TOWN OF EXETER, NEW HAMPSHIRE

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January 16, 2019

Mary Ann Tilton
DES, Wetlands Bureau
29 Hazen Drive
Concord, NH 03302-0095

Dear Ms. Tilton,

I would first like to commend the tremendous effort put forth by Bureau staff to revise the wetland regulations. There are numerous improvements such as the expediting of bioengineering, living shoreline and restoration activities, clarification of definitions, alignment of major projects with the mitigation threshold, and development of best management practice guides. Despite these improvements, the Exeter Conservation Commission remains concerned about the current draft. Our concern primarily centers on the lower scrutiny approval (LSA) permits.

Commission Role: We believe the LSA projects should continue to include an opportunity for review by conservation commissions. It is our belief that commission involvement plays several critical roles in the process and should remain a part of the requirements. **Our advisory capacity early in the project process often results in significant improvements and minimization of impacts**. DES indicated the lean review showed that you receive a very small number of comments from conservation commissions for these LSA-type projects. We believe the results may instead be an indication of our early involvement to minimize a project's impacts-not an absence for need to comment. Our ability to be involved early is directly enabled by our advisory capacity in the permit review process and benefits our natural resources. Without this role we are concerned applicants would stop coming to commissions for comments before application submission. Our involvement has the capacity to benefit DES staff by decreasing DES staff review time due to the following reasons:

1) **Commissions are often most knowledgeable about natural resources in their community**. Between locals seeking out commission members to share species encounters, through our involvement in local planning and research, and our passion for the place in which we live, our members are deeply knowledgeable of our local environment. Relying solely on NH Natural Heritage Bureau and NH Fish and Game data will likely overlook impacts resulting from existing data gaps that commissions are uniquely capable of bridging. We can provide multiple examples in our community where project review would have overlooked impacts without our local knowledge.

2) **Commission members are often the eyes and ears of their community aiding with early reporting of unauthorized activities.** Through their current role in application review, commission members are aware of approved permits and are able to provide early reporting of unauthorized activities to DES. This critical role saves DES staff time, establishes commissions as an information resource in their community, and most importantly allows for intervention before resource impacts become costly to restore. Though future permits will be posted on One-Stop,

the frequency we would need to check this database to stay informed under a 5-day review time scenario is unreasonable and creates greater risk for unauthorized activities.

Shortened Review Period: We believe the reduction in review timeframe is too dramatic and does not afford enough time to determine application accuracy and administrative completeness. We have strong concerns it will result in poor decisions under pressure to meet the reduced deadlines. We believe it is not in the interest of our communities or the state to make decisions to fill wetlands in haste. Our preference is to retain the original permit timelines but should that not be possible, we feel applications should require a signed statement of notification to the local commission.

Increase In Qualifying Permit By Notification Projects (PBN): The addition of several new categories is PBN projects is of concern to us. Specifically, the Commission feels the following should be removed:

- Aquatic vegetation removal
- Bank Stabilization
- Residential access for up to a 3 lot subdivision
- Commercial access

Reduction in Priority Resource Area Listing:
We are concerned about the changes to the Priority Resource Area between the original proposal and the current draft. We believe the omission of certain resources from the current list is dramatic and unwarranted. Unlike the original list, these changes were not founded in science designed to protect the more sensitive and rare resources in the state. Our recommendation is to return Marsh >1 acre, Scrub Shrub Wetland, Fens, and Peatlands back to this list. We request vernal pools also be added.

Unintended Consequence of Weakening Local Regulations: Exeter has been proactively working to protect water quality impacts from development through adoption of local buffer protection. If permitting impacts to a wetland can occur without local input, the justification to protect wetland buffers is diminished. In Exeter we are currently working under federal and state wastewater and stormwater permits that impose significantly higher standards than past permits. Imposing permit requirements through one arm of State government that require communities to increase water quality protection at significant cost, while another arm of the State government loosens our role in the impact review process, contradicts other efforts and infringes on local control.

In summary, we believe restoration of previous review timeframes, continued inclusion of the advisory role of commissions, removal of the listed items from the current PBN project list, and addition of the listed resources to the "priority resource area" listing will dramatically improve the regulations and return them to a condition we could support.

Thank you for providing the additional Conservation Commissions-specific meeting earlier this month. We appreciate the opportunity to provide comments on this amendment.

Sincerely,

Bill Campbell
Chair, Exeter Conservation Commission