout Unlimited has described the river as one of the most special places that has been inventoried in the north country.

The department thoroughly reviewed the proposed designation of the Ham Branch River and its tributaries as protected rivers in 2014. NHDES conclusions were summarized in my letter to the House Resources, Recreation and Development Committee dated January 15, 2015 (copy attached) in which I stated that, "*designation of the Ham Branch River watershed would be consistent with the purposes of RSA 483, and I am recommending its inclusion in the RMPP.*" In developing this recommendation, NHDES considered the nomination package submitted by the Ham Branch River Nominating Committee, public comment, and the recommendations for designation by the Rivers Management Advisory Committee (RMAC) and the Rivers Coordinator. The detailed evaluation is presented in the attached report, *The Ham Branch River Watershed: A Report to the General Court*, dated January 2015.

With regard to the request that the Ham Branch River not be brought under the jurisdiction of the Shoreland Water Quality Protection Act (SWQPA), generally NHDES would be opposed to this kind of exemption from existing state law; however, there are three special circumstances particular to the Ham Branch which render NHDES deferential to local interests. First, since the Ham Branch is not a 4th order or higher river, this is the first nomination to be submitted to the Rivers Program in which no portion of the river is already subject to the provisions of the SWQPA. Second, many of the streams in the watershed are 1st and 2nd order, and NHDES, as well as others, have questioned the appropriateness of applying SWQPA provisions to streams of that small size. Finally, the Town of Easton has shown a high degree of willingness to enhance its already comprehensive zoning ordinance by adding measures to make the town's river protections as strong as those included in the SWQPA. For these reasons, NHDES is respectful of the request that this river not be brought under the jurisdiction of the SWQPA.

Finally, there are a number of technical changes to the bill as written that should be made, such as correcting the outdated references to the Comprehensive Shoreland Protection Act to instead refer to the SWQPA. We would be happy to provide suggested corrective language for these and other changes to assist the committee in developing the final bill language.

Thank you for your consideration in this matter. If you have questions or need additional information, please contact Ted Diers, Watershed Management Bureau Administrator (ted.diers@des.nh.gov or 271-3289) or Jacquie Colburn, Rivers Coordinator (jacquie.colburn@des.nh.gov or 271- 2959).

Sincerely,



Thomas S. Burack
Commissioner

cc: Representative Susan Ford
Representative Rebecca Brown
Senator Jeff Woodburn