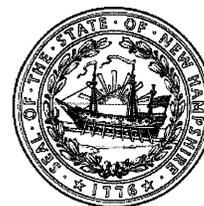




The State of New Hampshire
Department of Environmental Services



Robert R. Scott, Commissioner

January 21, 2020

The Honorable Martha Fuller Clark
Chair, Energy and Natural Resources Committee
State House, Room 103
Concord, NH 03301

RE: SB 428 – AN ACT relative to notifications to the rivers coordinator of state agency actions affecting rivers.

Dear Chair Fuller Clark and Members of the Committee:

Thank you for the opportunity to comment on Senate Bill 428. This bill proposes to exclude utility providers from the requirement to get a signature from local river management advisory committees (LACs) on the application form for utility maintenance projects in wetlands located in designated river corridors that qualify for statutory permits-by-notification.

The New Hampshire Department of Environmental Services (NHDES) does not object to the concept of this bill, but is currently in the process of addressing this requirement for LAC signatures in wetland rules not only for utility maintenance statutory permits-by-notification, but for most minimum impact activities in wetlands. Under the wetland dredge and fill rules, Env-Wt 100 – 900, that went into effect on December 15, 2019, a provision was added that requires LACs to sign off on most minimum impact projects that fall within a designated river corridor, indicating that the LAC waives its right to intervene on the project in order for the application to be processed by NHDES. Designated river corridors are the area of land within ¼ mile of any of the 19 rivers protected under the Rivers Management and Protection Program, RSA 483.

LACs are charged in RSA 483:8-a with advising NHDES, the Rivers Management Advisory Committee, and the municipalities through which the river flows on the management of the river. A portion of this advice is commenting on permit applications for projects that may alter the resource values and characteristics of the river. LACs have found, however, that minimum impact projects which qualify for permits-by-notification rarely impact the designated river when conducted under the conditions of the permit. LACs have agreed that they do not need to review these projects prior to work beginning due to the low likelihood of impact to the river.

In addition, LACs are comprised of volunteer members of the communities adjacent to each designated river and typically meet only once per month. Thus any permit applicant, including utilities, must wait until the LAC is able to meet in a quorum in order to receive the required signature. This places additional burden on volunteer LAC members for projects with expected

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de minimis impact, limiting the time they can spend addressing more significant projects. The committees do not feel that these projects warrant the delay in the permitting process imposed by the wetland rules currently in place.

NHDES is therefore assembling a rule amendment package for submission to JLCAR which will achieve the result sought by the utilities industry to eliminate the requirement for LAC sign off on utility maintenance statutory permits by notification. This rule change will also eliminate the need for LAC sign-off for many other types of minimum impact projects, including seasonal dock permits-by-notification and many other dock, beach, deck, forestry, and utility activities that qualify for lower scrutiny approvals. The rule package initial proposal incorporating these proposed changes is expected to be published in mid-February.

Thank you again for the opportunity to comment on SB 428. Should you have questions or need additional information, please feel free to contact Tracie Sales, Rivers and Lakes Programs Manager at Tracie.Sales@des.nh.gov or 271-2959.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert R. Scott", with a large, sweeping flourish extending to the right.

Robert R. Scott
Commissioner

cc: Sponsors of SB 428: Senators D'Allesandro, Morgan, and Chandley