The State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES

Thomas S. Burack, Commissioner

February 3, 2011

The Honorable Andrew Renzullo, Chairman
Resources, Recreation and Development Committee
Legislative Office Building, Room 305
Concord, New Hampshire 03301

Re: HB 230, exempting the repair of certain structures from compensatory mitigation requirements.

Dear Chairman Renzullo:

Thank you for the opportunity to comment on HB 230, which would exempt the replacement or repair of existing structures from compensatory mitigation requirements when the structures are not located on public waters of the state. The Department of Environmental Services (DES) does not have a position on HB 230 and is providing this letter to assist the Committee to understand the scope of the bill.

RSA 482-A:2, IX, a defines a "structure" as "something installed, erected, or constructed, but shall not include a bench, landing with dimensions no larger than 10 feet wide by 10 feet long, or stairs with a width not exceeding 6 feet, provided that such benches, landings, or stairs are installed, erected, or constructed without regrading or recontouring of the shoreline and are not over water. Structures include, but are not limited to, the following: fence, dock, breakwater, post, pile, building, bridge, culvert, and wall."

RSA 271:20 defines "state-owned public waters" as "all natural bodies of fresh water situated entirely in the state having an area of 10 acres or more." and further states that these waters are "held in trust by the state for public use; and no corporation or individual shall have or exercise in any such body of water any rights or privileges not common to all citizens of this state....." DES maintains an official list of all public waters in the state which we can provide to the Committee upon request.

HB 230 proposes to exempt the replacement or repair of existing structures from the compensatory mitigation requirements of RSA 482-A for structures that are not in public waters of the state and that are located on waters which are on one owner's property. As proposed, this bill does not conflict with other state requirements and federal wetlands permitting requirements under the United States Army Corps of Engineers State Programmatic General Permit (SPGP) for New Hampshire.

Thank you for this opportunity to comment. Please call Collis Adams at 271-4054, or me at 271-2958, if you have any questions or need additional information.

Very truly yours,

Thomas S. Burack

Thomas S. Burack, Commissioner

cc: Representative Hunt

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