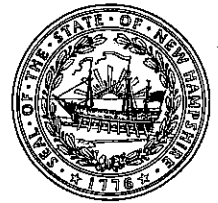




The State of New Hampshire  
**DEPARTMENT OF ENVIRONMENTAL SERVICES**



**Thomas S. Burack, Commissioner**

May 11, 2009

Martha Fuller Clark, Chairman  
Energy, Environment and Economic Development Committee  
Legislative Office Building, Room 102  
Concord, NH 03301

**Re: HB 452, designating segments of the Ammonoosuc River as protected under the rivers management and protection program.**

Dear Chairman Fuller Clark:

Thank you for the opportunity to provide additional comment on HB 452, which would designate segments of the Ammonoosuc River as a protected river pursuant to the Rivers Management and Protection Program (RMPP). This designation would include the entire upper reach of the river from the White Mountain National Forest Boundary near Lower Falls in the Town of Carroll to the Lakes of the Clouds in Sargents Purchase. The Department of Environmental Services (DES) strongly supports this legislation.

At the April 14, 2009 hearing for HB 452, the Mount Washington Resort provided testimony that The Ammonoosuc River, Upper Reach: A Report to the General Court, dated January 2009, created a "misimpression" by including a statement "There are no known riparian interests or flowage rights along the Ammonoosuc". DES agrees that this statement is not accurate, so it has issued a revised Report, dated May 2009 that substitutes the following language:

*e. Riparian Interests/Flowage Rights: Under New Hampshire common law, owners of frontage on surface waters have riparian rights to use surface waters as long as the use is reasonable with respect to uses of other riparian owners and has no undue adverse effect on public trust uses of surface waters. The Rosebrook Water Co., Mt. Washington Hotel, and the Bretton Woods Resort Management CO, LLC. are riparian owners who have such rights. They have also registered water withdrawals from the reach with the Department under RSA 488, the Water Management act. There are no known significant flowage rights on the Ammonoosuc, Upper Reach.*

See enclosed Report, revised May 2009, at page 6.

DES feels this change should address any and all concerns expressed by the Mount Washington Resort. Thank you for the opportunity to provide additional comment on this important legislation. If you have any questions or need additional information, please contact Steve Couture, Rivers Coordinator at 271-8801, or me at 271-2958.

Sincerely,

Thomas S. Burack  
Commissioner

Enclosure  
TSB/smc

cc: Patrick A. Corso, President and CEO, Mount Washington Resort  
Representative Judith Spang, Chair, House RR&D Committee (via electronic mail)  
Representative Frank Tupper, Vice Chair, House RR&D Committee (via electronic mail)  
Representative Scott Merrick (via electronic mail)      Representative Evalyn Merrick (via electronic mail)  
Representative Susan Ford (via electronic mail)      Representative Herbert Richardson (via electronic mail)  
Representative L. Mike Kappler (via electronic mail)  
Charlie Ryan, Chair, Ammonoosuc River Local Advisory Committee (via electronic mail)  
LRMAC Members (via electronic mail)      LRMAC Chairs (via electronic mail)

DES Web site: [www.des.nh.gov](http://www.des.nh.gov)

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