



The State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES

Robert R. Scott, Commissioner



May 3, 2024

The Honorable Kevin Avard
Chair, Energy and Natural Resources Committee
State House, Room 103
Concord, NH 03301

Re: HB 1121 An Act relative to creating certain wetlands permit exemptions after a natural disaster or flooding event

Dear Chairman Avard and Members of the Committee:

Thank you for the opportunity to testify on HB 1121. This bill, as amended, would add language on exempted activities within streams and rivers as new paragraph RSA 482-A:3, IV (d). The New Hampshire Department of Environmental Services (NHDES) is opposed to the proposed language because it is largely redundant and unnecessary and could allow activities that might unreasonably impact adjacent property owners.

RSA 482-A:3 states that a permit is needed from NHDES to “excavate, remove, fill, dredge, or construct any structures” within jurisdictional areas. NHDES does not regulate the removal of woody material, trash as debris that accumulates and form blockages instreams or rivers because it is not part of the bank or bed and does not meet the definition of “excavation” or “dredge.” NHDES has determined that such activities would not be the same as “removal” as it is used in context of the first sentence of RSA 482-A:3. For this reason there is no need to add a specific exemption for removal of woody debris. Using its rulemaking authority under RSA 482-A, NHDES will propose rules that further clarify that the clearing of debris from culverts and bridges does not require permitting.

More problematic is the language that allows clearing of “blockages from the channels.” As written, this would allow a landowner to take the view that any amount of sediment accumulation could be considered to be a blockage and that they could recontour the riverbed to clear it. Such work in a riverbed will alter currents in ways that may have significant adverse impact on abutting owners.

For these reasons NHDES opposes HB 1121. However, if the General Court decides to move forward with this bill, we recommend that the bill text be replaced with the following: “Removal of trash, woody debris, or leaf litter from culverts or bridges, or from the banks and channels of watercourses with the permission of the land owner, provided mechanized equipment does not enter the watercourse, turbidity is minimized, and there is no permanent modification of the bed or bank of the watercourse.”

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Page 2

Thank you again for the opportunity to comment on HB 1121. Should you have questions or need additional information, please feel free to contact Darlene Forst, Wetlands Bureau Administrator at Darlene.C.Forst@des.nh.gov or (603) 271-4054.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert R. Scott". The signature is fluid and cursive, with a long horizontal stroke at the end.

Robert R. Scott
Commissioner

ec: Sponsors of HB 1121: Representatives Aron, Janvrin, T. Lekas, Wallace, J. Harvey-Bolia, Creighton, Cloutier, Bucu, and B. Sullivan, and Senators Ward, Avard, and Watters