



The State of New Hampshire
Department of Environmental Services



Robert R. Scott, Commissioner

February 8, 2021

The Honorable Andrew Renzullo
Chair, House Resources, Recreation and Development Committee
Legislative Office Building, Room 305
Concord, NH 03301

RE: HB 534 – AN ACT relative to municipal control of certain frozen water bodies

Dear Chairman Renzullo and Members of the Committee:

Thank you for the opportunity to comment on HB 534. This bill proposes to authorize local governing bodies to regulate activities on frozen waters. The New Hampshire Department of Environmental Services (NHDES) recognizes the issues being addressed, but opposes the language, as proposed, as being far too broad with significant potential for unintended consequences. Moreover, the proposed language in the bill is in conflict with the State's jurisdiction over all public waters in New Hampshire, which are freshwater bodies ten acres or larger in their natural state and are held in trust by the State for public use pursuant to RSA 271:20.

NHDES has analyzed the key ideas and concerns that provided the impetus for this bill. We understand that the concern was raised relative to activities on frozen waters. In particular, this bill addresses the issue of protecting small water bodies from usage by motor vehicles in the wintertime, as that activity may have detrimental impacts on local water quality. We do not presently have any data or information that document any existing water quality impacts from this type of activity.

As noted above, NHDES opposes the proposed bill as presently written. NHDES bases this opposition on the broad nature of the bill's language and its conflict with the State's jurisdiction and public trust responsibility for all public waters in the State. This has the potential to regulate activities well beyond the actions that have precipitated the creation of this legislation. In addition, there is already an extensive set of common law, as well as State regulations and statutes that stem from the State's public trust responsibility and govern the waters of New Hampshire; specifically, Title XVIII, Fish and Game; Title XXII Navigation, Harbors, Coastal Survey; and Title L, Water Management and Protection.

The Honorable Representative Renzullo
Chairman, House Resources, Recreation and Development Committee
February 8, 2021
Page 2

Thank you again for the opportunity to comment on HB 534. Should you have questions, or need additional information, please feel free to contact either Tom O'Donovan, Water Division Director, at 603-271-0677 or Thomas.E.ODonovan@des.nh.gov, or me at 603-271-3449 or Robert.R.Scott@des.nh.gov.

Sincerely,

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

Robert R. Scott
Commissioner

ec: Sponsors of HB 534: Representatives Walz and Woods