

Bill as Introduced

HB 681-FN - AS INTRODUCED

2009 SESSION

09-0345

06/01

HOUSE BILL **681-FN**

AN ACT relative to aquatic resource compensatory mitigation.

SPONSORS: Rep. E. Merrick, Coos 2; Rep. T. Russell, Rock 13; Rep. S. Merrick, Coos 2;
Rep. Sad, Ches 2; Sen. Reynolds, Dist 2

COMMITTEE: Resources, Recreation and Development

ANALYSIS

This bill adds activities for which payment may be accepted by the department of environmental services for an unavoidable loss of aquatic resource functions.

Explanation: Matter added to current law appears in **bold italics**.
Matter removed from current law appears [~~in brackets and struck through.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Nine

AN ACT relative to aquatic resource compensatory mitigation.

Be it Enacted by the Senate and House of Representatives in General Court convened:

- 1 1 Aquatic Resource Compensatory Mitigation. Amend RSA 482-A:28, II to read as follows:
- 2 II. Exceeds one acre of impact for a public roadway [ø], a public utility project, **public**
- 3 **transportation, or an infrastructure system** and meets the criteria for a United States Army
- 4 Corps of Engineers state programmatic general permit.
- 5 2 Effective Date. This act shall take effect 60 days after its passage.

LBAO
09-0345
01/15/09

HB 681-FN - FISCAL NOTE

AN ACT relative to aquatic resource compensatory mitigation.

FISCAL IMPACT:

The Department of Environmental Services states this bill may increase state general fund revenue, state general fund expenditures, county expenditures and local expenditures by an indeterminable amount in FY 2009 and each year thereafter. There will be no fiscal impact on state expenditures or county and local revenue.

METHODOLOGY:

The Department of Environmental Services states this bill adds activities for which payment may be accepted by the Department for an unavoidable loss of aquatic resource functions. The Department states this will most likely generate one or two additional in-lieu of fee projects each year but is not able to predict which watershed, region of the state or project type that would be impacted by this bill. To the extent the State, county or local governments engage in lieu of fee projects, they would have increased expenditures. The Department states any additional workload to the Department would be minimal and could be absorbed by existing staff utilizing existing resources.

HB 681-FN - AS AMENDED BY THE HOUSE

13Jan2010... 0005h

2009 SESSION

09-0345

06/01

HOUSE BILL **681-FN**

AN ACT relative to assessments for aquatic resource compensatory mitigation.

SPONSORS: Rep. E. Merrick, Coos 2; Rep. T. Russell, Rock 13; Rep. S. Merrick, Coos 2;
Rep. Sad, Ches 2; Sen. Reynolds, Dist 2

COMMITTEE: Resources, Recreation and Development

AMENDED ANALYSIS

This bill temporarily increases the percentage of certain administrative assessments related to aquatic resource compensatory mitigation.

.....

Explanation: Matter added to current law appears in *bold italics*.
Matter removed from current law appears [~~in brackets and struck through.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Nine

AN ACT relative to assessments for aquatic resource compensatory mitigation.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 Aquatic Resource Compensatory Mitigation; Fund Established. RSA 482-A:29, II is repealed
2 and reenacted to read as follows:

3 II. A separate, non-lapsing account shall be established within the fund into which all
4 administrative assessments collected under RSA 482-A:30, III and RSA 482-A:30-a, II shall be
5 placed. Such account moneys shall only be used to support up to 2 full-time positions for
6 administration of the fund and related projects. No other fund moneys shall be used for state
7 personnel costs.

8 2 Payment for Freshwater and Tidal Wetlands Losses. Amend RSA 482-A:30, III to read as
9 follows:

10 III. An administrative assessment which equals [5] 20 percent of the sum of paragraphs I
11 and II.

12 3 Payment for Freshwater and Tidal Wetlands Losses. Amend RSA 482-A:30, III to read as
13 follows:

14 III. An administrative assessment which equals [20] 5 percent of the sum of paragraphs I
15 and II.

16 4 Payment for Stream or Shoreline Losses. Amend RSA 482-A:30-a, II to read as follows:

17 II. An administrative assessment equal to [5] 20 percent of the amount in paragraph I.

18 5 Payment for Stream or Shoreline Losses. Amend RSA 482-A:30-a, II to read as follows:

19 II. An administrative assessment equal to [20] 5 percent of the amount in paragraph I.

20 6 Rulemaking. Amend RSA 482-A:31, II to read as follows:

21 II. The method of calculating the amount of in lieu payments under RSA 482-A:30 and
22 RSA 482-A:30-a which shall approximate the total cost of wetlands construction, stream and river
23 construction, or such other mitigation actions as would have been required by the department and
24 incurred by the applicant in the absence of making such payments. An administrative assessment of
25 [5] 20 percent of the total cost shall be added as part of the calculation method.

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28 RSA 482-A:30-a which shall approximate the total cost of wetlands construction, stream and river
29 construction, or such other mitigation actions as would have been required by the department and
30 incurred by the applicant in the absence of making such payments. An administrative assessment of

1 [20] 5 percent of the total cost shall be added as part of the calculation method.

2 8 Report. Amend RSA 482-A:33 to read as follows:

3 482-A:33 Report. The department shall submit an annual report by October 1 beginning with
4 fiscal year 2006, to the fiscal committee, the chairperson of the house resources, recreation and
5 development committee, and the chairperson of the senate environment and wildlife committee
6 summarizing all receipts and disbursements of the aquatic resource compensatory mitigation fund,
7 including a description of all projects undertaken *and the status of the administrative*
8 *assessment account*. Each report shall be in such detail with sufficient information to be fully
9 understood by the general court and the public. After submission to the general court, the report
10 shall be available to the public.

11 9 Department Investigation. The department of environmental services shall investigate ways
12 of compiling and providing information on known compensatory mitigation opportunities to
13 applicants who need to compensate for unavoidable impacts by their proposed projects, as part of the
14 wetlands permitting process. The department shall report on the results of this investigation on
15 October 1, 2011 as part of its annual report under RSA 482-A:33.

16 10 Effective Date.

17 I. Sections 3, 5, and 7 of this act shall take effect July 1, 2012.

18 II. Section 1 shall take effect July 1, 2010 at 12:01 a.m.

19 III. The remainder of this act shall take effect July 1, 2010.

LBAO
09-0345
01/15/09

HB 681-FN - FISCAL NOTE

AN ACT relative to aquatic resource compensatory mitigation.

FISCAL IMPACT:

The Department of Environmental Services states this bill may increase state general fund revenue, state general fund expenditures, county expenditures and local expenditures by an indeterminable amount in FY 2009 and each year thereafter. There will be no fiscal impact on state expenditures or county and local revenue.

METHODOLOGY:

The Department of Environmental Services states this bill adds activities for which payment may be accepted by the Department for an unavoidable loss of aquatic resource functions. The Department states this will most likely generate one or two additional in-lieu of fee projects each year but is not able to predict which watershed, region of the state or project type that would be impacted by this bill. To the extent the State, county or local governments engage in lieu of fee projects, they would have increased expenditures. The Department states any additional workload to the Department would be minimal and could be absorbed by existing staff utilizing existing resources.

Amendments

Resources, Recreation and Development
March 16, 2009
2009-0811h
06/09

Amendment to HB 681-FN

1 Amend the bill by replacing section 1 with the following:

2

3 1 Aquatic Resource Compensatory Mitigation. Amend RSA 482-A:28 to read as follows:

4 482-A:28 Aquatic Resource Compensatory Mitigation. In lieu of other forms of compensatory
5 mitigation, the department may accept payment for an unavoidable loss of aquatic resource functions
6 and values from a proposed activity which at a minimum[:

7 I.] impacts less than [~~one-acre~~] *3 acres* of wetlands and meets the criteria for a United
8 States Army Corps of Engineers state programmatic general permit.

9 [~~II. Exceeds one acre of impact for a public roadway or a public utility project and meets the~~
10 ~~criteria for a United States Army Corps of Engineers state programmatic general permit.]~~

Amendment to HB 681-FN
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2009-0811h

AMENDED ANALYSIS

This bill increases the acreage limitation for which payment may be accepted by the department of environmental services for an unavoidable loss of aquatic resource functions.

Amendment to HB 681-FN

1 Amend the title of the bill by replacing it with the following:

2

3 AN ACT relative to assessments for aquatic resource compensatory mitigation.

4

5 Amend the bill by replacing all after the enacting clause with the following:

6

7 1 Aquatic Resource Compensatory Mitigation; Fund Established. RSA 482-A:29, II is repealed
8 and reenacted to read as follows:

9 II. A separate, non-lapsing account shall be established within the fund into which all
10 administrative assessments collected under RSA 482-A:30, III and RSA 482-A:30-a, II shall be
11 placed. Such account moneys shall only be used to support up to 2 full-time positions for
12 administration of the fund and related projects. No other fund moneys shall be used for state
13 personnel costs.

14 2 Payment for Freshwater and Tidal Wetlands Losses. Amend RSA 482-A:30, III to read as
15 follows:

16 III. An administrative assessment which equals [~~5~~] 20 percent of the sum of paragraphs I
17 and II.

18 3 Payment for Freshwater and Tidal Wetlands Losses. Amend RSA 482-A:30, III to read as
19 follows:

20 III. An administrative assessment which equals [~~20~~] 5 percent of the sum of paragraphs I
21 and II.

22 4 Payment for Stream or Shoreline Losses. Amend RSA 482-A:30-a, II to read as follows:

23 II. An administrative assessment equal to [~~5~~] 20 percent of the amount in paragraph I.

24 5 Payment for Stream or Shoreline Losses. Amend RSA 482-A:30-a, II to read as follows:

25 II. An administrative assessment equal to [~~20~~] 5 percent of the amount in paragraph I.

26 6 Rulemaking. Amend RSA 482-A:31, II to read as follows:

27 II. The method of calculating the amount of in lieu payments under RSA 482-A:30 and
28 RSA 482-A:30-a which shall approximate the total cost of wetlands construction, stream and river
29 construction, or such other mitigation actions as would have been required by the department and
30 incurred by the applicant in the absence of making such payments. An administrative assessment of
31 [~~5~~] 20 percent of the total cost shall be added as part of the calculation method.

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Amendment to HB 681-FN

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4 incurred by the applicant in the absence of making such payments. An administrative assessment of
5 ~~[20]~~ 5 percent of the total cost shall be added as part of the calculation method.

6 8 Report. Amend RSA 482-A:33 to read as follows:

7 482-A:33 Report. The department shall submit an annual report by October 1 beginning with
8 fiscal year 2006, to the fiscal committee, the chairperson of the house resources, recreation and
9 development committee, and the chairperson of the senate environment and wildlife committee
10 summarizing all receipts and disbursements of the aquatic resource compensatory mitigation fund,
11 including a description of all projects undertaken *and the status of the administrative*
12 *assessment account*. Each report shall be in such detail with sufficient information to be fully
13 understood by the general court and the public. After submission to the general court, the report
14 shall be available to the public.

15 9 Department Investigation. The department of environmental services shall investigate ways
16 of compiling and providing information on known compensatory mitigation opportunities to
17 applicants who need to compensate for unavoidable impacts by their proposed projects, as part of the
18 wetlands permitting process, and propose to make in lieu payments under RSA 482-A:28-33. The
19 department shall report on the results of this investigation on October 1, 2011 as part of its annual
20 report under RSA 482-A:33.

21 10 Effective Date.

22 I. Sections 3, 5, and 7 of this act shall take effect July 1, 2012.

23 II. Section 1 shall take effect July 1, 2010 at 12:01 a.m.

24 III. The remainder of this act shall take effect July 1, 2010.

2009-2477h

AMENDED ANALYSIS

This bill temporarily increases the percentage of certain administrative assessments related to aquatic resource compensatory mitigation.

Amendment to HB 681-FN

1 Amend the title of the bill by replacing it with the following:

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12 administration of the fund and related projects. No other fund moneys shall be used for state
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Amendment to HB 681-FN

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19 October 1, 2011 as part of its annual report under RSA 482-A:33.

20 10 Effective Date.

21 I. Sections 3, 5, and 7 of this act shall take effect July 1, 2012.

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2010-0005h

AMENDED ANALYSIS

This bill temporarily increases the percentage of certain administrative assessments related to aquatic resource compensatory mitigation.

Amendment to HB 681-FN

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5 Amend the bill by replacing all after the enacting clause with the following:

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8 and reenacted to read as follows:

9 II. A separate, non-lapsing account shall be established within the fund into which all
10 administrative assessments collected under RSA 482-A:30, III, RSA 482-A:30-a, II, and RSA 482-
11 A:31, II shall be placed. Such account moneys shall be used to support up to 2 full-time positions for
12 administration of the fund and to pay for aquatic compensatory mitigation. No other fund moneys
13 shall be used for state personnel costs.

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19 administration of the fund and related projects. No other fund moneys shall be used for state
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21 3 Payment for Freshwater and Tidal Wetlands Losses. Amend RSA 482-A:30, III to read as
22 follows:

23 III. An administrative assessment which equals [5] **20** percent of the sum of paragraphs I
24 and II to be apportioned as follows: *Five percent of the aggregate 20 percent shall be paid by*
25 *the landowner and the remainder shall be paid by the state. The commissioner shall*
26 *transfer such sufficient funds to pay remainder from the aquatic resource compensatory*
27 *fund to the separate, non-lapsing account established under RSA 482-A:29, II.*

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Amendment to HB 681-FN

- Page 2 -

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5 *such sufficient funds to pay remainder from the aquatic resource compensatory fund to the*
6 *separate, non-lapsing account established under RSA 482-A:29, II.*

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9 appropriated as follows:

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12 RSA 482-A:30-a which shall approximate the total cost of wetlands construction, stream and river
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15 [5] 20 percent of the total cost shall be added as part of the calculation method to be appORTioned as
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33 understood by the general court and the public. After submission to the general court, the report
34 shall be available to the public.

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36 of compiling and providing information on known compensatory mitigation opportunities to
37 applicants who need to compensate for unavoidable impacts by their proposed projects, as part of the

Amendment to HB 681-FN

- Page 3 -

1 wetlands permitting process, and propose to make in lieu payments under RSA 482-A:28-33. The
2 department shall report on the results of this investigation on October 1, 2011 as part of its annual
3 report under RSA 482-A:33.

4 11 Effective Date.

5 I. Sections 2, 4, 6, and 8 of this act shall take effect July 1, 2012.

6 II. Section 1 of this act shall take effect July 1, 2010 at 12:01 a.m.

7 III. The remainder of this act shall take effect July 1, 2010.

2010-0008h

AMENDED ANALYSIS

This bill temporarily increases the percentage of certain administrative assessments related to aquatic resource compensatory mitigation and apportions the assessment between the landowner and the aquatic resource compensatory mitigation fund.

Speakers

Hearing Minutes

HOUSE COMMITTEE ON RESOURCES, RECREATION AND DEVELOPMENT

PUBLIC HEARING ON HB 681-FN

BILL TITLE: relative to aquatic resource compensatory mitigation.
DATE: February 19, 2009
LOB ROOM: 305 **Time Public Hearing Called to Order:** 1:30 p.m.
Time Adjourned: 2:27 p.m.

(please circle if present)

Committee Members: Reps. Spang, Tupper, Parkhurst, Moody, Aguiar, Gottling, Hubbard, Kepler, Thomas, C. Williams, McClammer, D. Russell, Renzullo, C. Christensen, Ahlgren, Kappler, Spaulding, Bolster, T. Howard and St. Cyr.

Bill Sponsors: Rep. E. Merrick, Coos 2; Rep. T. Russell, Rock 13; Rep. S. Merrick, Coos 2; Rep. Sad, Ches 2; Sen. Reynolds, Dist 2

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

* **Rep. Evalyn Merrick:** Prime sponsor of the bill. Adding public transportation or infrastructure system to bill on mitigation. Statute presently inhibits some projects. Will allow for more rapid improvements in safety.

Q. Rep. Kappler: Are the new things in bill in definition portion of statute.

A. Don't know

Q. Is there a specific project delayed?

A. Yes, but someone else will address that.

Q. Rep. McClammer: What do you mean by infrastructure system?

A. My interpretation is it would include anything related to mode of transportation. May include public utilities.

Collis Adams, NH Department of Environmental Services (DES): Supports the bill. Read from Commissioner's letter. Suggests amendments.

Q. Chairman Spang: Bill in Senate; how does this mesh with it?

A. Exactly the same: going forward with both so if Senate bill is killed, this one is still in operation.

Q. Rep. Bolster: Alton example: Would it affect that?

A. I know the project you are talking about. They could have taken advantage of this if it had been in effect. This is not an opportunity to buy a wetlands and substitute another piece of land. You have to show that it is the only method available. Constructing wetlands in NH does not work; restoration is the best option but such sites are few and far between. Third option is to purchase wetlands at a ratio of ten to one. So contributing to the ARM fund allows small projects to be pooled and result in something significant. Been urged for years to match SPGP by EPA.

Q. You need to have deep pockets. Does this make it more feasible for the little guy.

A. Certainly. But don't get away from point; this results in better mitigation.

Q. Rep. McClammer: Why do we have upper limit? Include airport projects and other linear developments.

A. Go beyond three acres and you have an enormously complex situation. We started with one acre to see how it would work. Worked well and now we are moving up to three. Larger ones grossly expensive. The eleven projects in letter include private projects. Many others are public benefit projects; highway, school, utility. Didn't mention them because of the enormous pressure to permit public benefit projects. Not implying these don't have to be mitigated, but because we have to act according to voters' calendar and there are not many options for the projects.

Q. Rep. Kappler: Example of project, cemetery. Has DES ever monitored these homemade wetlands to see what is happening.

A. When we issue mitigation in permit, has three year provision, often five, to hire expert to go out and evaluate.

Q. Chairman Spang: If for some reason, we are in danger of losing three-acre provision, what happens to rest of bill?

A. Now includes all projects so you should not have to worry about the part we think should be eliminated. Now expand to include all other kinds of transportation and broader infrastructure; school, town hall, bridge, gas pipeline. Bill as proposed captures a lot more projects. Our amendment captures them all. No problem with bill as written.

Q. Does senate bill include this language?

A. Yes. It also includes more.

*** Bruce Hutchens GSAMA (granite state airport management association):** Supports the bill. Already said by Mr. Adams: Manager of airport that wants to do improvements. Impacted less than 2 acres of wetlands. Looked at onsite mitigation but have limited space. Looked at offsite mitigation for land that would qualify. Seemed to be none. Moved to third option, fee payment. Also talked to Army Corps of Engineers. Tried to get wetlands permit last fall. Informed that airports didn't qualify under present statute. Forced to try another offsite location. A nightmare. But finally found an eighteen acre that qualified. Will ultimately be transferred to Fish and Game. Still don't have permit but it has been a long drawn out project. Have a federal grant and can't get any of the money until all the permits are in place. Need to pay all the folks who have been working for free. What does infrastructure mean? That is our language because there are many improvements that are outside runways and specific buildings.

Q. Who owns, operates Whitefield airport.

A. Town owns land; independent entity runs it.

Q. Rep. McClammer: Do you think it makes sense to up the limit above three acres of impact. Especially on parcels that have minimal value. Especially on airport projects because it is an inappropriate spot to mitigate.

A. Personally I would support it. But that is the bailiwick of the experts, ACOE and DES. Whether this bill passes or not, will have no impact on the project I described. This is to benefit other airport projects in the future.

Q. Rep. Kappler: Should the NH airports when planning upgrades be required to have mitigation offsite.

A. Would make things easier for us if it could be handled offsite or through contribution to ARM fund.

Q. Rep. Renzullo: To Mr. Adams: If we expanded the acreage as McClammer suggests, would that endanger passage of the legislation? Would there be any conflict with feds?

A. There are many competing interests here and success of open-ended approach is not known.

A. Chairman Spang: Deal with many states with different standards and looking for consistency. To make it open-ended would create heartburn with other entities.

A. Adams: Airports don't have to do onsite mitigation.

Q. Chairman Spang: Land at Pontecherry; haunting the whole in lieu fee debate. Would DES have made you search for this spot? How low does bar go if we are too easy?

A. We were turned down and had to search. Land we looked at was outside the town where the impact took place. So went to conservation group.

Q. Would you have gone to all this trouble if you could just have paid into fund?

A. You can't just skip through all the steps. You have to take each one in order. Finally it is up to DES to decide. DES has been good and helpful. Willing to issue a permit before we purchased the land. Catch 22. Designated time periods when things had to happen. Had contractor ready to go last fall; will start this spring.

Q. Rep. Tupper: How much did you spend on consultants' fees.

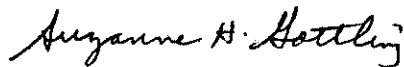
A. \$125,000 but includes much more than mitigation services.

Q. Rep. Kappler: If senate bill fails, would it help to include airport offsite mitigation because of recent crash of plane from birds.

A. Situation in Lebanon was that they insisted on mitigation onsite.

A. Hutchens: Have my own way of dealing with birds. Hard to get rid of birds around airports.

Respectfully submitted,



Rep. Suzanne H. Gottling
Clerk

HOUSE COMMITTEE ON RESOURCES, RECREATION AND DEVELOPMENT

PUBLIC HEARING ON HB 681-FN

BILL TITLE: relative to aquatic resource compensatory mitigation.

DATE: 2/19/09

LOB ROOM: 305 Time Public Hearing Called to Order: 1:30

Time Adjourned:

(please circle if present)

Committee Members: Reps. Spang, Tupper, Parkhurst, Moody, Aguiar, Gottling, Hubbard, Kepper, Thomas, C. Williams, McClammer, D. Russell, Renzullo, C. Christensen, Ahlgren, Kappler, Spaulding, Bolster, T. Howard and St. Cyr.

Bill Sponsors: Rep. E. Merrick, Coos 2; Rep. T. Russell, Rock 13; Rep. S. Merrick, Coos 2; Rep. Sad, Ches 2; Sen. Reynolds, Dist 2

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

House Committee RR&D Public Hearing on HB 681-FN

Relative to aquatic resource compensatory mitigation

Feb. 19, 2009

LOB 305

Called to order at: 1: 30 p.m.

Adjourned at: 2:27 p.m.

Testimony: Rep. E. Merrick, prime sponsor: Adding public transportation or infrastructure system to bill on mitigation. Statute presently inhibits some projects. Will allow for more rapid improvements in safety.

Q. Kappler: Are the new things in bill in definition portion of statute.

A. Don't know

Q. Is there a specific project delayed?

A. Yes, but someone else will address that.

Q. McClammer: What do you mean by infrastructure system?

A. My interpretation is it would include anything related to mode of transportation. May include public utilities.

Testimony: Collis Adams: Read from Commissioner's letter. Suggests amendments.

Q. Spang: Bill in Senate; how does this mesh with it?

A. Exactly the same: going forward with both so if Senate bill is killed, this one is still in operation.

Q. Bolster: Alton example: Would it affect that?

A. I know the project you are talking about. They could have taken advantage of this if it had been in effect. This is not an opportunity to buy a wetlands and substitute another piece of land. You have to show that it is the only method available. Constructing wetlands in NH does not work; restoration is the best option but such sites are few and far between. Third option is to purchase wetlands at a ratio of ten to one. So contributing to the ARM fund allows small projects to be pooled and result in something significant. Been urged for years to match SPGP by EPA.

Q. You need to have deep pockets. Does this make it more feasible for the little guy.

A. Certainly. But don't get away from point; this results in better mitigation.

Q. McClammer: Why do we have upper limit? Include airport projects and other linear developments.

A. Go beyond three acres and you have an enormously complex situation. We started with one acre to see how it would work. Worked well and now we are moving up to three. Larger ones grossly expensive. The eleven projects in letter include private projects. Many others are public benefit projects; highway, school, utility. Didn't mention them because of the enormous pressure to permit public benefit projects. Not implying these don't have to be mitigated, but because we

have to act according to voters' calendar and there are not many options for the projects.

Q. Kappler: Example of project, cemetery. Has DES ever monitored these homemade wetlands to see what is happening.

A. When we issue mitigation in permit, has three year provision, often five, to hire expert to go out and evaluate.

Q. Spang: If for some reason, we are in danger of losing three-acre provision, what happens to rest of bill?

A. Now includes all projects so you should not have to worry about the part we think should be eliminated. Now expand to include all other kinds of transportation and broader infrastructure; school, town hall, bridge, gas pipeline. Bill as opposed captures a lot more projects. Our amendment captures them all. No problem with bill as written.

Q. Does senate bill include this language?

A. Yes. It also includes more.

Testimony: Bruce Hutchens GSAMA (granite state airport management association): Already said by Mr. Adams: Manager of airport that wants to do improvements. Impacted less than 2 acres of wetlands. Looked at onsite mitigation but have limited space. Looked at offsite mitigation for land that would qualify. Seemed to be none. Moved to third option, fee payment. Also talked to Army Corps of Engineers. Tried to get wetlands permit last fall. Informed that airports didn't qualify under present statute. Forced to try another offsite location. A nightmare. But finally found an eighteen acre that qualified. Will ultimately be transferred to Fish and Game. Still don't have permit but it has been a long drawn out project. Have a federal grant and can't get any of the money until all the permits are in place. Need to pay all the folks who have been working for free. What does infrastructure mean? That is our language because there are many improvements that are outside runways and specific buildings.

Q. Who owns, operates Whitefield airport.

A. Town owns land; independent entity runs it.

Q. McClammer: Do you think it makes sense to up the limit above three acres of impact. Especially on parcels that have minimal value. Especially on airport projects because it is an inappropriate spot to mitigate.

A. Personally I would support it. But that is the bailiwick of the experts, ACOE and DES. Whether this bill passes or not, will have no impact on the project I described. This is to benefit other airport projects in the future.

Q. Kappler: Do the NH airports when planning upgrades be required to have mitigation offsite.

A. Would make things easier for us if it could be handled offsite or through contribution to ARM fund.

Q. Renzullo: To Mr. Adams: If we expanded the acreage as McClammer suggests, would that endanger passage of the legislation? Would there be any conflict with feds?

A. There are many competing interests here and success of open-ended approach is not known.

A. Spang: Deal with many states with different standards and looking for consistency. To make it open-ended would create heartburn with other entities.

A. Adams: Airports don't have to do onsite mitigation.

Q. Spang: Land at Pontecherry; haunting whole in lieu fee debate. Would DES have made you search for this spot? How low does bar go if we are too easy?

A. We were turned down and had to search. Land we looked at was outside the town where the impact took place. So went to conservation group.

Q. Would you have gone to all this trouble if you could just have paid into fund?

A. You can't just skip through all the steps. You have to take each one in order. Finally it is up to DES to decide. DES has been good and helpful. Willing to issue a permit before we purchased the land. Catch 22. Designated time periods when things had to happen. Had contractor ready to go last fall; will start this spring.

Q. Tupper: How much did you spend on consultants' fees.

A. \$125,000 but includes much more than mitigation services.

Q. Kappler: If senate bill fails, would it help to include airport offsite mitigation because of recent crash of plane from birds.

A. Situation in Lebanon was that they insisted on mitigation onsite.

A. Hutchens: Have my own way of dealing with birds. Hard to get rid of birds around airports.

Adjourned: 2:27 p.m.

HOUSE COMMITTEE ON RESOURCES, RECREATION AND DEVELOPMENT

PUBLIC HEARING ON HB 618-FN Proposed Amendment

BILL TITLE: relative to identification required by banks.

DATE: November 19, 2009

LOB ROOM: 305 & 307 **Time Public Hearing Called to Order:** 12:00 p.m.

Time Adjourned: 12:25 p.m.

(please circle if present)

Committee Members: Reps. Spang, Tupper, Parkhurst, Moody, Aguiar, Gottling, Hubbard, Kepner, Thomas, C. Williams, McClammer, D. Russell, Renzullo, C. Christensen, Ahlgren, Kappler, Spaulding, Bolster, T. Howard and St. Cyr.

Bill Sponsors: Rep. E. Merrick, Coos 2; Rep. T. Russell, Rock 13; Rep. S. Merrick, Coos 2; Rep. Sad, Ches 2; Sen. Reynolds, Dist 2

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

Rep. Frank Tupper - Introduces amendment. Supports the bill.

Rep. Susan Almy - Supports the amendment #2477h. Contractors may pay ahead and proceed without wetlands mitigation, or wait until such mitigation is settled.

Rene Pelletier, NH Department of Environmental Services (DES) - Supports the bill.

Hearing closes.

Respectfully submitted,

Rep. David H. Russell
Acting Clerk

HOUSE COMMITTEE ON RESOURCES, RECREATION AND DEVELOPMENT

PUBLIC HEARING ON HB 618-FN Proposed Amendment

BILL TITLE: relative to identification required by banks.

DATE: November 19, 2009

LOB ROOM: 305 & 307 **Time Public Hearing Called to Order:** ~~11:30 a.m.~~ ^{12:00 P.M.}

Time Adjourned: 12:25 P.M.

(please circle if present)

Committee Members: Reps. Spang, Tupper, Parkhurst, Moody, Aguiar, Gottling, Hubbard, Kepner, Thomas, C. Williams, McClammer, D. Russell, Renzullo, C. Christensen, Ahlgren, Kappler, Spaulding, Bolster, T. Howard and St. Cyr.

Bill Sponsors: Rep. E. Merrick, Coos 2; Rep. T. Russell, Rock 13; Rep. S. Merrick, Coos 2; Rep. Sad, Ches 2; Sen. Reynolds, Dist 2

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

Public Hearing

HB 681

11/19/09 12:00 PM

1 Rep Tupper introduces amendment
Supports bill

2 Rep Susan Almy Supports Amendment 2472 h
Contractors may pay ahead and proceed
without wetlands mitigation, or wait
until such mitigation is settled.

3 Rene Pelletier DES supports bill

Hearing Closed 12:25 P.M.

HOUSE COMMITTEE ON WAYS AND MEANS

PUBLIC HEARING ON HB 681

BILL TITLE: (New Title) relative to assessments for aquatic resource compensatory mitigation.

DATE: 2/2/10

LOB ROOM: 202 **Time Public Hearing Called to Order:** 1:30 P.M.

Time Adjourned: 1:55 P.M.

(please circle if present)

Committee Members: Reps. Almy, Hatch, Davis, Butynski, Vachon, Shattuck, J. Kelley, Mack, W. Johnson, S. Price, Walsh, Major, Griffin, Lockwood, Boutin, Bettencourt, R. Ober, Sapareto, Ulery and Osgood.

Bill Sponsors: Reps. Merrick, T. Russell, S. Merrick, Sad, Sen. Reynolds

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

***Rep. Jim McClammer**, representing Resources, Recreation and Development Committee, supports the bill as written

-Submitted handout dated 11/6/09 titled "Final Report on SB 65-FN, Chapter 303:7-11, Laws of 2009"

-Recommend moving 5% administrative surcharge up to 20% for 2 years and then sunseting the surcharge

-The developers are not required, but may choose, to contribute to the aquatic resource compensatory mitigation fund

-Developers were represented in the Resources Committee by Gary Abbott who was neutral on the bill.

***Rene Pelletier, NHDES** – submitted written testimony, letter from Commissioner Burack on the bill

-The program is optional for developers to meet mitigation requirements.

Respectfully submitted,



Rep. Wm. Butynski
CLERK OF THE COMMITTEE

HOUSE COMMITTEE ON WAYS AND MEANS

PUBLIC HEARING ON HB 681

BILL TITLE: (New Title) relative to assessments for aquatic resource compensatory mitigation.

DATE: 2/2/10

LOB ROOM: 202

Time Public Hearing Called to Order: 1:30PM

Time Adjourned: 1:55PM

(please circle if present)

Committee Members: Reps. Almy Hatch, Davis Butynski, Vachon Shattuck, J. Kelley Mack, W. Johnson, S. Price, Walsh, Major Griffin Lockwood, Boutin, Bettencourt, R. Ober, Sapareto, Ulery and Osgood.

Bill Sponsors: Reps. Merrick, T. Russell, S. Merrick, Sad, Sen. Reynolds

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

- * Reps. Jim McClammie, representing R2+D Committee — Support the bill as rewritten; see handout dated 11/6/09 entitled "Final Report on SB-65 FN, Chapter 303:17-11, Law of 2009", recommend moving 5% administrative surcharge up to 20% for 2 years, and then ~~removing~~ the surcharge, the developer are not required, but may choose, to contribute to the aquatic resource compensatory mitigation fund. developer were represented in the Resource Committee by Gary Adicot who were neutral on the bill.
- * Rene Pelletier, NH DES — See written testimony ^{with comments} letter ~~was submitted~~ from DES Commissioner Burrach on this bill; the program is optional for developers to meet mitigation requirements.

Sub-Committee Minutes

HOUSE COMMITTEE ON RESOURCES, RECREATION AND DEVELOPMENT

SUBCOMMITTEE WORK SESSION ON HB 681-FN

BILL TITLE: relative to aquatic resource compensatory mitigation.

DATE: September 22, 2009

Subcommittee Members: Reps. Spang, Lupper, Parkhurst, Moody, Aguiar, Gottling, Hubbard, Kepner, Thomas, Williams, McClammer, Russell, Renzullo, Christensen, Ahlgren, Kappler, Spaulding, Bolster, Howard, and St. Cyr

Comments and Recommendations: See attached.

Amendments:

Sponsor: Rep.	OLS Document #:
Sponsor: Rep.	OLS Document #:
Sponsor: Rep.	OLS Document #:

Motions: OTP, OTP/A, ITL, Retained (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote:

Motions: OTP, OTP/A, ITL, Retained (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote:

Respectfully submitted,
Rep. Sue Gottling
Subcommittee Chairman/Clerk

HOUSE COMMITTEE ON RESOURCES, RECREATION AND DEVELOPMENT

SUBCOMMITTEE WORK SESSION ON HB 681-FN

BILL TITLE: relative to aquatic resource compensatory mitigation.

DATE: September 22, 2009

Subcommittee Members: Reps. Spang, Tupper, Parkhurst, Moody, Aguiar, Gottling, Hubbard, Kepner, Thomas, Williams, McClammer, Russell, Renzullo, Christensen, Ahlgren, Kappler, Spaulding, Bolster, Howard, and St. Cyr

Comments and Recommendations:

Amendments:

Sponsor: Rep.	OLS Document #:
Sponsor: Rep.	OLS Document #:
Sponsor: Rep.	OLS Document #:

Motions: OTP, OTP/A, ITL, Retained (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote:

Motions: OTP, OTP/A, ITL, Retained (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote:

Respectfully submitted,

Rep.
Subcommittee Chairman/Clerk

Discussion on bills already submitted or about to be submitted for new session.

HB 218 – FN RR&D Subcommittee Work Session

BILL & TITLE: relative to the state park fund

Sept. 22, 2009

1:20 p.m. LOB 305

Rep. Spang: Talked about two state park related bills. HB 558 could now apply to all state parks. Need to look at impact on community, particularly in issues such as ATV's. What do we owe to a community to make sure operations are not onerous to the community? With ATV, just looking at budgets of communities but there are other elements around an enlarged or new use. If we are going to be leasing more of our Park Dept. facilities, we may want a subcommittee to look at these elements. Ted Austin is here to talk to us about the plans. Also wanted to have a placeholder to look at many issues. Have 218 relating to State Park fund. Supposed to be a repository for leftover funds. Audit showed it had been used as a revolving fund or checking account. Need to change process or statute. Issue raised by Leigh Webb about whether parks should be self-funded. Anderson did some research. May want another subcommittee about exactly how parks should be funded. It is not explicit in statute. If we want to remove confusion, this bill gives opportunity to clarify. If we do not want parks to be closing, leasing, etc. we can change the language and lift burden of self-funding from parks. It would still be up to the legislature to determine the funding. But need to get rid of a false expectation that parks will be self-funding while saying fees cannot be unreasonable. Second subcommittee perhaps. Third thing is the strategic plan. Plan was put out. Department had categorized how each park met expectations of statute. Considerable consternation among those whose parks were rated in the lowest category. Because of community concerns, strategic plan being redone. Appropriate for RR&D to look at how a new plan is being developed, particularly where new legislation might be needed. Have a state parks advisory committee responsible for development of strategic plan, but we are also responsible for what happens to the parks. While we have this bill before us we can facilitate improvements.

Q. Rep. Bolster: Question that has come up....concerning the article that was sent to us by Rep. St. Cyr about the increase in fees at Bear Brook. Need to make sure parks are viable and rates are reasonable. What thinking went into that precipitous rise in fees?

Rep. Spang: Anything else before we speak to Director Austin. But first look at report in front of you from Rep. St. Cyr who visited all parks and historic sites except one.

Rep. St Cyr: Started on June 18. Parks are exciting places and I enjoyed my summer. Encourage you to visit them. I will continue visiting them into the fall.

Rep. Spang: Comment on condition.

Rep. St Cyr: Some show signs of deterioration. But at same time, there is a lot to be offered to citizens of NH. Value to be gained from visiting them.

Rep. Spang: You also looked into financing..

Rep. St Cyr: Back in 2000, HB 86 approved funding by state and matched by private entities. Money not placed in budget. Bill is still viable but must raise private funds to match it.

Rep. Tupper: Certainly a great example of a good team effort by the committee. Did you as you were looking at the parks happen to see condition of any of the trails?

Rep. St Cyr: Trails in relatively stable condition. Could see improvements in place. Mostly went to fire towers. Ones I hiked along were pretty good. At Cardigan appeared to be a new bridge in good condition. Did not look at anything other than hiking trails.

Rep. Tupper: You have taken a lot of photographs.

Rep. St Cyr: Yes. We could have a presentation. Need to sort through 3500 photos.

Rep. Kepner: There are many people who talk about better conditions of trails but usually these are the efforts of volunteers and friends groups.

Austin: Update on strategic plan: Because of misstep, we are asking for an extension of completion of strategic plan to Jan., 2010, a few month's extension. Gives us better opportunity to make use of public comments.

Rep. Spang: Have you drafted that bill and found a sponsor?

Austin: Senator O'Dell is going to take care of that. Fundamental shift now is to identify parks through their strengths and then perhaps look at what we need to do. Going to emphasize the positives and try to dovetail that with capital funds.

Rep. Spang: Give us some examples of how this would change for a specific park?

Austin: Took four legislative priorities and weighted each park on 1 to 3 scale to create some separation between parks. Now trying to say that parks cover all

aspects to some extent and then see what we should do. What we would do with a Pisgah-like park is different from what we do at the Flume. Then think about what you could do and how you would go about it. New plan will generate a profile of what would constitute adequate stewardship.

Rep. Spang: Let's look at Pisgah.
What would you now be saying about Pisgah.

Austin: We would look at physical aspects, revenue, visitation, is there a friends group or any deed restrictions? It may be that it doesn't require a great deal of maintenance. Would look for some agency that would do the same thing we are now doing, managing the land. We might identify some options and then evaluate them.

Rep. Spang: So each park found to have previously unfavorable outcome, you're going to do each park.

Austin: No, we would try to develop the process and then perhaps do several representative parks. These parks are worthy of equal stewardship and protection. Need to identify why we are not capable of doing the proper stewardship.

Rep. Spang: Are you assuming parks must be self-funded?

Austin: Yes. I know the language says it must be reasonably self-funded. Legislation is part of the problem. There is a lot of conflicting legislation.

Rep. Tupper: What did you do before?

Austin: Ran ski areas in many states.

Rep. Tupper: Do you think parks should be in DRED or some other department.

Austin: Intuitively makes sense to me to be in DRED.

Rep. Renzullo: What can we do with these bills since the plan won't be ready until Jan

Rep. Spang: There is wide scope in germane amendments. Retained these bills as vehicles for dealing with parks in general. I don't feel constrained by completion of plan. Many things we are talking about don't depend on that. Interested in Austin's comment that there is legislation needed. It could be attached to retained legislation. Just need to make sure amendments are not outlandish.

Rep. Renzullo. But we have to dispose of these bills by Dec. 2 before the plan comes out.

Rep. Spang: Don't need plan to determine whether parks must be self-funded. Issue of leasing can have a process defined regardless of whether specific parks for leasing have been determined. If this committee determines there are elements that should be included in the process, we can do that.

Rep. Renzullo. Aren't we going to talk about customizing the situation for each park?

Rep. Spang: Look at amendment and the conditions to be put on leasing. These are taken from higher up saying these are state resources and what is our responsibility to the community if lease is granted. This is not for an individual park but a general concept.

Rep. Kepner. Parks Council meeting at DRED on Monday, Sept. 28 10:00 and Friday, Oct. 16 at 9:30 at DRED. Around Nov. 1 have a strategic plan draft available to look at. And then have real public hearings this time.

Rep. Spang: Should guidelines be part of strategic plan rather than specific evaluations.

Austin: One of the requirements is to look at specific leases.

Rep. Spang: Could look at Sunapee, Cannon leases as well as non-controversial leases.

Rep. Howard: How can we come up with a strategic plan unless we deal with the funding issue?

Rep. Spang: If we turn things upside down and say they don't have to be completely self-funded, still doesn't guarantee parks general fund money. Parks are so weather-dependent for revenue.

Austin: Trying to do a win-win-win plan. Still trying to improve parks regardless of whether we get more money or fix legislation. I see it as a development plan and we need to have a methodology and a process. Need more than just "how we get out the current mess."

Rep. Howard: Need to make an effort to clarify. We are probably one of the only states that expect parks to be self-funded.

Rep. Spang: Easily dealt with: change one word in statute and we have it nailed. Change word "facilities" to "system."

Rep. Bolster: Talked about schools and their ability to be out of planning loop. Is it the same with state parks? Don't have to abide by local planning boards. Might be good to add a hotel at a park, but people in local community might want you to add things to help make impact less. Keep local community in the loop to be sure life-style is improved, not lessened.

Rep. Spang: Reiterate three things: Leasing of parks (HB 558), financing of parks, and strategic plan.

Rep. St. Cyr: City of Laconia is looking at leasing a park, but once you enter into a lease with another entity, will you still promote parks that are leased or just those that are still directly under parks control?

Austin: Would look at type of lease and develop a history of what we need to do.

Rep. Tupper: Concerned about how information is getting to you. There are friends groups. How do you get info to them and get info from them.

Austin: Usually have staff member who serves as clerk. Reasonable flow back and forth. But each group has its own agenda and there is no consistency. Risk is that some of these advisory groups know park better than we do and folks get pretty authoritative. In strategic plan, there would be a clear statement of how we would interact.

Rep. Tupper: Someone at Wallis Sands told me it was "his park."

Rep. Kepner: A lot needs to go into plan but won't be specific to a particular park. Will be guidelines and then hard work begins.

Invitation to three bill sponsors to speak:

Rep. McMahon: Newbury is home of Mt. Sunapee and Sutton is home of Wadleigh. Rollins and Winslow are nearby as well as other historic spots. I do not come close to St. Cyr's devotion, but have visited many. Legislature made unfortunate mistakes in 1990's when leasing Sunapee. Lease was full of holes. Hope this never happens again. It was an embarrassment. Make better use of our resources. Although we have limited DRED, a good steward should still be telling us where needs are. Proposing we separate natural resources from economic development in DRED and putting a bill in to that effect. We cannot have our state parks and believe they can operate without help. Need our assistance. "Guests" of county are available to help make repairs in state parks. Need to allow this interaction to take place. There are many skills available but we are not making use of this. I put in an amendment to HB 5 to allow regional areas to be formed and we would already be taking in money to help our parks.

Rep. Kepner: We have tried on Advisory Committee to think outside the box. We know there are folks eager to get out and work.

Rep. McMahon: I did submit a long list of recommendations to your committee and Director Austin was very receptive. Have an obligation to follow through.

Rep. Spang: Struggling with what our committee should do and what advisory group should do.

Rep. Taylor: HB 558: Filed because we feel threatened every two years by leasing of Cannon Mountain, which would have terrific impact on small community with limited resources. Patterned on Vermont law.

Martha McLeod: Had to fight off leasing of Cannon without any due diligence. We weren't looking at Sunapee area to evaluate effects of lease. Need to see effects on environment also. Trying to find a process. Looked at Act 250 from Vermont. Allowed us to consider what needs to be taken into account before leasing. As local selectman, my husband now understands better what leasing means to a local community. You, as a group, need to influence or persuade your colleagues on many of these issues. Need to do a review of all the statutory commissions that are related to state parks.

McMahon: Number of areas where there are resources. ED&A did the audit of DRED. Need to know where money for logging goes in Pisgah; why iron rangers are not emptied, other aspects where money is not gathered. People bothered by idea that state does not abide by its own rules such as paving the state park lot at Sunapee beach. Wadleigh was one of first parks given to state (for \$1.00). Our small community is concerned about the liability. What will happen if we don't think these things through and listen to local folks. Unintended consequences. Have looked at insurance costs and they are staggering. If we remove parks from state control, it may mean that insurance costs will result in only use by local residents. The Superintendent of School is prepared to have students help out. Proceed with mutual communication and support.

St. Cyr: Great staff in parks. Especially those who have been there a long time. Cost benefits analysis would cost about \$750,000 per park. Respond to this?

McLeod: I think that is an unreasonable estimate. Regional planning councils have much of the information already available. Huge cost-saving. Would start with that and go back and ask for another fiscal note. Should be more reasonable.

McMahon: Have heard from former Sunapee employees that the books were definitely cooked on that lease. At Wadleigh there is now no way to generate funds because facilities have been taken away. We are not thinking through what these parks mean to us. We are just letting possibilities go through our fingers.

Rep. McClammer: Need some sort of impact assessment from a regional viewpoint. How would you proceed to evaluate proposed impacts?

McLeod: Look from areas of economy, people, community infrastructure. Figure out main categories and then look for whether impact is there.

Rep. McMahon: Asked Rockefeller Center at Dartmouth if it could help us look at voluntary retirement contributions and funding of state parks. Help us look at ways other states have functioned and been successful. ED&A will work with you.

Rep. McClammer: Outside peer reviews or evaluations are very important. We don't have any mechanism in the state to evaluate objectively on a wider basis.

McLeod: The regional impact act needs to be looked at. No mechanism to do regional study when there are entities that have no zoning. Look at how you actually acquire state park lands, a process that should be similar to how we dispose of lands.

Rep. Kepner: We have arbitrarily had lands given to parks when no one knew what else to do with them. I have experienced parks being closed and then parks get trashed. Folks in Hampton aren't happy that state gets bulk of money from park. What rises to the top is a park that is going to make money.

Rep. Bolster: The impact to one group is going to be different than to another group. Conflicting ideas. There is not one public interest. Get a variety of interests. Sometimes those with very "deep pockets" fight extremely hard to prevent a change. More than getting data.

McLeod: Why we need to have a process. What can we all agree on as a common interest? Public benefit analysis gives the opportunity.

Rep. Hubbard: There is an enormous difference between public interest and vested interest. In the back of our minds we convince ourselves that our vested interest is public. As legislators, we need to be sure we act in the public interest.

Discussion of whether or not we need subcommittees or should act as a whole.

Disbanded at 3:15 p.m.

HOUSE COMMITTEE ON RESOURCES, RECREATION AND DEVELOPMENT

SUBCOMMITTEE WORK SESSION ON HB 681-FN

BILL TITLE: relative to aquatic resource compensatory mitigation.

DATE: September 30, 2009

Subcommittee Members: Reps. Spang, Tupper, Parkhurst, Moody, Aguiar, Gottling, Hubbard, Kepner, Thomas, Williams, McClammer, Russell, Renzullo, Christensen, Ahlgren, Kappler, Spaulding, Bolster, Howard, and St. Cyr

Comments and Recommendations:

Amendments:

Sponsor: Rep.	OLS Document #:
Sponsor: Rep.	OLS Document #:
Sponsor: Rep.	OLS Document #:

Motions: OTP, OTP/A, ITL, Retained (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote:

Motions: OTP, OTP/A, ITL, Retained (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote:

Respectfully submitted,

Rep.
Subcommittee Chairman/Clerk

House Committee on Resources, Recreation and Development

Subcommittee work session on HB 218-FN, HB 558-FN, HB 681-FN

September 30, 2009

10:00 A.M.

Rep. Spang introduced bills. We are asking Commissioner Bald to come in and report on the department's efforts to meet the goals presented at previous gathering of ED&A and RR&D. Three efforts today: Funding of parks, leasing of parks, strategic plan development and coordination with any legislation that will help implement the plan. Will gather into three subcommittees and schedule the meetings before the close of the calendar today.

Consulted with David Fryman about germaneness of amendments to bills that have been retained. No rush to do this. Committee does not have to abide by the schedule for filing bills. Same applies to funding that goes beyond bill. Either we must change statute or DRED must change its practice. Same for self-funding. Would have to be brought in as a separate committee bill.

Introduction of Dick Ober: Chair of State Park Advisory Council: Talk about strategic plan and other issues including funding. Will give us insight to other issues.

Dick Ober: Vice President of NH Charitable Foundation. 25 year relationship with parks helping system acquire new properties, critic sometimes, usually an advocate for the parks.

State Parks Advisory Council established in 2007. Charged to provide advice to Parks Director, advocate for State Park system. Review existing statutes and capital expenditures and clarify needs, procedures. Investigate new incentives to assist in Parks system. Review with AG all legal documents that Department or DRED have entered into. Submit a report.

Named members and groups they represent and introduced those present. Trying to integrate all conversations about health of system. Parks are most visible emblems of the pride we take in our heritage. These places are where we show world the pride we take in NH's heritage. Not treated them well. Deferred maintenance will be outlined by Ted Austin. Parks are not adequately staffed. All of us are included in lack of proper care. Starting to turn that around. SB 5 began the process.

1. Reliance on self-funding is inadequate to meet the needs of the system.
2. Long backlog in capital needs must be addressed.
3. Internal issues had to be addressed; therefore the audit.
4. Advisory Council set up and meet
5. Develop 10 year plan.

What is the right mix of funding? Joel did great study. There is no mandate to be self-funded. Will be part of plan.

In 2007 infusion of 6 million began start of capital improvements. There had been no plan or funding for forty years.

Audit done. Glad Bald invited back to tell you about progress.

Advisory Council meeting regularly.

Plan is responsibility of DRED. Council is not writing the plan but providing council and guidance to help make sure the ship is turned around.

Handed out draft of beginning to 10 year plan:

Read the 1961 words of the legislature about purpose of state parks. Stated that these goals are in order of priority.

6 parts to draft preface. See attached document.

Mentioned that funding system has never been adequate from day one, except for two years. But Parks has not been forceful enough to take advantage of opportunities. Must make changes.

State is facing enormous fiscal challenges. Work toward keeping the system healthy and understand the very real fiscal challenges. Need to have integration of what happens in legislature with broader strategies outlined in 10 year plan. Make it more sustainable. Passions in communities amazing from public input. Overwhelming reaction is that everyone wants to help.

Rep. Bolster: Asked to fill in the blank on handout.

Rep. Spang: Talk a bit about things that came up in last advisory council meeting about community responses and how that might impact our work on leasing.

Ober: Now saying "appropriate management". Won't do each individual park. Will develop an overall process. But ultimately each park will have an appropriate management plan. Some have friends group already helping, some municipalities requesting transfer of park (this will not be easy because of deed restrictions or how property acquired). Laconia is requesting greater stewardship of a park. Many types of management arrangements can be made. We must look at lack of stewardship for some parks. There will always be language that properties were acquired for public benefit. Little worried if every park is a "one-off." Better to take a step back and look at all the possibilities and develop a consistent methodology.

Rep. Renzullo: Is the report you are going to put out one that puts you as close as possible to self-funding and then says this is what we are still missing? Is there going to be a plan that says this is the size of the system we can work with for self-funding.

Ober: There are unmet opportunities now to generate more funds but there will still be needs unmet. Will this mean the legislature says there is a finite size we can manage. Don't think this should be needed. There is much information that is

sorely lacking and we need to provide this to make decisions and recommendations. Just want to advance the dialogue.

Rep. Spang: (Invited Ted Austin to sit with Dick Ober.) Know we are asking for heroic efforts to provide funds. Different from other states. Are we asking for unseemly efforts.

Ober: We are only state in the union that depends on all state funding and we are also in top ten in reliance on travel and tourism for revenues. Plenty of evidence that this feeds into meals and rooms revenue. Are you comfortable with what parks may be asked to do?

Austin: Our campground fees are competitive with private campgrounds in NH. Comfortable with fee structure.

Rep. Spang: What will strategic plan contribute to this? Legislation required?

Austin: Developing a process. Said there are legislative needs. Focus on things we can achieve. Discouraging to always think about what we can't accomplish.

Rep. Bolster: Enumerated about what parks used to be used for. Are we holding on to nostalgia and not moving ahead with what people now want to do outdoors. Mentioned zip lines and snowboarding, campers instead of tents. If we go back to just trails and beaches and fail to think about what will draw young people especially. Perhaps calling something unseemly is not being realistic. Times change. Practices change. How much money do we keep putting into bathhouses or backpacking; not as big a thing as some years ago. Be open to what is new.

Austin: That is the essence of the challenge. Referred to parts of the outline of the revised plan. Different scenarios of park "types" will allow us to put in the correct facilities: mentioned WIFI installation as compared to a "natural" park. Will continue to work on appropriate needs, not yesterday's needs. Our clientele is aging and challenging hike not as needed as flat path...but we still need to attract younger families. Can accommodate "dated" needs but need to move forward.

Bolster: mentioned fears of sunburn so fewer folks going to beach; fear of woods because of lyme disease and bears.

Kepner: Hampton took in excess money this year so obviously people went to the beach. Returned to priorities listed by legislature. Trying to get the data that shows how national and state and local parks are used. We may need to update but we cannot forget basic experience people look for. We have to provide proper staffing in the long term even to get the data needed. Had to hire a professional from outside to get data on use.

Austin: Need to establish the cost of stewardship.

Rep. Spang: Opportunity for others here to speak.

Jeff Gilbert: former Rep. Many challenges set forth in material handed out. The question of funding is critical. Will work with committee. Worked on Ways and Means and knows issues. We can set the direction but actual funding out of our hands. But there needs to be fundamental change. Need to be sure the benefits of the park system in revenue is recognized. All know that travel and tourism is critical to state revenue. Ratio is 1 to 7 for advertising. May be that similar ratio exists for every dollar we might spend on improved parks and payback.

Rep. Spang: Want to make sure that his council and our committee move ahead together to really help each other. Will ask a member of his council to serve on an ad hoc basis on each subcommittee. Will get subcommittees up to speed swiftly. Jeff Gilbert will help with finance subcommittee; Susan Arnold with leasing, and Dick Ober with strategic plan. Asked Leigh Webb if some members of ED&A would help out.

Rep. Webb: Vested interest because Laconia and Franklin are in his district. Both are tax cap communities. Not in purview of council to do some things mentioned by Rep. Renzullo. Mentioned that historical sites should be valued and used more highly for educational purposes. Should have general fund money. 558 came out of perceived abuse in leasing of Sunapee. Don't want to handcuff Division or Parks. Specific mention of enterprise fund to help communities...any excess money should go to parks. Look at this segment carefully.

Rep. Taylor: Haven't looked at amendment recently.

Austin: Current recommendation is that the redrafted plan is due in early November. Some time before public hearings. Will be a presentation, not just Q and A. Final form due early in January.

Rep. Spang: Is there utility to having something in statute relative to implementation.

Austin: Plan now is to have yearly director's report that includes operational recommendations and may call for legislation.

Ober: Plan will lay out needs; plan will also outline what legislature should do. May be legislature can support overall aims. It will become much clearer later on what is needed.

Rep. Aguiar: Mentioned friend who is unaware of extent of state park system. Need signage that distinguishes our parks from federal lands. Get a clear identity to remind folks that they are on state lands.

Austin: Looking at rebranding system.

Spang: Enumerated subcommittee titles and asked for volunteers.

Finance: Gottling (chair), McClammer, Tupper

Leasing: Kepner (chair), Bolster, Russell, Spang

Strategic Plan: Spaulding, Aguiar, Thomas, Ahlgren (chair) Kappler

Subcommittee date: Tues. Oct. 6

9 – 10:30 Strategic Plan

10:30 – 12:00 Leasing

1:00 – 2:30 Finance

Amendment to HB 681-FN

1 Amend the title of the bill by replacing it with the following:

2

3 AN ACT relative to assessments for aquatic resource compensatory mitigation.

4

5 Amend the bill by replacing all after the enacting clause with the following:

6

7 1 Aquatic Resource Compensatory Mitigation; Fund Established. RSA 482-A:29, II is repealed
8 and reenacted to read as follows:

9 II. A separate, non-lapsing account shall be established within the fund into which all
10 administrative assessments collected under RSA 482-A:30, III and RSA 482-A:30-a, II shall be
11 placed. Such account moneys shall only be used to support up to 2 full-time positions for
12 administration of the fund and related projects. No other fund moneys shall be used for state
13 personnel costs.

14 2 Payment for Freshwater and Tidal Wetlands Losses. Amend RSA 482-A:30, III to read as
15 follows:

16 III. An administrative assessment which equals [5] 20 percent of the sum of paragraphs I
17 and II.

18 3 Payment for Freshwater and Tidal Wetlands Losses. Amend RSA 482-A:30, III to read as
19 follows:

20 III. An administrative assessment which equals [20] 5 percent of the sum of paragraphs I
21 and II.

22 4 Payment for Stream or Shoreline Losses. Amend RSA 482-A:30-a, II to read as follows:

23 II. An administrative assessment equal to [5] 20 percent of the amount in paragraph I.

24 5 Payment for Stream or Shoreline Losses. Amend RSA 482-A:30-a, II to read as follows:

25 II. An administrative assessment equal to [20] 5 percent of the amount in paragraph I.

26 6 Rulemaking. Amend RSA 482-A:31, II to read as follows:

27 II. The method of calculating the amount of in lieu payments under RSA 482-A:30 and
28 RSA 482-A:30-a which shall approximate the total cost of wetlands construction, stream and river
29 construction, or such other mitigation actions as would have been required by the department and
30 incurred by the applicant in the absence of making such payments. An administrative assessment of
31 [5] 20 percent of the total cost shall be added as part of the calculation method.

32 7 Rulemaking. Amend RSA 482-A:31, II to read as follows:

Amendment to HB 681-FN

- Page 2 -

1 II. The method of calculating the amount of in lieu payments under RSA 482-A:30 and
2 RSA 482-A:30-a which shall approximate the total cost of wetlands construction, stream and river
3 construction, or such other mitigation actions as would have been required by the department and
4 incurred by the applicant in the absence of making such payments. An administrative assessment of
5 ~~[20]~~ 5 percent of the total cost shall be added as part of the calculation method.

6 8 Report. Amend RSA 482-A:33 to read as follows:

7 482-A:33 Report. The department shall submit an annual report by October 1 beginning with
8 fiscal year 2006, to the fiscal committee, the chairperson of the house resources, recreation and
9 development committee, and the chairperson of the senate environment and wildlife committee
10 summarizing all receipts and disbursements of the aquatic resource compensatory mitigation fund,
11 including a description of all projects undertaken *and the status of the administrative*
12 *assessment account*. Each report shall be in such detail with sufficient information to be fully
13 understood by the general court and the public. After submission to the general court, the report
14 shall be available to the public.

15 9 Department Investigation. The department of environmental services shall investigate ways
16 of compiling and providing information on known compensatory mitigation opportunities to
17 applicants who need to compensate for unavoidable impacts by their proposed projects, as part of the
18 wetlands permitting process, and propose to make in lieu payments under RSA 482-A:28-33. The
19 department shall report on the results of this investigation on October 1, 2011 as part of its annual
20 report under RSA 482-A:33.

21 10 Effective Date.

22 I. Sections 3, 5, and 7 of this act shall take effect July 1, 2012.

23 II. Section 1 shall take effect July 1, 2010 at 12:01 a.m.

24 III. The remainder of this act shall take effect July 1, 2010.

Amendment to HB 681-FN
- Page 3 -

2009-2477h

AMENDED ANALYSIS

This bill temporarily increases the percentage of certain administrative assessments related to aquatic resource compensatory mitigation.

Testimony

**TESTIMONY ON HB 681 – RELATIVE TO AQUATIC RESOURCE
COMPENSATORY MITIGATION.**

Good morning Chairwoman Spang and members of the Resources, Recreation, and Development Committee. For the record, I am Rep. Evalyn Merrick from Coos District 2, which includes Stark, Stratford, Groveton, North UMBERLAND, Lancaster, Jefferson, Twin Mountain, Whitefield and Dalton. I will keep my testimony short, as there are experts on the subject matter who will be testifying and will provide you with far more information than I have knowledge of!

HB 681, which amends RSA 482-A:28, II, is intended to provide equal options and opportunities to all modes of transportation system construction projects as they relate to the impact on wetlands which might be disturbed.

Presently, only **public utilities projects** and **public roadways** are listed in the RSA. Any construction project that impacts on, disturbs or otherwise disrupts the aquatic resource functions, must be avoided, minimized or otherwise mitigated under state law. If the impact affects 1-3 acres, and that impact cannot be eliminated then the state mandates mitigating new aquatic wetlands in an area contiguous to the disrupted area, or in an alternative, acceptable area. This bill would add other transportation systems to the

RSA, under the definition of “public transportation or an infrastructure system” and could include airports and rail systems, among others.

The ability to fund non-roadway/utility projects that require wetlands mitigation using the two options currently available often acts as a stumbling block, and at times an insurmountable obstacle to making much needed improvements required for improved safety and/or increased services for other modes of transportation. Lack of equity for those modes of transportation often leads to long delays and potential loss of critically needed funding from sources including Federal Grants and low interest loan programs, which require all mitigation issues to be resolved prior to the funding being distributed.

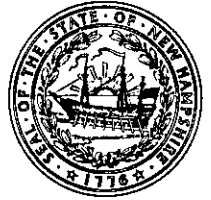
Passage of HB 681 will allow for more rapid improvements in the safety and types of services our constituents need to continue remaining competitive in these rapidly changing economic times and I therefore ask that you support passage. Thank you for your time and attention. I would ask that you hold your questions for those experts behind me.

Respectfully,

Rep. Evalyn Merrick, Coos, District 2, Lancaster
27 Blackberry Lane, Lancaster, NH 03504
603-686-1510 or 603-788-4311



The State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES



Thomas S. Burack, Commissioner
February 19, 2009

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

Re: HB 681, relative to aquatic resource compensatory mitigation

Dear Chairman Spang:

Thank you for the opportunity to comment on HB 681 that would add activities for which payment may be accepted by the Department of Environmental Services (DES) for an unavoidable loss of aquatic resource functions. DES supports this bill with the proposed amendment recommended below, which would make RSA 482-A consistent with the Aquatic Resource Mitigation (ARM) Fund provisions of the U.S. Army Corps of Engineer's New Hampshire State Programmatic General Permit (SPGP).

DES recommends that Paragraph 1 of HB 681 be modified to amend RSA 482-A: 28 as follows;

*I. Impacts less than ~~one-acre~~ **three acres** of wetlands and meets all other criteria for a United States Army Corps of Engineers state programmatic general permit.*

~~II. Exceeds one-acre of impact for a public roadway or a public utility project and meets the criteria for a United States Army Corps of Engineers state programmatic general permit~~

This broadens the proposed amendment to include all projects with impacts of less than three acres. With the proposed change to Paragraph I, Paragraph II is not necessary because these projects are a subset of those referenced in Paragraph I. Under the SPGP, projects are not eligible for participation in the ARM Fund program if the impacts are greater than three acres.

Since the inception of the ARM Fund three years ago, DES has issued only ^{eleven} ~~ten~~ permits for projects with impacts between one and three acres that were not public benefit projects. The average impacts of these projects were slightly more than one and a half acres. Therefore, this change is expected to apply to a relatively small number of projects.

Thank you for this opportunity to comment on this bill. Please feel free to call me at 271-3503, or Collis Adams at 271-4054, if you have any questions or need additional information.

Very truly yours,

Michael Walls, Asst Comm
for Thomas S. Burack
Commissioner

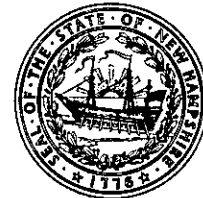
Senator Reynolds
Representatives E. Merrick, Russell, S. Merrick, and Sad

HB 681 - 2/2/10 - from Rene Pelletier, NH DES



The State of New Hampshire

DEPARTMENT OF ENVIRONMENTAL SERVICES



Thomas S. Burack, Commissioner

February 2, 2010

The Honorable Susan Almy, Chairman
House Ways and Means Committee
Legislative Office Building, Room 202
Concord, New Hampshire 03301

Re: HB 681-FN, relative to assessments for aquatic resource compensatory mitigation

Dear Chairman Almy:

Thank you for the opportunity to comment on HB 681-FN that would temporarily increase the administrative fee from 5% to 20% for which payment may be accepted by the Department of Environmental Services (DES) for an unavoidable loss of aquatic resource functions in addition to requiring DES to report annually on the status of the fund. DES supports this bill.

As amended by the House (amendment #2010-0005H) this bill will also make the DES ARM program consistent with the Aquatic Resource Mitigation (ARM) Fund provisions of the U.S. Army Corps of Engineer's New Hampshire State Programmatic General Permit (SPGP).

Additionally, this bill, as amended broadens the statute to include all projects with impacts of less than three acres. Since the inception of the ARM Fund three years ago, DES has issued only ten permits for projects with impacts between one and three acres that were not public benefit projects. The average impacts of these projects were slightly more than one and a half acres. Therefore, this change is expected to apply to a relatively small number of projects.

Thank you for this opportunity to comment on this bill. Please feel free to call me at 271-2958, or Rene Pelletier at 271-2951, if you have any questions or need additional information.

Very truly yours,

Thomas S. Burack
Thomas S. Burack
Commissioner

cc: Senator Reynolds
Representatives E. Merrick, Russell, S. Merrick, and Sad

DES Web site: www.des.nh.gov

P.O. Box 95, 29 Hazen Drive, Concord, New Hampshire 03302-0095

Telephone: (603) 271-3503 • Fax: (603) 271-2982 • TDD Access: Relay NH 1-800-735-2964

**2009 REPORT OF THE ACTIVITY OF THE
NEW HAMPSHIRE DEPARTMENT OF ENVIRONMENTAL SERVICES
AQUATIC RESOURCE MITIGATION FUND PROGRAM**

January 14, 2010

I. INTRODUCTION

The New Hampshire Department of Environmental Services ("DES") Aquatic Resource Mitigation ("ARM") Fund has been created as one of several compensatory mitigation options available to applicants for impacts to wetlands and other aquatic resources. This mitigation option is available for use after avoidance and minimization of impacts to these aquatic resources has been achieved. The ARM Fund seeks "no net loss" of aquatic resource acreage and functions using a watershed approach. See Figure 1 for the Hydrologic Unit Code 8 (HUC 8) display of the watersheds that is used for collection of funds.

The purpose of this report is to advise the public and federal agencies of the status of the ARM Fund and to address items referenced in the DES regulations, Env-Wt 807.19. This report summarizes the achievements made by the mitigation program over the 2009 calendar year and specifically outlines the following:

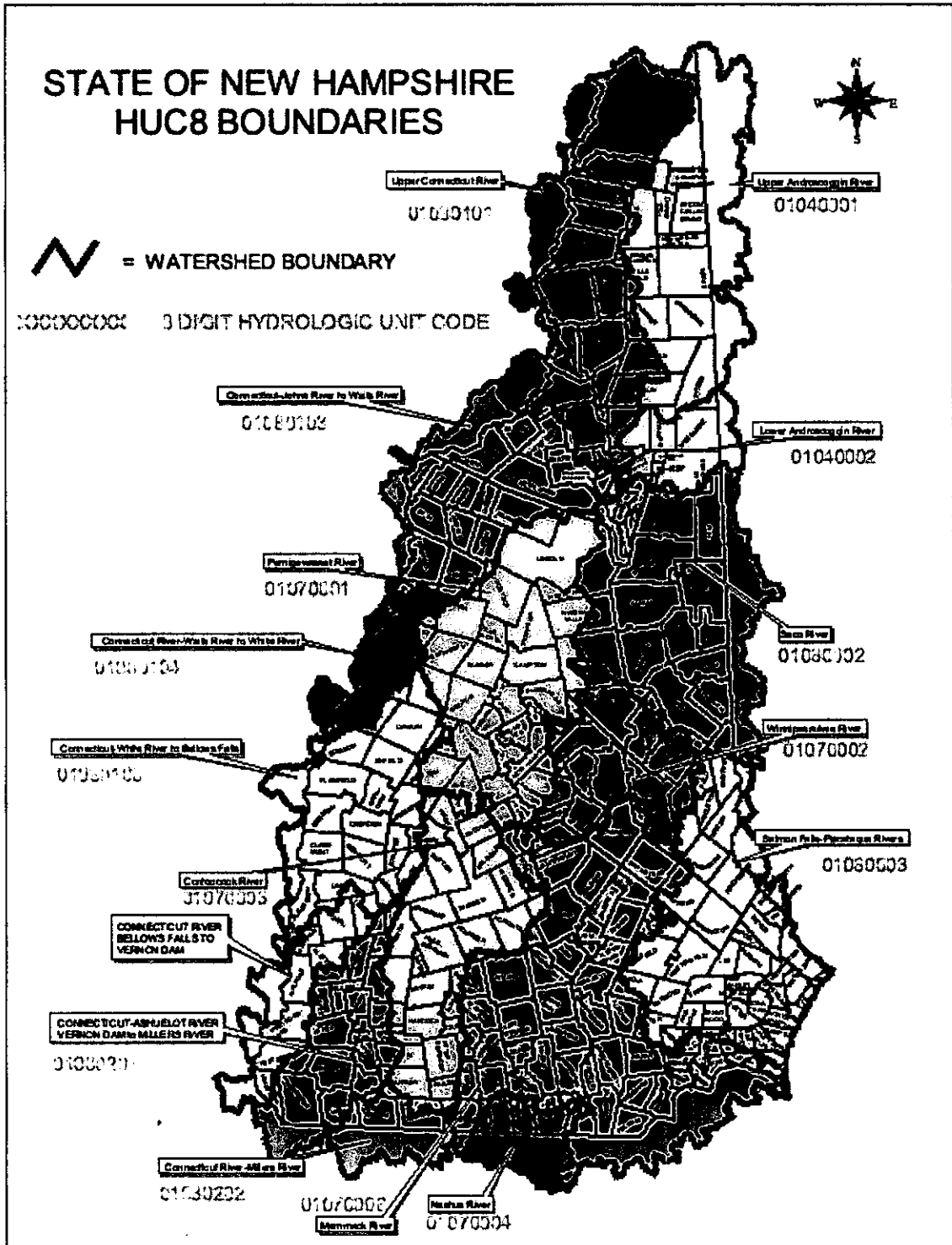
- a. Key program achievements in 2009;
- b. A summary of wetland loss and funds received in each of the HUC 8 watersheds;
- c. Grants distributed in 2009; and
- d. Senate Bill 65.

II. DES MITIGATION PROGRAM ACHIEVEMENTS IN 2009

In the third year of operation, the ARM Fund program has made significant progress in the use of collected funds. The following items summarize additional program achievements to date:

- The DES Wetlands Bureau, Mitigation Program was awarded US Environmental Protection Agency grant funds to develop a strategy for identifying wetland restoration projects at the HUC 8 watershed scale. The grant developed a model that was initially used for the Merrimack River watershed. The results of that effort can be reviewed on an interactive web site as follows: www.restoreNHwetlands.com. The second phase of the grant is to continue implementation of the model on the Winnepesaukee River, Upper Connecticut, and Connecticut River from the Johns River to Waits River watersheds. This second phase will be completed in December, 2009. The Department may continue the use of the model in other watersheds for identification of restoration opportunities.
- Senate Bill 65 was entered into legislation to expand the use of the payment option for wetland impact projects. The amendment eliminated the one acre size threshold so now the law allows any project to provide payment in-lieu of other forms of mitigation. SB 65 also established the opportunity for stream related impacts to provide payments into the fund. The DES supported the bill which implements a recommendation of the Final Report of the Comprehensive Flood Management Study Commission (New Hampshire House Bill 648, Chapter 179.1, Laws of 2007). The report specifically recommended the development of a DES in-lieu mitigation option for projects that impact floodplains and stream channels. The funds generated will be eligible to municipal and state agencies, non-profit organizations and watershed associations for stream restoration and protection projects. See Attachment D for the final bill text.

FIGURE 1. STATE OF NEW HAMPSHIRE HYDROLOGIC UNIT CODE 8 BOUNDARIES



◦ The Site Selection Committee worked together to evaluate proposals for funds eligible in the Merrimack River watershed. On April 2, 2009 DES announced the availability of \$650,000 of funds accrued in the Merrimack River watershed. The request for proposals ended on June 5, 2009 and eight applications were received in response to the solicitation. In July, 2009 the Committee visited all the sites for which access was available. On July 22 the Committee convened to evaluate the applications and recommended full funding of 3 projects. The Committee determined that the three selected projects provide the greatest potential to replace or protect specific wetland functions and values lost by the impacts in the Merrimack River HUC 8 watershed. Where project scores were comparable, preference was given to projects that provide the longer-term, more beneficial protection. The Committee also recommended partial funding for a fourth project up to \$20,000 contingent upon the Town providing long-term protection of the property.

III. WETLAND LOSS AND CONTRIBUTIONS RECEIVED

During the 2009 calendar year, 14 projects used the payment option as mitigation for permitted wetland impacts. The 14 permitted projects resulted in 6.234 acres of wetland loss. For these wetland impacts, the Fund accrued contributions totaling \$823,243.64. The impacts, contributions, and functions and values impacted by projects that generated funds in calendar year 2009 are shown below. The carryover amounts and totals for the 8 watersheds that have had deposits since 2007 are also noted, with the proposed release dates for each account.

**ARM FUND REVENUES, IMPACTS AND FUNCTION AND VALUES LOST
DURING CALENDAR YEAR 2009**

**UPPER CONNECTICUT RIVER WATERSHED
Request for Proposal sent out September, 2009**

DES PERMIT LOCATION, FILE #	IMPACTS (in acres)	FUNCTIONS & VALUES LOST	REVENUES	DATE PERMIT ISSUED
Colebrook, 2005-2313	0.51	Floodflow alteration, wildlife and fish habitat, flood storage, sediment/nutrient filtering.	\$52,933.59	2/18/2009
Carryover	0.99		\$103,226.00	
CURRENT TOTAL FOR WATERSHED	1.5		\$156,159.59	

UPPER ANDROSCOGGIN RIVER WATERSHED – Release October 2010

DES PERMIT LOCATION, FILE #	IMPACTS (in acres)	FUNCTIONS & VALUES LOST	REVENUES	DATE PERMIT ISSUED
Carryover	0.61		\$63,110.55	
CURRENT TOTAL FOR WATERSHED	0.61		\$63,110.55	

PEMIGEWASSETT RIVER WATERSHED – Release June 2010

DES PERMIT LOCATION, FILE #	IMPACTS (in acres)	FUNCTIONS & VALUES LOST	REVENUES	DATE PERMIT ISSUED
Lincoln, 2008-807	0.61	Storm water channel - manmade	\$64,812.14	4/20/2009
Carryover	0.79		\$83,342.97	
CURRENT TOTAL FOR WATERSHED	1.4		\$147,044.11	

**CONNECTICUT RIVER from JOHNS RIVER TO WAITS RIVER
Request for Proposal sent out September, 2009**

DES PERMIT LOCATION, FILE #	IMPACTS (in acres)	FUNCTIONS & VALUES LOST	REVENUES	DATE PERMIT ISSUED
Jefferson, 2008-1529	0.004	Wildlife habitat; Recreation	\$503.51	3/24/2009
Littleton, 2008-2762	0.30	Groundwater discharge, wildlife habitat	\$32,505.59	3/27/2009
Dalton, 2008-1332	0.29	Wildlife habitat	\$30,357.77	4/13/2009
Whitefield, 2008-1333	1.85	Groundwater discharge and wildlife habitat	\$90,000.00	5/12/2009
Carryover	0.616		\$44,808.67	
CURRENT TOTAL FOR WATERSHED	3.06		\$198,175.54	

**CONNECTICUT RIVER – ASHUELOT RIVER – VERNON DAM
TO MILLERS RIVER WATERSHED – Release May 2010**

DES PERMIT LOCATION, FILE #	IMPACTS (in acres)	FUNCTIONS & VALUES LOST	REVENUES	DATE PERMIT ISSUED
Washington, 2008-690	0.41	Wildlife habitat, flood storage, sediment trapping, nutrient attenuation	\$30,000.00	11/20/2009
Carryover	0.44		\$113,033.10	
CURRENT TOTAL FOR WATERSHED	0.85		\$143,033.10	

SALMON FALLS RIVER – PISCATQUA RIVER WATERSHED

Release August 2010

DES PERMIT LOCATION, FILE #	IMPACTS (in acres)	FUNCTIONS & VALUES LOST	REVENUES	DATE PERMIT ISSUED
Lee, 2006-2733	0.55	Wildlife habitat	\$68,374.50	2/5/2009
Seabrook, 2008-1264	0.37	Groundwater recharge/discharge, floodflow alteration, nutrient rem/retention, wildlife habitat	\$57,198.96	6/8/2009
Durham, 2009-593	0.37	Roadside swales with limited function and values	\$14,653.53	8/19/2009
Hampton, 2009-937	0.55	Sediment/toxicant retention	\$95,766.77	10/7/2009
Portsmouth, 2008-2780	0.02	Submerged, tidal sediments	\$7,980.00	8/19/2009
Carryover	0.83		\$130,628.12	
CURRENT TOTAL FOR WATERSHED	2.69		\$374,601.88	

**MERRIMACK RIVER WATERSHED
Awards to 4 Projects Issued August, 2009**

DES PERMIT LOCATION, FILE #	IMPACTS (in acres)	FUNCTIONS & VALUES LOST	REVENUES	DATE PERMIT ISSUED
Bow, 2008-2312	0.4	Stormwater detention of runoff from existing site	\$78,157.28	1/26/2009
Manchester, 2006-3219			\$200,000.00	2/19/2009
Carryover	n/a		n/a	
CURRENT TOTAL FOR WATERSHED			\$20,000.00	

**WINNIPESAUKEE RIVER WATERSHED
Request for Proposal sent out September, 2009**

DES PERMIT LOCATION, FILE #	IMPACTS (in acres)	FUNCTIONS & VALUES LOST	REVENUES	DATE PERMIT ISSUED
Carryover	1.08		\$161,466.73	
CURRENT TOTAL FOR WATERSHED	1.08		\$161,466.73	

Two additional projects determined eligible for payment into the ARM Fund are noted below. These 2 projects have the potential of an additional \$127,555.24 to be paid into the Fund.

**POTENTIAL ARM FUND REVENUES, IMPACTS AND FUNCTION AND VALUES
LOST IN CALENDAR YEAR 2009**

PROJECT TOWN	HUC 8 WATERSHED	IMPACTS	FUNCTIONS AND VALUES LOST	REVENUES
Rochester	Salmon Falls – Piscataqua Rivers	0.32	Limited wildlife habitat	\$49,663.74
Epsom	Merrimack River	0.53	Wildlife habitat, vernal pools	\$77,891.50
Carryover		0.00		\$0.00
TOTALS FOR POTENTIAL PAYMENTS		0.85		\$127,555.24

IV . DISBURSAL OF WATERSHED FUNDS IN 2009

Merrimack River Watershed

The DES ARM Fund was established by law in August, 2006 as a mitigation option for certain projects not able to provide other forms of mitigation. The ARM Fund Site Selection Committee (“Committee”) was set up to provide a mechanism for reviewing, evaluating, and selecting wetland restoration, upland preservation, wetland creation, and other aquatic resource improvement proposals. The Committee is composed of representatives from the following organizations: DES, Department of Economic Development NH Heritage Bureau, NH Fish and Game Department, Office of Energy and Planning, NH Association of Natural Resource Scientists, NH Association of Conservation Commissions, The Nature Conservancy and the Society for the Protection of NH Forests. According to the law, the projects determined to be appropriate for receipt of ARM Fund monies are subject to approval by the US Army Corps of Engineers, New England District (“ACE”) and the NH Wetlands Council (“Council”).

The Committee is charged with identifying proposals to be funded by selecting high priority projects that most effectively compensate for the loss of functions and values in the watershed. The Council is charged with approving disbursements of the ARM Fund based on recommendations provided by the Committee per RSA 482-A:29.

On April 2, 2009 DES announced the availability of \$650,000 of funds accrued in the Merrimack River watershed. The funds came from nine permitted projects impacting 4.05 acres located in the towns of Bow, Candia, Epsom, Hooksett, Londonderry and Manchester (See Attachment A). These permitted projects impacted the following functions: wildlife habitat, groundwater discharge and recharge, flood storage and sediment/toxicant retention. The request for proposals ended on June 5, 2009 and eight applications were received in response to the solicitation.

In July, 2009 the Committee visited all the sites for which access was available. On July 22 the Committee convened to evaluate the applications. The Committee determined that three projects provide the greatest potential to replace or protect specific wetland functions and values lost by the impacts in the

Merrimack River HUC 8 watershed. Where project scores were comparable, preference was given to projects that provide the longer-term, more beneficial protection. The three projects selected included the Stewart Property in Francestown, Clay Pond Headwaters Protection Project in Hooksett, and the Concord Regional Solid Waste/Resource Recovery Center in Canterbury.

The Committee also recommended partial funding for the Nesenkeag Brook Headwaters Project of up to \$20,000 to determine if a restoration plan could result in long-term improvements at the site. This approval is contingent upon the Town providing long-term protection of the property. The Nesenkeag Brook project has the potential to have good restoration of wetland functions and a component of protection for long-term success. All four projects selected are summarized as follows with a site map for each of the four projects found in Attachment B.

1. Project Proponent: Joint application by the Russell Foundation, Piscataquog Land Trust, and Saint Anselm College
Project Title: Stewart Property, Francestown

This project proposes to purchase, fee simple, 55 acres of the Stewart land in Francestown. This purchase will protect: (1) over 5,000 linear feet of shoreline along Rand Brook and the South Branch of the Piscataquog River, including enhancement involving restoration of active cow pasture back to natural riparian vegetation and the removal of invasive species in both wetlands (approximately 2 acres) and uplands, (2) a NH Natural Heritage ranked exemplary floodplain forest that includes both upland and floodplain vernal pools; habitats for several species listed in the NH Wildlife Action Plan including nesting goshawk, woodcock, and wood turtle; and water quality of Rand Brook and the Piscataquog River. A conservation plan developed by the proponents ranked protecting the Stewart parcel and adjacent land as among the top three land conservation priorities for the Piscataquog River Watershed. This project is part of a larger conservation initiative called the Headwaters Project.

Grant amount requested and approved:	\$45,500.00
Amount of non-federal matching funds secured:	\$125,000.00
Total project costs:	\$170,000.00

Committee Findings:

- A. The project includes restoration of multiple types of wetland resources with a high likelihood of success;
- B. There is a blend of functions to be restored which will be protected through a conservation easement;
- C. The site includes protection of a buffer adjacent to other protected lands;
- D. There is a diversity of aquatic habitats including vernal pools, riparian habitat and headwater areas; and
- E. There is a threat to aquatic resources from development as it is adjacent to residential development and includes high quality uplands with river frontage.

2. Project Proponent: Town of Hooksett and Bear-Paw Regional Greenways partnership
Project Title: Clay Pond Headwaters Protection Project

The town and Bear-Paw Regional Greenways are working in partnership to conserve 733+/- acres of high value wildlife habitat in the Clay Pond Headwaters area, including over 130 acres of wetlands, and restore or provide habitat improvements for three streams that were negatively impacted crossings during historic settlement of the area. The goal is to permanently protect the area by combining town ownership with a conservation easement(s) held by Bear-Paw. This will assure permanent conservation of this area which is recognized as a top priority in Hooksett's Master Plan, the NH Wildlife Action Plan, Bear-Paw's Conservation Plan, and others. The three stream restoration sites will directly improve a total of 105 linear feet of perennial and intermittent habitat with a total of 6,389 square feet of restoration, but indirectly improve the entire reach of the stream by providing improved connectivity.

The Hooksett Conservation Commission, LCHIP, the NHDES Wetlands Mitigation and Drinking Water Source Protection programs, and the Open Space Institute's Saving New England's Wildlife program have already committed funds to this important project.

Grant amount requested and approved:	\$265,315.00
Amount of non-federal matching funds proposed:	\$1,064,475.00
Total project costs:	\$1,329,790.00

Committee Findings:

- A. Three restoration opportunities have a net functional benefit to habitat connectivity;
- B. Site includes a large wetland complex and vernal pools of high habitat value, and is located in the headwaters of the HUC 10 watershed and a prime wetland;
- C. Protection of the properties will add three parcels within the context of 733 acres of protected land adjacent to other large protected blocks; and
- D. The site is under potential threat, primarily from forestry that does not follow best management practices which would adversely affect habitat and water quality functions. In addition, there is some potential for residential development.

3. Project Proponent: The Society for the Protection of NH Forests

Project Title: Concord Regional Solid Waste/Resource Recovery Center, Canterbury

The Forest Society seeks to purchase and protect a 294-acre parcel in Canterbury. This property was previously proposed for the Concord Regional Solid Waste/Resource Recovery Center for a landfill but was subsequently withdrawn by the owner. Protecting this land is of critical conservation importance as it includes 26 acres of wetlands and two miles of undeveloped shoreline on the Merrimack River, as well as exemplary plant communities and habitat for several state-listed plant and animal species. The entire property is within Tier One, Highest Ranked Habitat in NH, as identified in the NH Wildlife Action Plan. The property overlies an aquifer, with substrate identified as glacial lake bottom deposits. The property is well known for its long scenic wooded shoreline along the Merrimack River, and the hiking, fishing and boating enjoyment opportunities it provides. It is also proximate to several other preserved parcels along the river.

Grant amount requested and approved:	\$300,000.00
Amount of non-federal matching funds proposed:	\$510,000.00
Total project costs:	\$810,000.00

Committee Findings:

- A. There is no restoration potential proposed as part of the application but the project meets the intentions and goals for protection of high value upland and riparian habitat;
- B. The site contains federal and state listed plant species and exemplary natural communities with high value wildlife habitat with a significant floodplain forest component;
- C. The proposed conservation easement will allow for restoration and enhancement activities on the wetlands and shoreline, and will include specific provisions allowing wetland restoration or enhancement activities on the property; and
- D. There is evidence of this property being under threat as it was previously considered for a regional landfill with a high likelihood it could have been developed. An application for the landfill had been submitted to DES for review.

4. Project Proponent: Town of Londonderry

Project Title: Nesenkeag Brook Headwaters Project, Londonderry

The restoration of the Nesenkeag Brook Headwaters site attempts to return a degraded ecosystem to its natural potential. The project proposes to restore and protect these values. The percentage of

restored wetland functions will be assessed through annual monitoring for at least three years. After implementing restoration, specific measurable results will likely include: wildlife habitat improvement; reduction of invasive species; and possible water quality improvements. Other positive measurable results are likely after full on-site wetland analysis, hydrology, and final restoration plans are completed.

Grant amount requested:	\$88,198.00
Grant amount approved:	\$20,000.00
Amount of non-federal matching funds proposed:	\$5,969.80
Total project costs:	\$94,167.80

Committee Findings:

- A. The opportunity for restoration and invasive species elimination includes a comprehensive review of the Nesenkeag Headwaters site which will include a detailed survey, wetland delineation, and engineered plan and specifications to address impaired functions and values and water quality issues;
- B. The final restoration plans are likely to address the following (but not limited to): restoring hydrologic conditions; grading to reestablish historic topography; control and removal of invasive plants; riparian planting with trees and other native wetland species;
- C. Although under Town ownership, no additional long-term protection measures, such as a conservation easement, are proposed; and
- D. There is a level of uncertainty of what will result from the hydrologic plan if the plan, in fact, increases functions at that site.

The Committee's findings for the four applications that will not receive ARM funds are summarized in Attachment C.

V. CONCLUSION

The above projects demonstrate that the ARM Fund has made significant progress toward accomplishing its goal of providing watershed-based mitigation for permitted impacts. The Department recognizes the Fund is in an advantageous position to bring significant mitigation projects to completion. The new Aquatic Resource Mitigation program offers a chance for municipalities to accomplish high priority local conservation goals; a mechanism for developers to proceed with projects once not viable because no compensatory wetland mitigation was practicable; and an opportunity for the State to accomplish projects with greater conservation value than can be achieved through conventional compensatory wetland mitigation. For additional information, please contact Ms. Lori L. Sommer at 603-217-4059 or Lori.Sommer@des.nh.gov.

ATTACHMENT A.

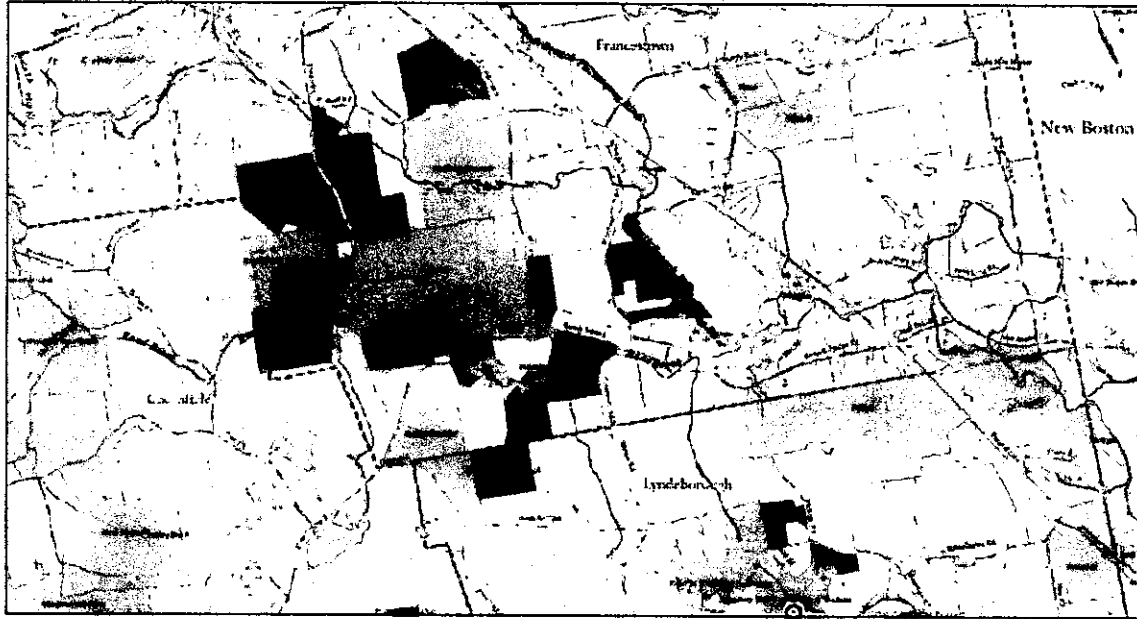
MERRIMACK RIVER WATERSHED ARM FUND PAYMENTS

PERMIT #	LOCATION	PROJECT TYPE	COWARDIN CLASS	PRIMARY F/V's	OTHER ISSUES	WETLAND LOSS SQ FT	PAYMENT AMOUNT	DEPOSIT DATE
2006-2360	Londonderry	Coca Cola 32,850 sq.ft. facility addition, access road	PEM manmade area used for drainage/retention	Storm water detention of runoff from existing site		17520	52,394.00	1/25/2007
2006-712	Hooksett	SNU dining facility	PFO1	Floodflow alt, limited groundwater recharge/dischage, wildlife habitat		15,678	61,153.33	6/18/2007
2005-2505	Hooksett	Lowe's-Walmart stores	PEM1Ex, PFO1Ex, man-made seasonal stream	Groundwater recharge/dischage	Former gravel pit. Potential NE cottontail habitat.	25,381	77,636.00	9/6/2007
2006-1471	Candia	Light industrial park on 14 acre parcel	PFO1	Storm water det, sed/ tox retention		31,319	82,438.00	12/27/2007
2008-3	Londonderry	DOT roadway widening, intersection reconfiguring	PEM1F, R2UB2,PFO1 E	Wildlife habitat, sed/tox retention, some floodflow alt		22,332	35,545.44	3/27/2008
2006-3183	Epsom	Roadway cnstr for commercial subdivision	PFO1E, PFO1C, PFO1/C and E	Groundwater recharge; floodflow alt; sed/tox ret/removal;		19,922	52,342.79	8/16/2008
2007-2200	Epsom	Commercial development of 12 ac for retail	PFO1E	Flood storage, wildlife habitat		17,422	45,774.52	12/2/2008
2008-2312	Bow	PSNH power plant improvemnt	PSS1E	Flood storage, groundwater discharge, wildlife habitat	Worked with F&G on New England cottontail mitigation	26,905	78,157.28	1/26/2009
2006-3219	Manchester	Airport EMAS project	PFO1E, PSS	Sed tox/removal, wildlife habitat, nutrient retention	Wetland restoration was not successful		200,000	2/20/2009
TOTALS						176,479	685,441.36	

ATTACHMENT B.

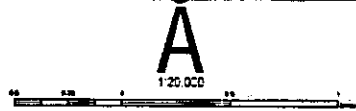
PARCEL INFORMATION FOR FOUR ARM FUND PROJECTS

Stewart Property, Francestown



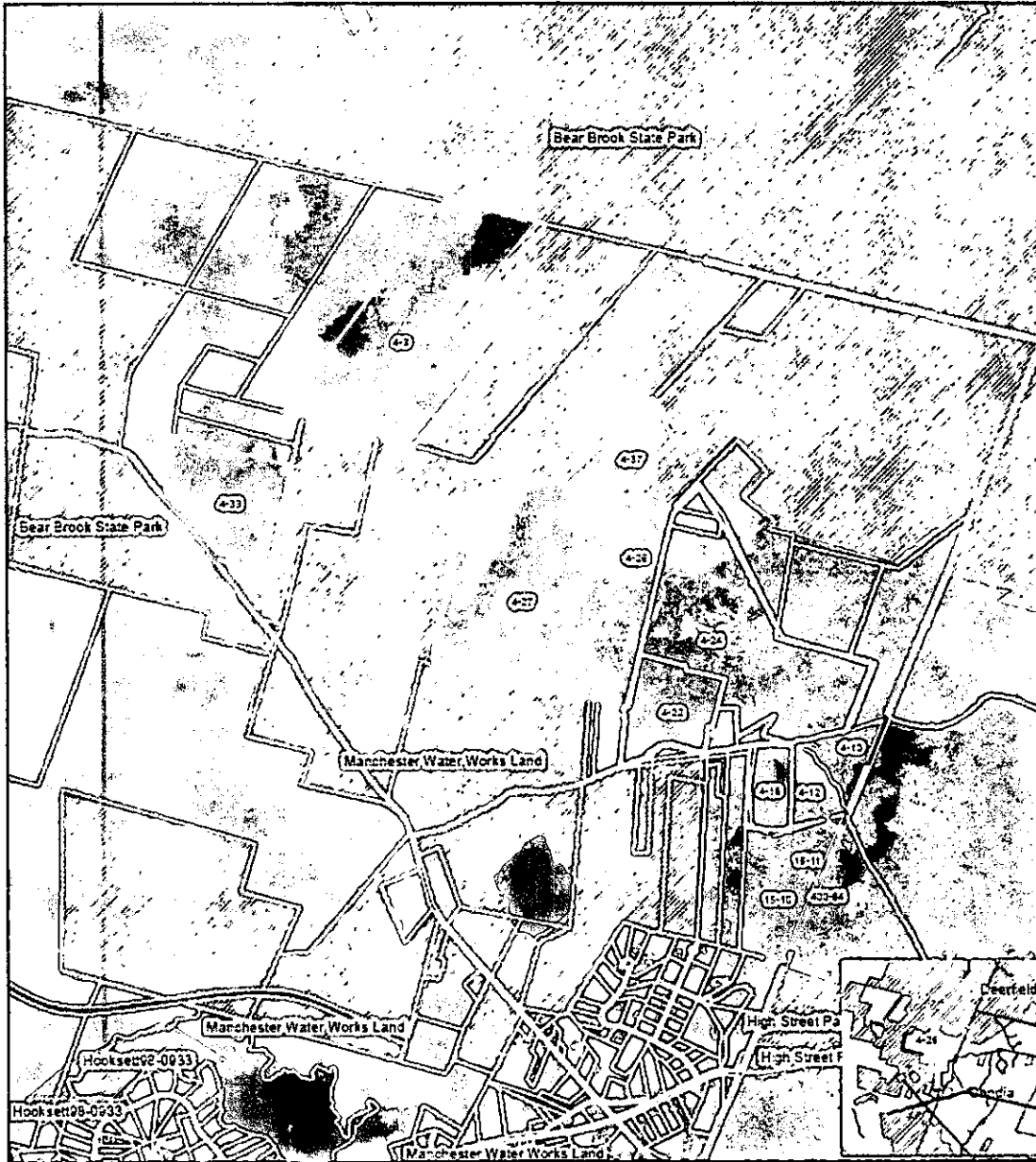
Stewart Property: Local Context

- | | | |
|--------------------|-------------------------|-----------------|
| Stewart Property | Completed HP-1 Projects | Town Boundaries |
| Streams and Rivers | Other Conserved Lands | 20' Contours |
| Lakes and Ponds | Tax Parcels | Public Roads |
| Wetlands | | |



MUNICIPAL CONSERVATION
One Beacon Hill Office | 10000 Centre
Providence, RI 02908 | 401-863-3300
www.ci.beacon-ri.us
© 2009

Clay Pond Headwaters Project, Hooksett - 2005 Aerial View



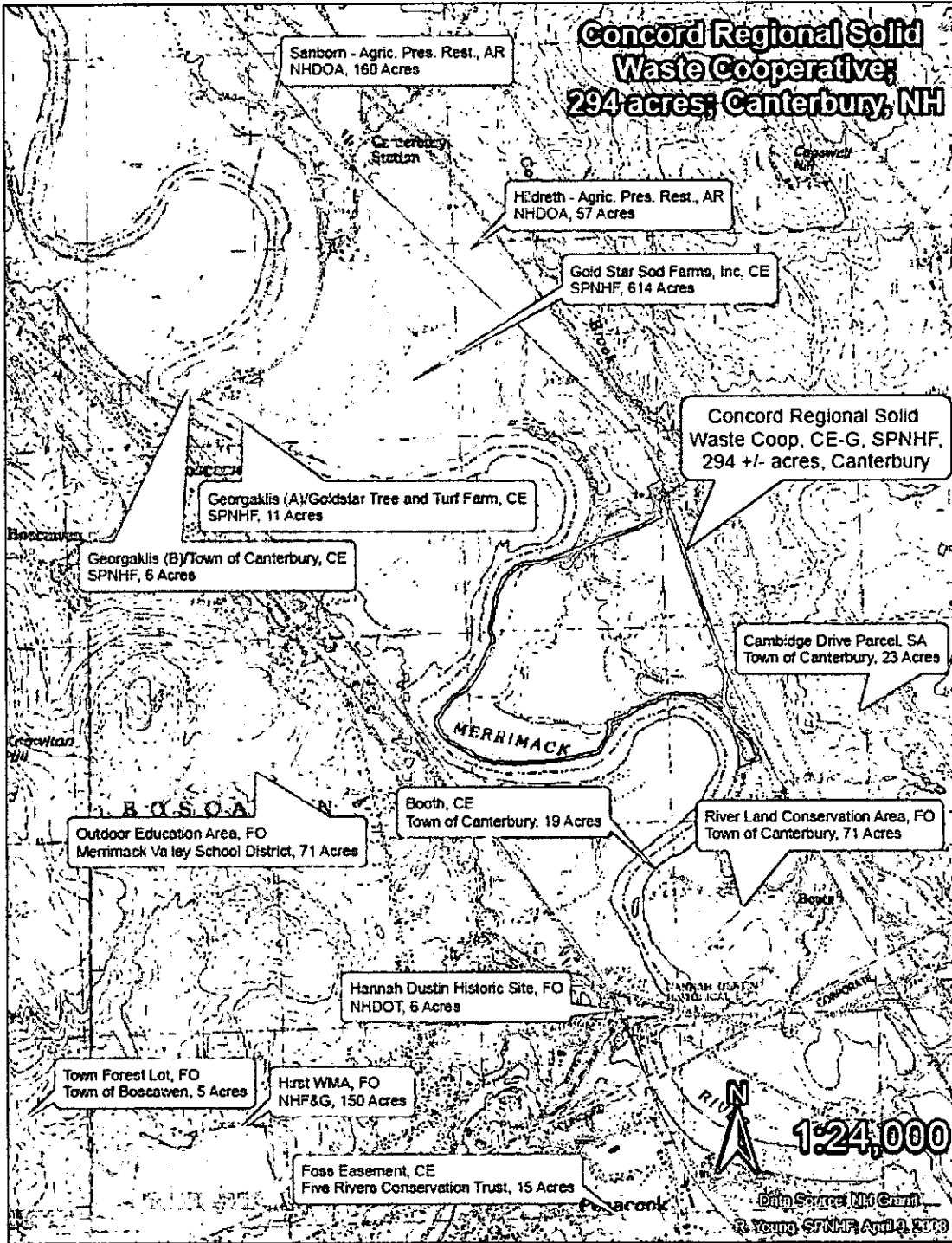
— County Lines	Clay Pond Headwaters Project - Bankowned	□ Town of Hooksett
— Town Lines	□ Gagne	□ Conservation Lands
— Streams	□ Wiggin Associates	
— Intermittent Streams	□ Murphy-Strachan	

1:24,000

0 1,000 2,000 Feet

Map created by Bear-Paw Regional Greenways - 2009

CRSWRRC, Canterbury



ATTACHMENT C.

**SUMMARY OF FOUR ARM FUND PROJECTS
NOT SELECTED FOR FUNDING**

1. Project Proponent: Southeast Land Trust of New Hampshire
Project Title: Grassy Brook Farm/Paul-Mannino Property, South Hampton

Grassy Brook Farm is 46.97 acres of wetlands, fields, and forest. This property drains into the Grassy Brook wetland complex that flows into the Powwow River and eventually the Merrimack River. The proponent proposes to protect and conserve the property through the conveyance of a conservation easement with an option to purchase contingent on ARM funding.

Grant amount requested:	\$150,515.98.00
Amount of non-federal matching funds proposed:	\$2,023.00
Total project costs:	\$152,538.98

Committee Findings:

- A. The application does not propose restoration although some culvert enhancements could be considered in addition to the budget for protecting the parcel, however, that would involve getting permission from several other landowners;
- B. The majority of the wetlands, approximately 10 acres, are located in the central portion of the property and are a part of the Grassy Brook drainage that flows into the Powwow River and eventually the Merrimack River;
- C. The conservation easement on this parcel may lead to additional adjacent parcels to be protected; and
- D. The threat of development is questionable as access is limited and would require permission to cross other parcels.

2. Project Proponent: Town of Litchfield and agent Swamp, Inc.
Project Title: Greenwich Road, Litchfield

This is a four year project to restore an emergent wetland that is owned by the town and located on Greenwich Road. The site is threatened by invasive species, specifically Phragmites and purple loosestrife. Open water habitat also is proposed to be created. A portion of marsh is currently under a conservation easement. Funds are proposed to be used for final restoration plan and to cover costs associated with the restoration work, construction management, permit costs, excavation costs and disposal of excavated materials, as well as post-construction monitoring and maintenance.

Grant amount requested:	\$164,035.00
Amount of non-federal matching funds proposed:	\$0
Total project costs:	\$164,035.00

Committee Findings:

- A. The proposal for invasive species management has a low potential for long-term sustainability as it addresses symptoms rather than the problem(s);
- B. The area was originally a spruce-fir forest that will not be restored in this application; and
- C. Impacts to the upland buffer for creation of open water is not justified.

3. Project Proponent: Town of Windham and agent Swamp, Inc.
Project Title: Lowell Road, Windham

This four year project aims to restore an emergent wetland threatened by invasive plants and to create open water habitat. The property is located on Lowell Road and is privately owned. This project

requests ARM funds to develop final restoration plans and to cover costs associated with the proposed restoration work, construction of a walkway, permit costs and administrative costs. ARM funds are also requested for pre- and post-restoration monitoring and maintenance expenses until the site is successfully restored.

Grant amount requested:	\$61,685.00
Amount of matching non-federal funds proposed:	\$0
Total project costs:	\$61,685.00

Committee Findings:

- A. The proposal for invasive species management has a low potential for long-term success;
- B. The area is in highly developed location and susceptible to continual exposure to invasive species; and
- C. The proposal provides questionable restoration methods and does not achieve long-term protection of the property.

4. Project Proponent: Town of Windham and agent Swamp, Inc.

Project Title: Marblehead Road, Windham

This four year project aims to restore a portion of a sixty-two acre red maple swamp threatened by invasive plants. The wetland to be restored is located on Marblehead Road and abuts a former incinerator site. The ash has been capped and does not produce methane. The Town of Windham owns the entire landfill and adjacent marsh. Three town organizations are involved with this project: the Conservation Commission, the town Health Officer, and the Board of Selectmen.

Grant amount requested:	\$41,660.
Amount of non-federal matching funds proposed:	\$0
Total project costs:	\$41,660.00

Committee Findings:

- A. The proposal for invasive species management has a low potential for long-term success;
- B. The site is adjacent to a capped landfill that may be used in a way that may cause degradation of habitat values;
- C. The proposal provides questionable restoration methods and does not achieve long-term protection of the property; and
- D. The invasive species "problem" does not seem to have reduced the functioning of the wetland.

ATTACHMENT D
SENATE BILL 65-FN – FINAL VERSION
2009 SESSION

09-0743

06/03

SENATE BILL 65-FN

AN ACT relative to the acceptance of in lieu payments for the restoration or creation of wetlands and establishing a committee to study the administrative fee percentage for such in lieu payments.

SPONSORS: Sen. Janeway, Dist 7; Rep. Kappler, Rock 2; Rep. Gottling, Sull 3

COMMITTEE: Energy, Environment and Economic Development

AMENDED ANALYSIS

This bill:

- I. Permits the department of environmental services to accept in lieu payments for the restoration or creation of wetlands and the preservation of upland areas adjacent to wetlands, streams, rivers, and their riparian habitats.
- II. Establishes a committee to study the administrative fee percentage for such in lieu payments.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Nine

AN ACT relative to the acceptance of in lieu payments for the restoration or creation of wetlands and establishing a committee to study the administrative fee percentage for such in lieu payments.

Be it Enacted by the Senate and House of Representatives in General Court convened:

303:1 Aquatic Resource Compensatory Mitigation. Amend RSA 482-A:28 to read as follows:

482-A:28 Aquatic Resource Compensatory Mitigation. In lieu of other forms of compensatory mitigation, the department may accept payment for an unavoidable loss of aquatic resource functions and values from ~~[a proposed activity which at a minimum:~~

~~I. Impacts less than one acre of wetlands and meets the criteria for a United States Army Corps of Engineers state programmatic general permit.~~

~~II. Exceeds one acre of impact for a public roadway or a public utility project and meets the criteria for a United States Army Corps of Engineers state programmatic general permit]~~ ***impacts to resources protected under this chapter.***

303:2 Fund Established. Amend RSA 482-A:29, I to read as follows:

I. There is hereby established the aquatic resource compensatory mitigation fund into which payments made under this subdivision shall be deposited. The fund shall be a separate, nonlapsing fund continually appropriated to the department to be used only as specified in this subdivision for costs related to wetlands creation or restoration, stream ***and river*** restoration, ***stream and river enhancement***, preservation of upland areas adjacent to wetlands ***and riparian areas***, and the subsequent monitoring and maintenance of such areas.

303:3 New Section; Payment for Stream or Shoreline Losses. Amend RSA 482-A by inserting after section 30 the following new section:

482-A:30-a Payment for Stream or Shoreline Losses. For stream or shoreline resource losses, the in lieu payment shall be the sum of:

I. The cost that would have been incurred if a stream of the same type was restored at the ratios adopted by the department, based on a price of \$200 per linear foot of channel or bank impacts or both, to be adjusted at the beginning of the calendar year according to the annual simple rate of interest on judgments established by RSA 336:1; and

II. An administrative assessment equal to 5 percent of the amount in paragraph I.

303:4 Rulemaking. Amend RSA 482-A:31, II to read as follows:

II. The method of calculating the amount of in lieu payments under RSA 482-A:30 *and RSA 482-A:30-a* which shall approximate the total cost of wetlands construction, *stream and river construction*, or such other mitigation actions as would have been required by the department and incurred by the applicant in the absence of making such payments. An administrative assessment of 5 percent of the total cost shall be added as part of the calculation method.

303:5 Aquatic Resource Compensatory Mitigation Fund. Amend RSA 482-A:29, II to read as follows:

II. The fund may ~~not~~ be used to ~~pay state personnel costs except, upon approval of the fiscal committee,~~ *supplement the administrative assessments collected under RSA 482-A:30, III and RSA 482-A:30-a, II* to support up to ~~one~~ 2 full-time ~~position~~ *positions* for administration of the fund and related projects. ~~[Only money from the 5 percent administrative assessment collected under RSA 482-A:30, III shall be used for this purpose.]~~

303:6 Aquatic Resource Compensatory Mitigation Fund. RSA 482-A:29, II is repealed and reenacted to read as follows:

II. The fund may not be used to pay state personnel costs except, upon approval of the fiscal committee, to support up to one full-time position for administration of the fund and related projects. Only money from the 5 percent administrative assessment collected under RSA 482-A:30, III and RSA 482-A:30-a, II shall be used for this purpose.

303:7 Committee Established. There is established a committee to study the administrative fee percentage under RSA 482-A:30, III, RSA 482-A:30-a, II, and RSA 482-A:31, II and to recommend a new administrative fee percentage adjusted to cover the cost of the program.

303:8 Membership and Compensation.

I. The members of the committee shall be as follows:

(a) Three members of the house of representatives, 2 from the ways and means committee and one from the resources, recreation and development committee, appointed by the speaker of the house of representatives.

(b) One member of the senate, appointed by the president of the senate.

II. Members of the committee shall receive mileage at the legislative rate when attending to the duties of the committee.

303:9 Duties. The committee shall study the administrative fee percentage under RSA 482-A:30, III, RSA 482-A:30-a, II, and RSA 482-A:31, II and recommend a new administrative fee percentage adjusted to cover the cost of the program.

303:10 Chairperson; Quorum. The members of the study committee shall elect a chairperson from among the members. The first meeting of the committee shall be called by the first-named house member. The first meeting of the committee shall be held within 45 days of the effective date of this section. Three members of the committee shall constitute a quorum.

303:11 Report. The committee shall report its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the president of the senate, the house clerk, the senate clerk, the governor, the chairman of the house ways and means committee, the chairman of the senate ways and means committee, and the state library on or before November 1, 2009.

303:12 Effective Date.

I. Section 6 of this act shall take effect July 1, 2010.

II. Section 5 and sections 7-12 of this act shall take effect upon its passage.

III. The remainder of this act shall take effect 60 days after its passage.

Approved: July 31, 2009

Effective Date: I. Section 6 shall take effect July 1, 2010.

II. Sections 5 and 7-12 shall take effect July 31, 2009.

III. Remainder shall take effect September 29, 2009.

LBAO

09-0743

Amended 06/10/09



4B-681 - 2/2/10 - Rep. Jim McClammer
State of New Hampshire

GENERAL COURT

CONCORD

*See especially 3rd sheet
plus sheets 3, 4, & 5 from the
back into relevant numbers?*

MEMORANDUM

DATE: November 6, 2009

TO: Honorable John H. Lynch, Governor
Honorable Terie Norelli, Speaker of the House
Honorable Sylvia B. Larsen, President of the Senate
Honorable Karen O. Wadsworth, House Clerk
Tammy L. Wright, Senate Clerk
Honorable Susan Almy, Chair, House Ways & Means
Committee
Honorable Robert Odell, Chair, Senate Ways & Means
Committee
Michael York, State Librarian

FROM: Representative Jim McClammer, Chairman

SUBJECT: Final Report on SB 65-FN, Chapter 303:7-11,
Laws of 2009

Pursuant to Chapter 303:11, Laws of 2009, enclosed please find the Final Report of the Committee to Study the Administrative Fee Percentage Under RSA 482A:30, III, RSA 482-A30-A, II, and RSA 482-A:31, II and to Recommend a New Administrative Fee Percentage Adjusted to Cover the Cost of the Program.

Should you have any questions or comments regarding this report, please do not hesitate to contact me.

cc: Committee Members
Honorable Judith Spang, Chair, House Resources, Recreation and Development
Committee

FINAL REPORT

COMMITTEE TO STUDY THE ADMINISTRATIVE FEE PERCENTAGE UNDER RSA 482A:30, III, RSA 482-A30-A, II, AND RSA 482-A:31, II AND TO RECOMMEND A NEW ADMINISTRATIVE FEE PERCENTAGE ADJUSTED TO COVER THE COST OF THE PROGRAM

HB 65

Chapter 303:7-11, Laws of 2009

November 6, 2009

MEMBERS:

Representative Jim McClammer (Chairman)
Senator Harold Janeway
Representative David Boutin
Representative Susan Almy

MEETINGS:

September 16, 2009
October 6, 2009
October 27, 2009

COMMITTEE DUTIES:

The committee shall:

Study the administrative fee percentage under RSA 482-A:30, III, RSA 482-A:30-a, II, and RSA 482-A:31, II and recommend a new administrative fee percentage adjusted to cover the cost of the program.

BACKGROUND:

The Program is the Aquatic Resource Compensatory Mitigation (ARM) Program (RSA 482-A:28-33) that provides for the acceptance of payments in lieu of other forms of compensatory mitigation for an unavoidable loss of aquatic resource functions and values. This form of mitigation is commonly referred to as the "in-lieu fee option" of the "in-lieu fee program" and it is available to applicants who need to meet federal and state wetland permitting requirements. It is a discretionary option that is intended to expedite the permit process when other meaningful forms of compensatory mitigation have been difficult to identify. Attached to this report is a document, *Aquatic Resource Compensatory Mitigation*, which contains the current statutes that pertain to this program.

Payments are deposited into the Aquatic Resource Compensatory Fund (Fund) appropriated to the Department of Environmental (DES). Disbursements from the Fund are approved by the Wetland Council on recommendations provided by a site selection committee. Disbursements occur through a grants process "for costs related to wetlands creation or restoration, stream restoration, preservation of upland areas adjacent to wetlands, and the subsequent monitoring and maintenance of such areas." Attached to this report is a document, *2009 Draft Report of Activity of the Aquatic Resource Mitigation Fund Program*, which explains the grants process and summarizes the current status of the ARM Fund.

The Fund currently *may* be used to pay state personnel costs to support up to *two* full-time positions for administration of the fund and related projects. But after July 1, 2010 the Fund *may not* be used to pay personnel costs except, upon approval of the fiscal committee, to support up to *one* full-time position. Furthermore, only money from the 5 percent administrative assessment shall be used for this purpose. The administrative assessment is a percentage of the costs, set by statute and annually adjusted, that would have been required by the department and incurred by an applicant to construct wetlands or restore a stream or shoreline loss.

SB 65-FN (approved July 31, 2009) amended RSA 482-A:28 to expand the ARM Program to include wetland impact projects of any type or size, and river and stream projects. Thus, as of the effective date, September 29, 2009, river projects and *any* wetland project that requires some form of compensatory mitigation are eligible to make in-lieu fee payments to the ARM Fund if they comply with the compensatory mitigation sequence. That is: 1) the project avoids and minimizes impact to protected resources to the maximum extent practicable; and, 2) the project proponent has made a reasonable attempt to locate a meaningful establishment, restoration or preservation alternative (and none is available).

The expansion of the Program will likely increase deposits to the Fund and the number of state personnel necessary to administer the Program. So, SB 65-FN also establishes this committee to study the administrative assessment (fee) percentage that is necessary to fund state personnel costs.

FINDINGS:

The committee met three times and received various presentations from the Department of Environmental Services (DES), specifically from Rene Pelletier, Water Division, Environmental Programs Administrator and Lori Sommer, DES Water Division, Mitigation Coordinator. Information was clear but inconclusive for determining the precise administrative fee.

The staff person with the current responsibility for administration of the AMR Fund was supported, in part, by a \$50,000 grant from the United States Environmental Protection Agency. That staff person currently uses up to 80% of her time to administer the program. Another part-time staff member is engaged in tracking conservation easements.

Future personnel costs associated with administration of the fund and related projects, including the grants process, have yet to be fully determined. The DES does expect the evaluation of river projects and the administration of the grants process will take more time.

With respect to the grants process, DES regulations allow for deposits into the ARM Fund to be segregated into separate accounts for each of the sixteen (16) watersheds within the state. After funds accumulate for two years in a watershed account, the funds are disbursed. In April 2009, the first watershed account advertised a request for proposals, and grants have recently been announced. Eight watershed accounts have funds, and three more have recently advertised requests for proposals.

DES estimates personnel costs of one full time position (Labor Grade 27) and one part time position (Labor Grade 21) to administer the Program would range from approximately ~~\$100,022 in FY 2009~~ to approximately \$146,686 in FY 2012. Attached to this report is *Fiscal Impact – One Full Time and One Part Time Positions Calculation Worksheet*, which provides details on personnel costs to administer the Program.¹

Future deposits into the ARM Fund are likely to increase as the types of projects that are now eligible (e.g., stream, river and any wetland project) to use the in-lieu fee option has expanded. But deposits may slow if the number of all permit applications continues to decrease as a result of the current economic downturn. These factors and the small number of previous applicants using the in-lieu fee option (sample size) make forecasting average yearly deposits difficult.

The average yearly deposit into the ARM fund for 2007-2009 is approximately \$635,671. Attached to this report is *Payments into the ARM Fund*, which provides details on deposits to the ARM Fund as of October 12, 2009. A 20% administrative assessment, based on this average, would generate approximately \$127,134/year. However, the DES feels that total deposits into the ARM Fund for the remainder of this year and future years will increase, and a 20% administrative assessment will be sufficient to cover projected personnel costs.

It was suggested the administrative assessment (fee) be increased from 5% to 20%, which could then be reexamined and adjusted in two years time when more data are available on deposits into the ARM fund and personnel costs of administering the Program.

Mr. Gary Abbott, Director, Association of General Contractors, discussed the proposed 20% administrative fee with members his Board of Directors and a subcommittee of his Environment Committee. He got varying responses but a general feeling that if the fee was justified by numbers they could see, it would be acceptable. The regulated community did express concern over the costs of complying with the requirement that applicants must prove other meaningful measures in the compensatory mitigation

¹ Also attached to this report is *Fiscal Impact – Two Full Time Positions Calculation Worksheet*, which DES provided on November 5, 2009.

sequence are not available before they can use the in-lieu fee option. DES has assured the Committee that an attempt will be made to reduce these costs.

RECOMMENDATIONS FOR PROPOSED LEGISLATION:

The Committee voted to: 1) increase the administrative assessment from 5% to 20%; 2) sunset the 20% administrative assessment increase in two years, 2012; 3) establish a separate non-lapsing administrative assessment account; 4) summarize all deposits and disbursements of the administrative assessment account in the annual ARM Fund Report, due October 1 of each year; and, 5) have DES provide an Interim Report, appended to the Annual ARM Fund Report, due October 1, 2011, on its efforts to reduce costs to applicants who choose to use the in-lieu fee option and need to comply with the compensatory mitigation sequence.

The Committee recommended using HB 681-FN that has been retained in the House Resources, Recreation and Development Committee as the vehicle to implement these recommendations. Attached is a *Proposed Amendment to HB 681*, which incorporates the recommended fee increase to 20% and then returns it to 5% when the provision sunsets in 2012.

ATTACHMENTS:

Chapter 303:7-11, Laws of 2009
Aquatic Resource Compensatory Mitigation Statute
2009 Draft Report of Activity of the Aquatic Resource Mitigation Fund Program
Fiscal Impact – One Full Time and One Part Time Positions Calculation Worksheet
Fiscal Impact – Two Full Time Positions Calculation Worksheet
Payments into the ARM Fund
Proposed Amendment to HB 681

Respectfully Submitted for the Committee,

Representative Jim McClammer, Chairman

303:7 Committee Established. There is established a committee to study the administrative fee percentage under RSA 482-A:30, III, RSA 482-A:30-a, II, and RSA 482-A:31, II and to recommend a new administrative fee percentage adjusted to cover the cost of the program.

303:8 Membership and Compensation.

I. The members of the committee shall be as follows:

(a) Three members of the house of representatives, 2 from the ways and means committee and one from the resources, recreation and development committee, appointed by the speaker of the house of representatives.

(b) One member of the senate, appointed by the president of the senate.

II. Members of the committee shall receive mileage at the legislative rate when attending to the duties of the committee.

303:9 Duties. The committee shall study the administrative fee percentage under RSA 482-A:30, III, RSA 482-A:30-a, II, and RSA 482-A:31, II and recommend a new administrative fee percentage adjusted to cover the cost of the program.

303:10 Chairperson; Quorum. The members of the study committee shall elect a chairperson from among the members. The first meeting of the committee shall be called by the first-named house member. The first meeting of the committee shall be held within 45 days of the effective date of this section. Three members of the committee shall constitute a quorum.

303:11 Report. The committee shall report its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the president of the senate, the house clerk, the senate clerk, the governor, the chairman of the house ways and means committee, the chairman of the senate ways and means committee, and the state library on or before November 1, 2009.

Current Statute Relative To Aquatic Resource Compensatory Mitigation

482-A:28 Aquatic Resource Compensatory Mitigation. In lieu of other forms of compensatory mitigation, the department may accept payment for an unavoidable loss of aquatic resource functions and values from impacts to resources protected under this chapter.

482-A:29 Fund Established.

I. There is hereby established the aquatic resource compensatory mitigation fund into which payments made under this subdivision shall be deposited. The fund shall be a separate, nonlapsing fund continually appropriated to the department to be used only as specified in this subdivision for costs related to wetlands creation or restoration, stream and river restoration, stream and river enhancement, preservation of upland areas adjacent to wetlands and riparian areas, and the subsequent monitoring and maintenance of such areas.

II. The fund may be used to supplement the administrative assessments collected under RSA 482-A:30, III and RSA 482-A:30-a, II to support up to 2 full-time positions for administration of the fund and related projects.

[Paragraph II above replaced by paragraph II below on July 1, 2010.]

II. The fund may not be used to pay state personnel costs except, upon approval of the fiscal committee, to support up to one full-time position for administration of the fund and related projects. Only money from the 5 percent administrative assessment collected under RSA 482-A:30, III and RSA 482-A:30-a, II shall be used for this purpose.

III. The state treasurer shall invest the fund as provided by law. Interest received on such investment shall be credited to the fund.

IV. The wetlands council, established by RSA 21-O:5-a, shall approve disbursements of the aquatic resource compensatory mitigation fund based on recommendations provided by the site selection committee established under RSA 482-A:32, and in accordance with rules adopted by the commissioner.

482-A:30 Payment for Freshwater and Tidal Wetlands Losses. For freshwater and tidal wetlands losses, the in lieu payment shall be the sum of:

I. The cost that would have been incurred if a wetland of the same type was constructed at the ratios adopted by the department based on a price of \$65,000 per acre of wetland created, to be adjusted at the beginning of the calendar year according to the annual simple rate of interest on judgments established by RSA 336:1;

II. The area of wetlands, as used in the calculation performed under paragraph I, times the cost of land in the municipality where the impact is occurring as calculated by the total assessed land values in the municipality, as determined by the department of revenue administration, which are equalized, divided by the number of acres in the municipality to yield a per acre equalized land value; and

III. An administrative assessment which equals 5 percent of the sum of paragraphs I and II.

482-A:30-a Payment for Stream or Shoreline Losses. For stream or shoreline resource losses, the in lieu payment shall be the sum of:

I. The cost that would have been incurred if a stream of the same type was restored at the ratios adopted by the department, based on a price of \$200 per linear foot of channel or bank

impacts or both, to be adjusted at the beginning of the calendar year according to the annual simple rate of interest on judgments established by RSA 336:1; and

II. An administrative assessment equal to 5 percent of the amount in paragraph I.

482-A:31 Rulemaking. – The commissioner shall adopt rules under RSA 541-A relative to:

I. Identification of appropriate situations under which in lieu payments may be made. The criteria in RSA 482-A:28 shall be the minimum requirements for projects eligible for in lieu payments.

II. The method of calculating the amount of in lieu payments under RSA 482-A:30 and RSA 482-A:30-a which shall approximate the total cost of wetlands construction, stream and river construction, or such other mitigation actions as would have been required by the department and incurred by the applicant in the absence of making such payments. An administrative assessment of 5 percent of the total cost shall be added as part of the calculation method.

III. Criteria to use in selecting projects that would compensate for the lost aquatic resource functions or values.

(a) Tidal aquatic resources shall be compensated by the selection of qualifying tidal projects.

(b) An emphasis shall be given to selecting from among the qualifying projects those that are nearer to the site of the lost aquatic resource.

(c) No project shall be funded with in lieu payments from losses that occurred outside the hydrologic unit code 8 watershed, as developed by the United States Geological Survey, in which the project is located.

(d) Such criteria shall be adopted in consultation with the site selection committee established under RSA 482-A:32.

482-A:32 Site Selection Committee Established.

I. There is established a site selection committee for the purpose of identifying projects to be funded from the aquatic resource compensatory mitigation fund.

II. The committee shall consist of the following members:

(a) The commissioner of the department of environmental services, or designee.

(b) The executive director of the fish and game department, or designee.

(c) The director of the office of energy and planning, or designee.

(d) The commissioner of the department of resources and economic development, or designee.

(e) Four members of the public, appointed by the governor and council for a term of 3 years or until a successor is chosen. The members of the public shall be as follows:

(1) A member of a municipal conservation commission at the time of appointment, who shall be one of 3 nominees submitted by the New Hampshire Association of Conservation Commissions.

(2) A natural resource scientist, who shall be one of 3 nominees submitted by the New Hampshire Association of Natural Resource Scientists.

(3) A person with experience in environmental protection and resource management at the time of appointment, who shall be one of 3 nominees submitted by the Nature Conservancy.

(4) A person with experience in environmental protection and resource management at the time of appointment, who shall be one of 3 nominees submitted by the Society for the Protection of New Hampshire Forests.

III. The members of the committee shall elect a chairperson annually.

IV. Each public member of the committee shall receive \$50 per meeting. The other members of the site selection committee shall receive no compensation other than their regular state salaries but shall receive mileage paid at the rate set for state employees.

482-A:33 Report. The department shall submit an annual report by October 1 beginning with fiscal year 2006, to the fiscal committee, the chairperson of the house resources, recreation and development committee, and the chairperson of the senate environment and wildlife committee summarizing all receipts and disbursements of the aquatic resource compensatory mitigation fund, including a description of all projects undertaken. Each report shall be in such detail with sufficient information to be fully understood by the general court and the public. After submission to the general court, the report shall be available to the public.

**2009 REPORT OF THE ACTIVITY OF THE
NEW HAMPSHIRE DEPARTMENT OF ENVIRONMENTAL SERVICES
AQUATIC RESOURCE MITIGATION FUND PROGRAM**

December 31, 2009

I. INTRODUCTION

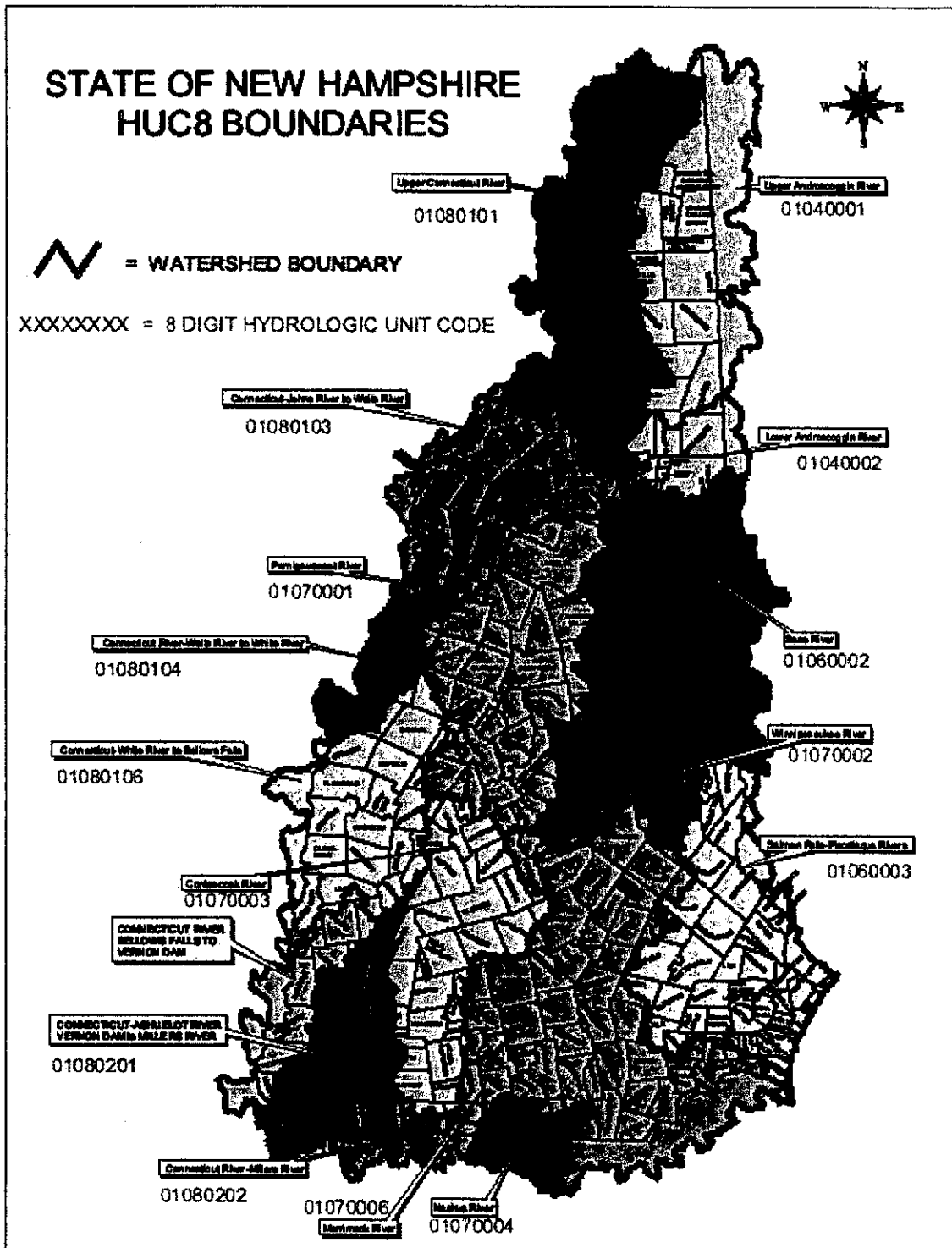
The Aquatic Resource Mitigation (ARM) Fund has been created as one of several compensatory mitigation options available to applicants for impacts to wetlands and other aquatic resources. This mitigation option is available for use after avoidance and minimization of impacts to these aquatic resources has been achieved. Although compensatory mitigation is often a requirement in permits, use of the ARM Fund can only occur after the applicant has reviewed other available forms of mitigation in the vicinity and local community. The ARM Fund seeks "no net loss" of aquatic resource acreage and functions using a watershed approach. See Figure 1 for the Hydrologic Unit Code 8 (HUC 8) display of the watersheds that is used for collection of funds.

The DES regulations allow for the funds in each watershed account to accumulate for two years after the first deposit into each account. After two years have lapsed, the funds are advertised in a request for proposals for disbursal. In April, 2009 the first watershed to be advertised for release was the Merrimack River Watershed with \$650,000.00 available. This report outlines the results of the first ARM Fund disbursal. Summaries of the wetland impacts, wetland functions and values lost, and accruals in each of the HUC 8 accounts that have accumulated funds are also noted. The purpose of this report is to advise the public of the status of the ARM Fund and to address items referenced in the DES regulations, Env-Wt 807.19, specifically:

- (1) A summary that details the sources of all payments received and all fund expenditures on a per-watershed basis;
- (2) A description of each project funded and information on the progress or completion of those projects;
- (3) The acreage and type of aquatic resource restored, created, or otherwise protected in each HUC 8 watershed by the projects; and
- (4) The functions gained by the projects.

The last section of this report highlights program achievements made by the mitigation program over the 2009 calendar year.

FIGURE 1. STATE OF NEW HAMPSHIRE HYDROLOGIC UNIT CODE 8 BOUNDARIES



II. WETLAND LOSS AND CONTRIBUTIONS RECEIVED

During the 2009 calendar year, 12 projects used the payment option as mitigation for permitted wetland impacts. The 12 permitted projects resulted in 6.02 acres of wetland loss. For these wetland impacts, the Fund accrued contributions totaling \$785,263.64. The impacts, contributions, functions and values impacted by projects that generated funds in calendar year 2009 are shown below. The totals for the 8 watersheds that have had deposits since 2007 are also noted, with the proposed release dates for each account.

ARM FUND REVENUES, IMPACTS AND FUNCTION AND VALUES LOST CALENDAR YEAR 2009

UPPER CONNECTICUT RIVER WATERSHED **Request for Proposal sent out September, 2009**

DES PERMIT LOCATION FILE #	IMPACTS (in acres)	FUNCTIONS & VALUES LOST	REVENUES	DATE PERMIT ISSUED
Colebrook, 2005-2313	0.51	Floodflow alterations, wildlife and fish habitat, flood storage, sediment/nutrient filtering.	\$52,933.59	2/18/2009
CURRENT TOTAL FOR WATERSHED	1.5		\$156,159.59	

UPPER ANDROSCOGGIN RIVER WATERSHED – Release October 2010

DES PERMIT LOCATION FILE #	IMPACTS (in acres)	FUNCTIONS & VALUES LOST	REVENUES	DATE PERMIT ISSUED
CURRENT TOTAL FOR WATERSHED	0.61		\$63,110.55	

PEMIGEWASSETT RIVER WATERSHED – Release June 2010

DES PERMIT LOCATION FILE #	IMPACTS (in acres)	FUNCTIONS & VALUES LOST	REVENUES	DATE PERMIT ISSUED
Lincoln, 2008-807	0.61	Storm water channel - manmade	\$64,812.14	4/20/2009
CURRENT TOTAL FOR WATERSHED	1.4		\$147,044.11	

CONNECTICUT RIVER from JOHNS RIVER TO WAITS RIVER
Request for Proposal sent out September, 2009

DES PERMIT LOCATION, FILE #	IMPACTS (in acres)	FUNCTIONS & VALUES LOST	REVENUES	DATE PERMIT ISSUED
Jefferson, 2008-1529	0.004	Wildlife habitat; Recreation	\$503.51	3/24/2009
Littleton, 2008-2762	0.30	Groundwater discharge, wildlife habitat	\$32,505.59	3/27/2009
Dalton, 2008-1332	0.29	Wildlife habitat	\$30,357.77	4/13/2009
Whitefield, 2008-1333	1.85	Groundwater discharge and wildlife habitat	\$90,000.00	5/12/2009
CURRENT TOTAL FOR WATERSHED	3.06		\$198,175.54	

WINNIPESAUKEE RIVER WATERSHED
Request for Proposal sent out September, 2009

DES PERMIT LOCATION, FILE #	IMPACTS (in acres)	FUNCTIONS & VALUES LOST	REVENUES	DATE PERMIT ISSUED
CURRENT TOTAL FOR WATERSHED	1.08		\$161,466.73	

SALMON FALLS RIVER – PISCATQUA RIVER WATERSHED – August 2010

DES PERMIT LOCATION, FILE #	IMPACTS (in acres)	FUNCTIONS & VALUES LOST	REVENUES	DATE PERMIT ISSUED
Lee, 2006-2733	0.55	Wildlife habitat	\$68,374.50	2/5/2009
Seabrook, 2008-1264	0.37	Groundwater recharge/discharge, floodflow alteration, nutrient rem/retention, wildlife habitat	\$57,198.96	6/8/2009
Durham, 2009-593	0.37	Roadside swales with limited function and values	\$14,653.53	8/19/2009
Hampton, 2009-937	0.55	Sediment/toxicant retention	\$95,766.77	10/7/2009
CURRENT TOTAL FOR WATERSHED	2.69		\$374,601.88	

MERRIMACK RIVER WATERSHED
Awards to 4 Projects Issued August, 2009

DES PERMIT LOCATION, FILE #	IMPACTS (in acres)	FUNCTIONS & VALUES LOST	REVENUES	DATE PERMIT ISSUED
Bow, 2008-2312	0.4	Stormwater detention of runoff from existing site	\$78,157.28	1/26/2009
Manchester, 2006-3219			\$200,000.00	2/19/2009
CURRENT TOTAL FOR WATERSHED			\$20,000.00	

**CONNECTICUT RIVER – ASHUELOT RIVER – VERNON DAM
TO MILLERS RIVER WATERSHED – May 2010**

DES PERMIT LOCATION, FILE #	IMPACTS (in acres)	FUNCTIONS & VALUES LOST	REVENUES	DATE PERMIT ISSUED
CURRENT TOTAL FOR WATERSHED	0.85		\$113,033.10	

Two additional projects determined eligible for payment into the ARM Fund are noted below. These 2 projects have the potential of an additional \$79,663.74 to be paid into the Fund.

**POTENTIAL ARM FUND REVENUES, IMPACTS AND FUNCTION AND VALUES
LOST IN CALENDAR YEAR 2009**

PROJECT TOWN	HUC8 WATERSHED	IMPACTS	FUNCTIONS AND VALUES LOST	REVENUES
Rochester	Salsion Falls – Piscataqua Rivers	14,100	Limited wildlife habitat	49,663.74
Washington	CT-Ashuelot, Vernon Dam – Miller River	17,810	Wildlife habitat	30,000.00
TOTALS FOR POTENTIAL PAYMENTS		0.73		\$79,663.74

III. DISBURSAL OF WATERSHED FUNDS IN 2009

Merrimack River Watershed

The DES ARM Fund was established by law in August, 2006 as a mitigation option for certain projects not able to provide other forms of mitigation. The ARM Fund Site Selection Committee (Committee) was set up to provide a mechanism for reviewing, evaluating, and selecting wetland restoration, upland preservation, wetland creation, and other aquatic resource improvement proposals. The Committee is composed of representatives from the following organizations: DES, Department of Economic Development NH Heritage Bureau, NH Fish and Game Department, Office of Energy and Planning, NH Association of Natural Resource Scientists, NH Association of Conservation Commissions, The Nature Conservancy and the Society for the Protection of NH Forests. According to the law, the projects determined to be appropriate for receipt of ARM Fund monies are subject to approval by the US Army Corps of Engineers (ACE) and the NH Wetlands Council (Council).

The Committee is charged with identifying proposals to be funded by selecting high priority projects that most effectively compensate for the loss of functions and values in the watershed. The Council is charged with approving disbursements of the ARM Fund based on recommendations provided by the Committee per RSA 482-A:29.

On April 2, 2009 DES announced the availability of \$650,000 of funds accrued in the Merrimack River watershed. The funds came from 9 permitted projects located in the towns of Bow, Candia, Epsom, Hooksett, Londonderry and Manchester (See Attachment A). These permitted projects impacted the following functions: wildlife habitat, groundwater discharge and recharge, flood storage and sediment/toxicant retention. The request for proposals ended on June 5, 2009 and eight applications were received in response to the solicitation.

In July, 2009 the Committee visited all the sites for which access was available. On July 22 the Committee convened to evaluate the applications and recommended full funding of projects 1 through 3 as noted below. The Committee determined that the three selected projects provide the greatest potential to replace or protect specific wetland functions and values lost by the impacts in the Merrimack River HUC 8 watershed. Where project scores were comparable, preference was given to projects that provide the longer-term, more beneficial protection.

The Committee also recommended partial funding for the Nesenkeag Brook Headwaters Project of up to \$20,000 to determine if a restoration plan could result in long-term improvements at the site. This approval is contingent upon the Town providing long-term protection of the property. The Nesenkeag Brook project has the potential to have good restoration of wetland functions and a component of protection for long-term success. All four projects selected are summarized as follows with a site map for each of the four projects found in Attachment B.

1. Project Proponent: Joint application by the Russell Foundation, Piscataquog Land Trust, and Saint Anselm College
Project Title: Stewart Property, Frankestown

This project proposes to purchase, fee simple, 55 acres of the Stewart land in Frankestown. This purchase will protect: (1) over 5,000 feet of shoreline along Rand Brook and the South Branch of the Piscataquog River including enhancement involving restoration of active cow pasture back to natural riparian vegetation and the removal of invasive species in both wetlands (approximately 2 acres) and uplands, (2) a NH Natural Heritage ranked exemplary floodplain forest that includes both upland and floodplain vernal pools, habitats for several species listed in the NH Wildlife Action Plan including nesting goshawk, woodcock, and wood turtle, and water quality of Rand Brook and the Piscataquog

River. A conservation plan developed by the proponents ranked protecting the Stewart parcel and adjacent land as among the top three land conservation priorities for the Piscataquog River Watershed. This project is part of a larger conservation initiative called the Headwaters Project.

Grant amount requested:	\$45,500.00
Amount of non-federal matching funds secured:	\$125,000.00
Total project costs:	\$170,000.00

Committee Findings:

- A. The project includes restoration of multiple types of wetland resources with a high likelihood of success;
- B. There is a blend of functions to be restored which will be protected through a conservation easement;
- C. The site includes protection of a buffer adjacent to other protected lands;
- D. There is a biodiversity of aquatic habitats including vernal pools, riparian habitat and headwater areas; and
- E. There is a threat to aquatic resources from development as it is adjacent to residential development and includes high quality uplands with river frontage.

2. Project Proponent: Town of Hooksett and Bear-Paw Regional Greenways partnership
Project Title: Clay Pond Headwaters Protection Project

The town and Bear-Paw Regional Greenways are working in partnership to conserve 733+/- acres of high value wildlife habitat in the Clay Pond Headwaters area, including over 130 acres of wetlands, and restore or provide habitat improvements for three streams that were negatively impacted crossings during historic settlement of the area. The goal is to permanently protect the area by combining town ownership with a conservation easement(s) held by Bear-Paw. This will assure permanent conservation of this area which is recognized as a top priority in Hooksett's Master Plan, the NH Wildlife Action Plan, Bear-Paw's Conservation Plan, and others. The three stream restoration sites will improve a total of 105 linear feet of perennial and intermittent habitat with a total of 6,389 square feet of restoration. The Hooksett Conservation Commission, CHIP, the NHDES Wetlands Mitigation and Drinking Water Source Protection programs, and the Open Space Institute's Saving New England's Wildlife program have already committed funds to this important project.

Grant amount requested:	\$265,315.00
Amount of non-federal matching funds proposed:	\$1,064,475.00
Total project costs:	\$1,329,790.00

Committee Findings:

- A. Three restoration opportunities have a net functional benefit to habitat connectivity;
- B. Site includes large wetland complex, vernal pools of high habitat value, and is located in the headwaters of the HUC 10 watershed and a prime wetland, Clay Pond;
- C. Protection of the properties will add three parcels within the context of 733 acres of protected land adjacent to other large protected blocks; and
- D. The site is under potential threat primarily from forestry that does not follow best management practices which would adversely affect habitat and water quality functions. In addition, there is some potential for residential development.

3. Project Proponent: The Society for the Protection of NH Forest
Project Title: Concord Regional Solid Waste/Resource Recovery Center, Canterbury

The Forest Society seeks to purchase and protect a 294-acre parcel in Canterbury. This property was previously proposed for the Concord Regional Solid Waste/Resource Recovery Center. Protecting

this land is of critical conservation importance as it includes 26 acres of wetlands and two miles of undeveloped shoreline on the Merrimack River, as well as exemplary plant communities and habitat for several state-listed plant and animal species. The entire property is within Tier One, Highest Ranked Habitat in NH, as identified in the NH Wildlife Action Plan. The property overlies an aquifer, with substrate identified as glacial lake bottom deposits. The property is well known for its long scenic wooded shoreline along the Merrimack River, and the hiking, fishing and boating enjoyment opportunities it provides. It is also proximate to several other preserved parcels along the river.

Grant amount requested:	\$300,000.00
Amount of non-federal matching funds proposed:	\$510,000.00
Total project costs:	\$810,000.00

Committee Findings:

- A. There is no restoration potential proposed as part of the application but the project meets the intentions and goals for protection of high value upland and riparian habitat;
- B. The site contains federal & state listed plant species and exemplary natural communities with high value wildlife habitat with significant floodplain forest component;
- C. The proposed conservation easement will allow for restoration and enhancement activities on the wetlands and shoreline, and will include specific provisions specifically allowing wetland restoration or enhancement activities on the property; and
- D. There is evidence of this property being under threat as it was previously considered for a regional landfill with a high likelihood it could have been developed. An application for the landfill had been submitted to DES for review.

4. Project Proponent: Town of Londonderry

Project Title: Nesenkeag Brook Headwaters Project, Londonderry

The restoration of the Nesenkeag Brook Headwaters site attempts to return a degraded ecosystem to its natural potential. The project proposes to restore and protect these values. The percentage of restored wetland functions will be assessed through annual monitoring for at least three years. After implementing restoration, specific measurable results will likely include: wildlife habitat improvement; reduction of invasive species; and possible water quality improvements. Other positive measurable results are likely after full on-site wetland analysis, hydrology, and final restoration plans are completed and implemented.

Grant amount requested:	\$88,198.00
Amount of non-federal matching funds proposed:	\$5,969.80
Total project costs:	\$94,167.80

Committee Findings:

- A. The opportunity for restoration and invasive species elimination includes a comprehensive review of the Nesenkeag Headwaters site which will include a detailed survey, wetland delineation, and engineered plan and specifications to address impaired functions and values and water quality issues;
- B. The final restoration plans are likely to address the following (but not limited to): restoring hydrologic conditions; grading to reestablish historic topography; control and removal of invasive plants; riparian planting with trees and other native wetland species;
- C. Although under Town ownership, no additional long-term protection measures, such as a conservation easement, are proposed; and
- D. There is a level of uncertainty of what will result from the hydrologic plan if the plan in fact, increases functions at that site.

The Committee's findings for the four applications that will not receive ARM funds are summarized in Attachment C.

IV. DES MITIGATION PROGRAM ACHIEVEMENTS IN 2009

In the third year of operation, the ARM Fund program has made huge progress in the use of collected funds. The following items summarize additional program achievements to date:

- The DES Wetlands Bureau, Mitigation Program was awarded US Environmental Protection Agency grant funds to develop a strategy for identifying wetland restoration projects at the HUC 8 watershed scale. The grant developed a model that was initially used for the Merrimack River watershed. The results of that effort can be reviewed on an interactive web site as follows: www.restoreNHwetlands.com. The second phase of the grant is to continue implementation of the model on the Winnepesaukee River, Upper Connecticut, and Connecticut River from the Johns River to Waits River watersheds. This second phase will be completed in December, 2009. The Department may continue the use of the model in other watersheds for identification of restoration opportunities.
- Senate Bill 65 was entered into legislation to expand the eligibility for projects with stream related impacts to provide payments in-lieu of other forms of mitigation. The Department of Environmental Services (DES) supported the bill which implements a recommendation of the Final Report of the Comprehensive Flood Management Study Commission (New Hampshire House Bill 648, Chapter 179.1, Laws of 2007). The report specifically recommended the development of a DES in-lieu mitigation option for projects that impact floodplains and stream channels. The funds generated will be eligible to municipal and state agencies, non-profit organizations and watershed associations for stream restoration and protection projects. See Attachment D for the final bill text.

V. CONCLUSION

The above projects demonstrate that the ARM Fund has made significant progress toward accomplishing its goal of providing watershed-based mitigation for permitted impacts. The Department recognizes the Fund is in an advantageous position to bring significant mitigation projects to completion. The new Aquatic Resource Mitigation program offers a chance for municipalities to accomplish high priority local conservation goals, a mechanism for developers to proceed with projects once not viable because no compensatory wetland mitigation was practicable; and an opportunity for the State to accomplish projects with greater conservation value than can be achieved through conventional compensatory wetland mitigation. For additional information, please contact Ms. Lori L. Sommer at 603-217-4059 or Lori.Sommer@des.nh.gov.

ATTACHMENT A.

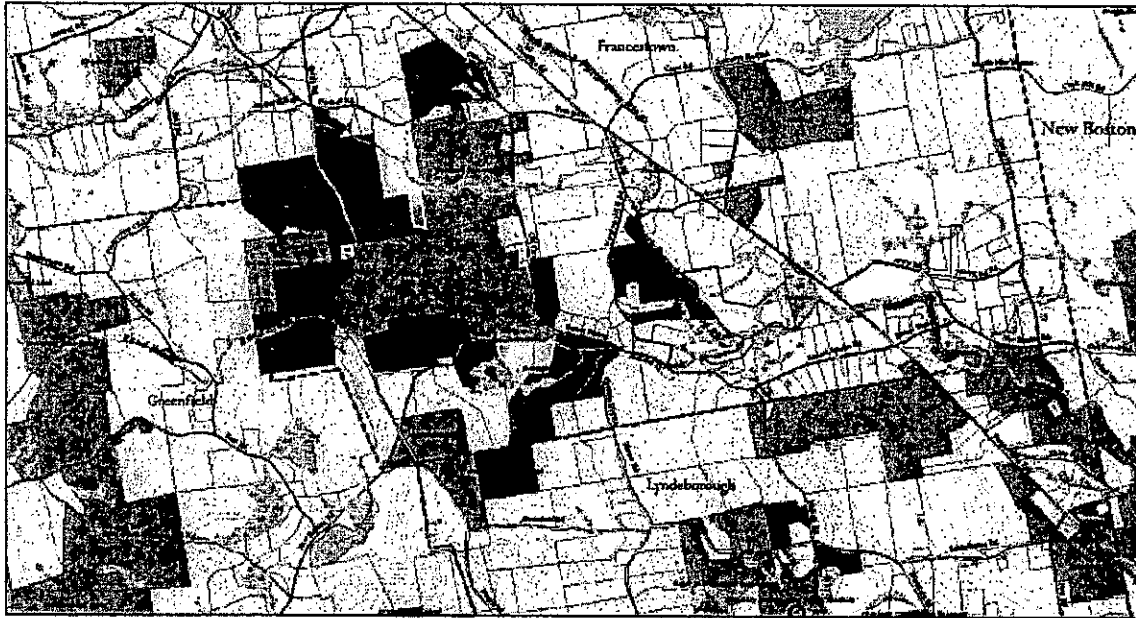
MERRIMACK RIVER WATERSHED ARM FUND PAYMENTS

PERMIT #	LOCATION	PROJECT TYPE	COWARDIN CLASS	PRIMARY F/V's	OTHER ISSUES	WETLAND LOSS SQFT	PAYMENT AMOUNT	DEPOSIT DATE
2006-2360	Londonderry	Coca Cola 32,850 sq.ft. facility addition, access road	PEM manmade area used for drainage/retention	Storm water detention of runoff from existing site		17,520	52,394.00	1/25/2007
2006-712	Hooksett	SNU dining facility	PFO1	Floodflow alt, limited groundwater recharge/dischARGE, wildlife habitat		15,678	61,153.33	6/18/2007
2005-2505	Hooksett	Lowes-Walmart stores	PEM1Ex, PFO1Ex, man-made seasonal stream	Groundwater recharge/dischARGE	Former gravel pit. Potential NE cottontail habitat	25,381	77,636.00	9/6/2007
2006-1471	Candia	Light industrial park on 14 acre parcel	PFO1	Storm water det, sed/ tox retention		31,319	82,438.00	12/27/2007
2008-3	Londonderry	DOT roadway widening, intersection reconfiguring	PEM1F, R2UB2, PFO1 E	Wildlife habitat, sed/tox retention, some floodflow alt		22,332	35,545.44	3/27/2008
2006-3183	Epsom	Roadway crstn for commercial subdivision	PFO1E, PFO1C, PFO1/C and E	Groundwater recharge; floodflow alt; sed/tox removal;		19,922	52,342.79	8/16/2008
2007-2200	Epsom	Commercial development of 12 ac for retail	PFO1E	Flood storage, wildlife habitat		17,422	45,774.52	12/2/2008
2008-2312	Bow	PSNH power plant improvement	PSS1E	Flood storage, groundwater discharge, wildlife habitat	Worked with F&G on New England cottontail mitigation	26,905	78,157.28	1/26/2009
2006-3219	Manchester	Airport EMAS project	PFO1E, PSS	Sed tox/removal, wildlife habitat, nutrient retention	Wetland restoration was not successful		200,000	2/20/2009
TOTALS						178,479	685,441.36	

ATTACHMENT B.

PARCEL INFORMATION FOR FOUR ARM FUND PROJECTS

Stewart Property, Francestown



Stewart Property: Local Context

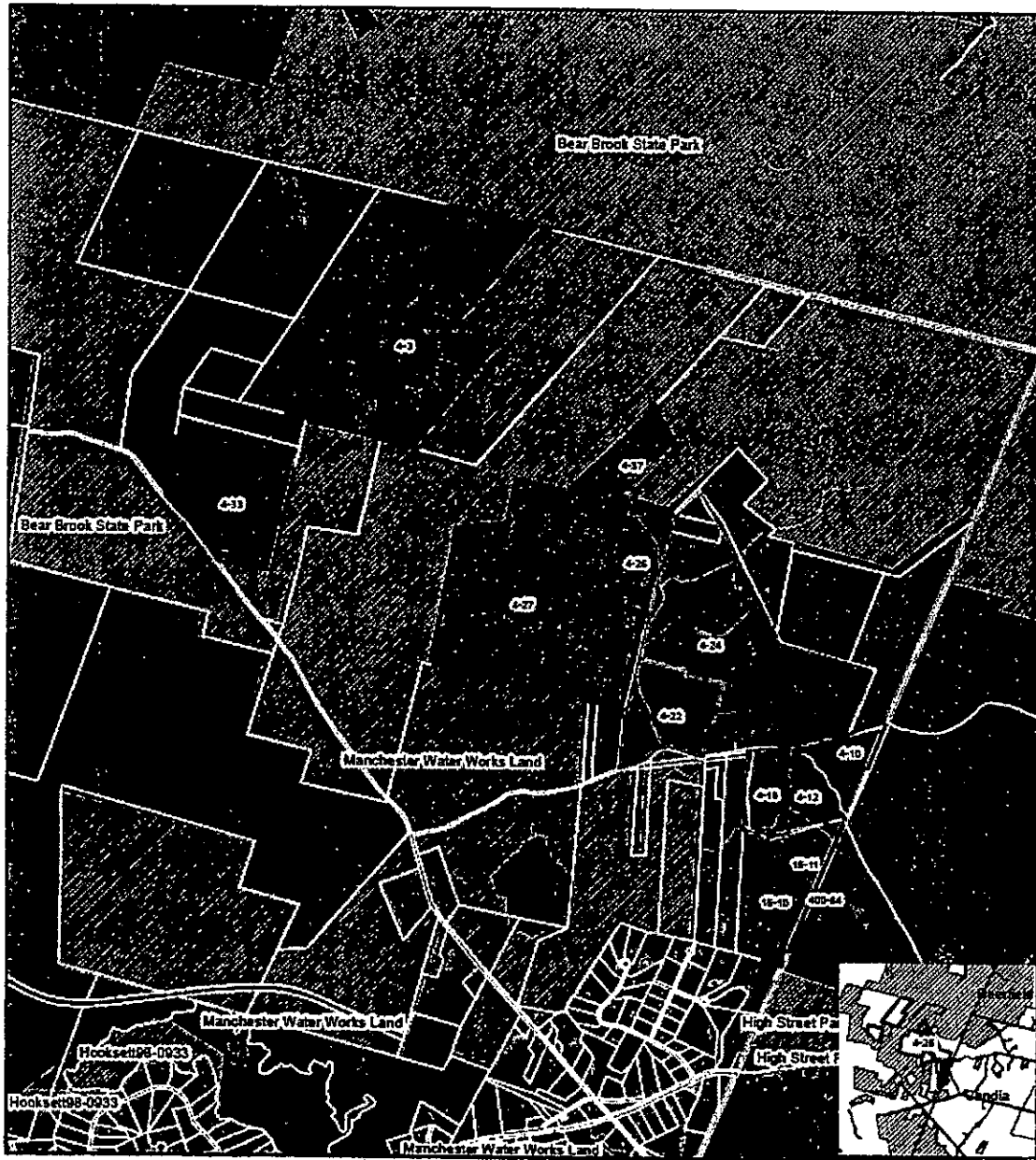
- Stewart Property
- Completed HP-1 Projects
- Town Boundaries
- Streets and Highways
- Other Conserved Lands
- 20' Contours
- Lakes and Ponds
- Tax Parcels
- Public Roads
- Wetlands



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DK

Clay Pond Headwaters Project, Hooksett - 2005 Aerial View

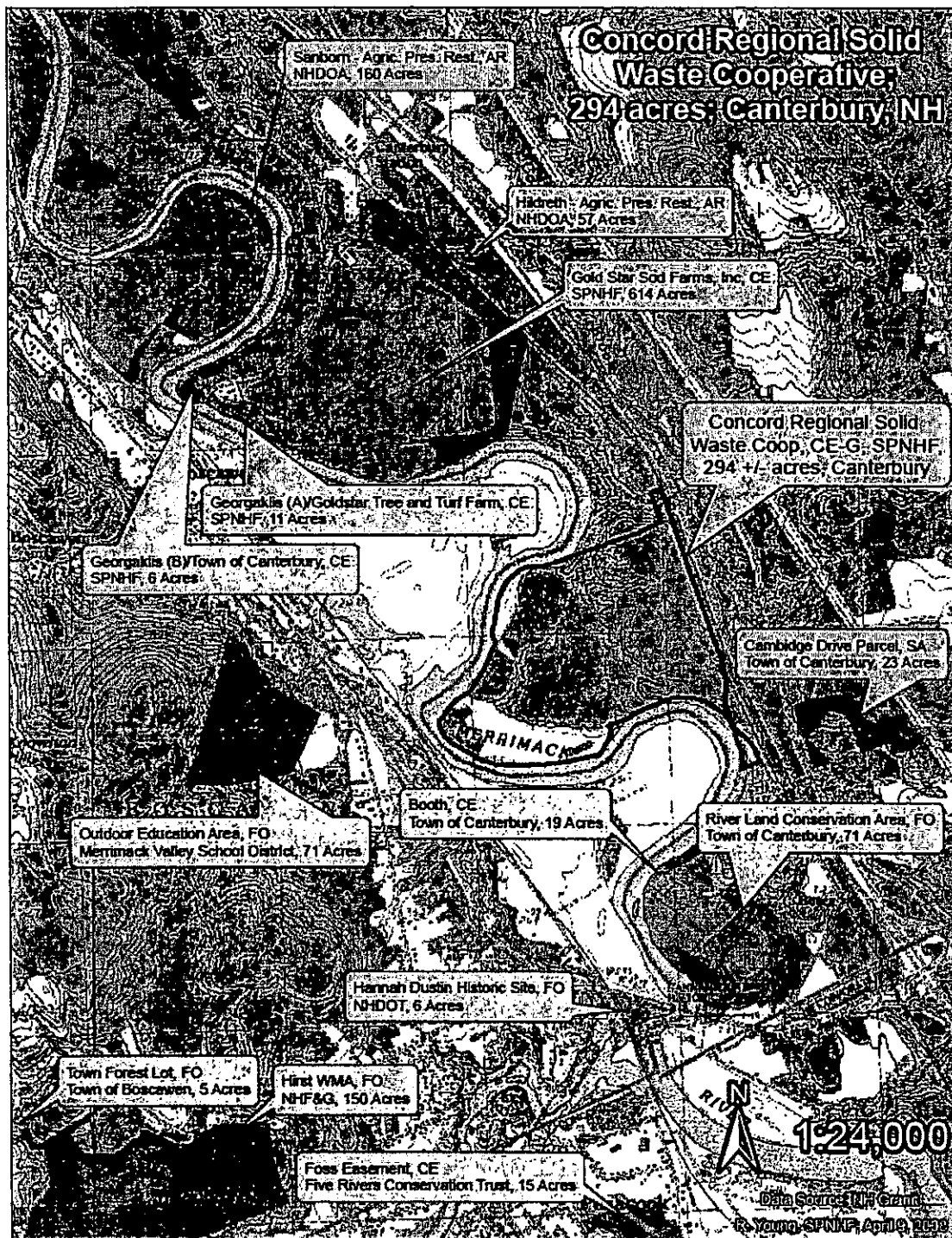


County Lines	Clay Pond Headwaters Project - Banked	Town of Hooksett
Town Lines	Gagne	Conservation Lands
Streams	Wiggin Associates	
Intermittent Streams	Murphy-Strachan	

1:24,000
0 1,000 2,000 Feet

Map created by Bear-Paw Regional Greenways - 2009

CRSWRRC, Canterbury



ATTACHMENT C.

SUMMARY OF FOUR ARM FUND PROJECTS
NOT SELECTED FOR FUNDING

1. Project Proponent: Southeast Land Trust of New Hampshire
Project Title: Grassy Brook Farm/Paul-Mannino Property, South Hampton

Grassy Brook Farm is 46.97 acres of wetlands, fields, and forest. This property drains into the Grassy Brook wetland complex that flows into the Powwow River and eventually the Merrimack River. The proponent proposes to protect and conserve the property through the conveyance of a conservation easement with an option to purchase contingent on ARM funding.

Grant amount requested:	\$150,515.98.00
Amount of non-federal matching funds proposed:	\$2,023.00
Total project costs:	\$152,538.98

Committee Findings:

- A. The application does not propose restoration although some culvert enhancements could be considered in addition to the budget for protecting the parcel, however, that would involve getting permission from several other landowners;
- B. The majority of the wetlands, approximately 10 acres, are located in the central portion of the property and are a part of the Grassy Brook drainage that flows into the Powwow River and eventually the Merrimack River;
- C. The conservation easement on this parcel may lead to additional adjacent parcels to be protected; and
- D. The threat of development is questionable as access is limited and would require permission to cross other parcels.

2. Project Proponent: Town of Litchfield and agent Swamp, Inc.
Project Title: Greenwich Road, Litchfield

This is a four year project to restore an emergent wetland that is owned by the town and located on Greenwich Road. The site is threatened by invasive species, specifically Phragmites and purple loosestrife. Open water habitat also is proposed to be created. A portion of marsh is currently under a conservation easement. Funds are proposed to be used for final restoration plan and to cover costs associated with the restoration work, construction management, permit costs, excavation costs and disposal of excavated materials, as well as post-construction monitoring and maintenance.

Grant amount requested:	\$164,035.00
Amount of non-federal matching funds proposed:	\$0
Total project costs:	\$164,035.00

Committee Findings:

- A. The proposal for invasive species management has a low potential for long-term sustainability as it addresses symptoms rather than the problem(s);
- B. The area was originally a spruce-fir forest that will not be restored in this application; and
- C. Impacts to the upland buffer for creation of open water is not justified.

3. Project Proponent: Town of Windham and agent Swamp, Inc.
Project Title: Lowell Road, Windham

This four year project aims to restore an emergent wetland threatened by invasive plants and to create open water habitat. The property is located on Lowell Road and is privately owned. This project

requests ARM funds to develop final restoration plans and to cover costs associated with the proposed restoration work, construction of a walkway, permit costs and administrative costs. ARM funds are also requested for pre- and post-restoration monitoring and maintenance expenses until the site is successfully restored.

Grant amount requested:	\$61,685.00
Amount of matching non-federal funds proposed:	\$0
Total project costs:	\$61,685.00

Committee Findings:

- A. The proposal for invasive species management has a low potential for long-term success;
- B. The area is in highly developed location and susceptible to continual exposure to invasive species; and
- C. The proposal provides questionable restoration methods and does not achieve long-term protection of the property.

**4. Project Proponent: Town of Windham and agent Swamp, Inc.
Project Title: Marblehead Road, Windham**

This four year project aims to restore a portion of a sixty-two acre red maple swamp threatened by invasive plants. The wetland to be restored is located on Marblehead Road and abuts a former incinerator site. The ash has been capped and does not produce methane. The Town of Windham owns the entire landfill and adjacent marsh. Three town organizations are involved with this project: the Conservation Commission, the town Health Officer, and the Board of Selectmen.

Grant amount requested:	\$41,660
Amount of non-federal matching funds proposed:	\$0
Total project costs:	\$41,660.00

Committee Findings:

- A. The proposal for invasive species management has a low potential for long-term success;
- B. The site is adjacent to a capped landfill that may be used in a way that may cause degradation of habitat values;
- C. The proposal provides questionable restoration methods and does not achieve long-term protection of the property; and
- D. The invasive species "problem" does not seem to have reduced the functioning of the wetland.

ATTACHMENT D
SENATE BILL 65-FN – FINAL VERSION
2009 SESSION

09-0743

06/03

SENATE BILL **65-FN**

BT relative to the acceptance of in lieu payments for the restoration or creation of wetlands and establishing a committee to study the administrative fee percentage for such in lieu payments.

SORS: Sen. Janeway, Dist 7; Rep. Kappler, Rock 2; Rep. Gottling, Sull 3

COMMITTEE: Energy, Environment and Economic Development

AMENDED ANALYSIS

This bill:

I. Permits the department of environmental services to accept in lieu payments for the restoration or creation of wetlands and the preservation of upland areas adjacent to wetlands, streams, rivers, and their riparian habitats.

II. Establishes a committee to study the administrative fee percentage for such in lieu payments.

Explanation: Matter added to current law appears in *bold italics*.

Matter removed from current law appears [in brackets and struckthrough.]

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

03/11/09 0642s

06May2009... 1337h

03Jun2009... 1920h

06/24/09 2219CoFC

06/24/09 2357eba

09-0743

06/03

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Nine

BT relative to the acceptance of in lieu payments for the restoration or creation of wetlands and establishing a committee to study the administrative fee percentage for such in lieu payments.

Be it Enacted by the Senate and House of Representatives in General Court convened:

303:1 Aquatic Resource Compensatory Mitigation. Amend RSA 482-A:28 to read as follows:

482-A:28 Aquatic Resource Compensatory Mitigation. In lieu of other forms of compensatory mitigation, the department may accept payment for an unavoidable loss of aquatic resource functions and values from ~~[a proposed activity which at a minimum:~~

~~I. Impacts less than one acre of wetlands and meets the criteria for a United States Army Corps of Engineers state programmatic general permit.~~

~~II. Exceeds one acre of impact for a public roadway or a public utility project and meets the criteria for a United States Army Corps of Engineers state programmatic general permit]~~ **impacts to resources protected under this chapter.**

303:2 Fund Established. Amend RSA 482-A:29, I to read as follows:

I. There is hereby established the aquatic resource compensatory mitigation fund into which payments made under this subdivision shall be deposited. ~~The fund shall be a separate, nonlapsing fund continually appropriated to the department to be used only as specified in this subdivision for costs related to wetlands creation or restoration, stream and river restoration, stream and river enhancement, preservation of upland areas adjacent to wetlands and riparian areas, and the subsequent monitoring and maintenance of such areas.~~

303:3 New Section; Payment for Stream or Shoreline Losses. Amend RSA 482-A by inserting after section 30 the following new section:

482-A:30-a Payment for Stream or Shoreline Losses. For stream or shoreline resource losses, the in lieu payment shall be the sum of:

I. The cost that would have been incurred if a stream of the same type was restored at the ratios adopted by the department, based on a price of \$200 per linear foot of channel or bank impacts or both, to be adjusted at the beginning of the calendar year according to the annual simple rate of interest on judgments established by RSA 336:1; and

II. An administrative assessment equal to 5 percent of the amount in paragraph I.

303:4 Rulemaking. Amend RSA 482-A:31, II to read as follows:

II. The method of calculating the amount of in lieu payments under RSA 482-A:30 ~~and RSA 482-A:30-a~~ which shall approximate the total cost of wetlands construction, **stream and river construction**, or such other mitigation actions as would have been required by the department and incurred by the applicant in the absence of making such payments. An administrative assessment of 5 percent of the total cost shall be added as part of the calculation method.

303:5 Aquatic Resource Compensatory Mitigation Fund. Amend RSA 482-A:29, II to read as follows:

II. The fund may ~~not~~ be used to ~~pay state personnel costs except, upon approval of the fiscal committee,~~ **supplement the administrative assessments collected under RSA 482-A:30, III and RSA 482-A:30-a, II** to support up to ~~one~~ **2** full-time ~~position~~ **positions** for administration of the fund and related projects. ~~[Only money from the 5 percent administrative assessment collected under RSA 482-A:30, III shall be used for this purpose.]~~

303:6 Aquatic Resource Compensatory Mitigation Fund. RSA 482-A:29, II is repealed and reenacted to read as follows:

II. The fund may not be used to pay state personnel costs except, upon approval of the fiscal committee, to support up to one full-time position for administration of the fund and related projects.

Only money from the 5 percent administrative assessment collected under RSA 482-A:30, III and RSA 482-A:30-a, II shall be used for this purpose.

303:7 Committee Established. There is established a committee to study the administrative fee percentage under RSA 482-A:30, III, RSA 482-A:30-a, II, and RSA 482-A:31, II and to recommend a new administrative fee percentage adjusted to cover the cost of the program.

303:8 Membership and Compensation.

I. The members of the committee shall be as follows:

(a) Three members of the house of representatives, 2 from the ways and means committee and one from the resources, recreation and development committee, appointed by the speaker of the house of representatives.

(b) One member of the senate, appointed by the president of the senate.

II. Members of the committee shall receive mileage at the legislative rate when attending to the duties of the committee.

303:9 Duties. The committee shall study the administrative fee percentage under RSA 482-A:30, III, RSA 482-A:30-a, II, and RSA 482-A:31, II and recommend a new administrative fee percentage adjusted to cover the cost of the program.

303:10 Chairperson; Quorum. The members of the study committee shall elect a chairperson from among the members. The first meeting of the committee shall be called by the first-named house member. The first meeting of the committee shall be held within 45 days of the effective date of this section. Three members of the committee shall constitute a quorum.

303:11 Report. The committee shall report its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the president of the senate, the house clerk, the senate clerk, the governor, the chairman of the house ways and means committee, the chairman of the senate ways and means committee, and the state library on or before November 1, 2009.

303:12 Effective Date.

I. Section 6 of this act shall take effect July 1, 2010.

II. Section 5 and sections 7-12 of this act shall take effect upon its passage.

III. The remainder of this act shall take effect 60 days after its passage.

Approved: July 31, 2009

Effective Date: I. Section 6 shall take effect July 1, 2010.

II. Sections 5 and 7-12 shall take effect July 31, 2009.

III. Remainder shall take effect September 29, 2009.

LBAO

09-0743

Amended 06/10/09

**FISCAL IMPACT – ONE FULL TIME AND ONE PART TIME
POSITIONS CALCULATION WORKSHEET**

FULL TIME

Labor Grade 27, start @ step 3	FY 2009	FY 2010	FY 2011	FY 2012
Salary	53,137.50	55,497.00	57,934.50	60,567.00
Full Time Benefits	3,294.53	3,440.81	3,591.94	3,755.15
Social Security (6.2% of salary)	770.49	804.71	840.05	878.22
Medicare (1.45% of salary)	4,314.77	4,683.95	7,021.66	7,340.72
Retirement (12.12% of salary)	4,484.81	4,683.95	4,889.67	5,111.85
Additional Fringe Benefit	19.50	19.50	19.50	19.50
Life Insurance	3,294.53	3,440.81	3,591.94	3,755.15
Dental Insurance	1,506.96	1,522.03	1,537.25	1,552.63
Health Insurance	23,015.76	23,245.92	23,478.38	23,713.16
Total Salary & Benefits	90,544.31	93,897.86	99,312.95	102,938.24

Other Costs

Current Expense Equipment (one-time)	1,928.00	1,928.00	1,980.00	1,980.00
Office Space	3,688.00	3,513.00	3,583.26	3,654.93
OIT costs	2,812.00	3,894.00	3,971.88	4,051.32
Travel	1,050.00	1,150.00	1,150.00	1,173.00
TOTAL POSITION COSTS	100,022.31	104,382.86	109,998.09	113,797.48

PART TIME

Labor grade 21, start @ Step 3	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
SALARY	\$41,086.50	\$42,744.00	\$44,538.00	\$46,410.00	\$48,769.50
HOURLY	\$21.07	\$21.92	\$22.84	\$23.80	\$25.01
30 HOUR WORK WEEK	\$30,340.80	\$31,564.80	\$32,889.60	\$34,272.00	\$36,014.40

**FISCAL IMPACT – TWO FULL TIME POSITIONS
CALCULATION WORKSHEET**

FULL TIME Labor Grade 27, start @ step 3	FY 2009	FY 2010	FY 2011	FY 2012
Salary	53,137.50	55,497.00	57,934.50	60,567.00
Full Time Benefits	3,294.53	3,440.81	3,591.94	3,755.15
Social Security (6.2% of salary)	770.49	804.71	840.05	878.22
Medicare (1.45% of salary)	4,314.77	4,683.95	7,021.66	7,340.72
Retirement (12.12% of salary)	4,484.81	4,683.95	4,889.67	5,111.85
Additional Fringe Benefit	19.50	19.50	19.50	19.50
Life Insurance	3,294.53	3,440.81	3,591.94	3,755.15
Dental Insurance	1,506.96	1,522.03	1,537.25	1,552.63
Health Insurance	23,015.76	23,245.92	23,478.38	23,713.16
Total Salary & Benefits	90,544.31	93,897.86	99,312.95	102,938.24
Other Costs				
Current Expense Equipment (one-time)	1,928.00	1,928.00	1,980.00	1,980.00
Office Space	3,688.00	3,513.00	3,583.26	3,654.93
OIT costs	2,812.00	3,894.00	3,971.88	4,051.32
Travel	1,050.00	1,150.00	1,150.00	1,173.00
TOTAL POSITION COSTS	100,022.31	104,382.86	109,998.09	113,797.48

FULL TIME**Labor grade 21, start @ Step 3**

	FY 2010	FY 2011	FY 2012
Salary	\$41,086.50	\$42,744.00	\$44,538.00
Full Time Benefits	3,440.81	3,591.94	3,755.15
Social Security (6.2% of salary)	804.71	840.05	878.22
Medicare (1.45% of salary)	4,683.95	7,021.66	7,340.72
Retirement (12.12% of salary)	4,683.95	4,889.67	5,111.85
Additional Fringe Benefit	19.50	19.50	19.50
Life Insurance	3,440.81	3,591.94	3,755.15
Dental Insurance	1,522.03	1,537.25	1,552.63
Health Insurance	23,245.92	23,478.38	23,713.16
Total Salary & Benefits	\$82,928.18	\$87,714.39	\$90,664.38
Other Costs			
Current Expense	1,928.00	1,980.00	1,980.00
Equipment (one-time)			
Office Space	3,513.00	3,583.26	3,654.93
OIT costs	3,894.00	3,971.88	4,051.32
Travel	1,150.00	1,150.00	1,173.00
TOTAL POSITION COSTS	\$93,413.18	\$98,399.53	\$101,523.63

PAYMENTS INTO THE ARM FUND

PERMIT #	LOCATION	WETLAND LOSS (square feet)	TOTAL PAYMENT AMOUNT	5% ADMIN FEE	DEPOSIT DATE	ACCOUNT LETTER
2006-2360	Londonderry	17,520	52,394.00	2,512.62	1/25/2007	F
2006-712	Hooksett	15,678	61,153.33	2,877.09	6/18/2007	F
2002-1856	Bethlehem	14,800	14,904.44	690.00	7/20/2007	O
2002-2529	Littleton	11,898	29,904.23	1,424.00	8/2/2007	O
2006-516	Pittsburg	43,452	103,226.00	4,915.51	8/20/2007	P
2005-3055	Tilton	25,850	85,108.00	4,053.43	8/30/2007	D
2005-2505	Hooksett	25,381	77,636.00	3,713.96	9/6/2007	F
2006-2266	Moultonboro	21,485	76,358.73	3,636.14	12/5/2007	D
2006-1471	Candia	31,319	82,438.00	3,920.13	12/27/2007	F
2007-881	Lincoln	12,437	30,122.14	1,434.39	2/27/2008	N
2007-145	Woodstock	15,500	37,280.06	1,775.23	3/1/2008	N
2008-3	Londonderry	22,332	35,545.44	1,692.41	3/27/2008	F
2007-2703	Keene	36,990	113,033.10	5,382.53	4/30/2008	I
2007-1538	Lincoln	6,123	14,829.77	706.18	6/23/2008	N
2008-590	Rye	2,000	14,216.22	676.96	7/28/2008	E
2006-3183	Epsom	19,922	52,342.79	2,492.51	8/16/2008	F
2007-2373	Stratham	35,000	124,391.90	5,923.42	9/2/2008	E
2008-2098	Milan	26,435	63,110.55	3,005.26	10/17/2008	A
2007-2200	Epsom	17,422.00	45,774.52	2,179.73	12/2/2008	F
2008-2312	Bow	26,905	78,157.28	3,721.78	1/26/2009	F
2005-2313	Colebrook	22,075	52,933.59	2,520.65	2/18/2009	P
2006-2733	Lee	23,890	68,374.50	3,242.36	2/5/2009	E
2006-3219	Manchester		200,000.00	10,000.00	2/19/2009	F
2008-1529	Jefferson	210	503.51	23.98	3/24/2009	O
2008-2762	Littleton	12,933	32,505.59	1,450.00	3/27/2009	O
2008-1332	Dalton	12645	30,357.77	1,445.67	4/13/2009	O
2008-807	Lincoln	26760	64,812.14	3,086.29	4/20/2009	N
2008-1333	Whitefield	80,770	90,000.00	4,500.00	5/12/2009	O
2008-1264	Seabrook	16,094	57,198.96	\$2,723.53	6/8/2009	E
2009-593	Durham	16,094	14,653.53	\$697.79	8/19/2009	E
2009-937	Hampton	24,001	95,766.77	4,560.32	10/7/2009	E
2008-2780	Portsmouth	1,000	7,980.00	380.01	8/19/2009	E
TOTALS		664,921	1,907,012.86	91,363.88		

REVISED OCTOBER 12, 2009

Amendment to HB 681-FN

1 Amend the title of the bill by replacing it with the following:

2

3 AN ACT relative to assessments for aquatic resource compensatory mitigation.

4

5 Amend the bill by replacing all after the enacting clause with the following:

6

7 1 Aquatic Resource Compensatory Mitigation; Fund Established. RSA 482-A:29, II is repealed
8 and reenacted to read as follows:

9 II. A separate, non-lapsing account shall be established within the fund into which all
10 administrative assessments collected under RSA 482-A:30, III and RSA 482-A:30-a, II shall be
11 placed. Such account moneys shall only be used to support up to 2 full-time positions for
12 administration of the fund and related projects. No other fund moneys shall be used for state
13 personnel costs.

14 2 Payment for Freshwater and Tidal Wetlands Losses. Amend RSA 482-A:30, III to read as
15 follows:

16 III. An administrative assessment which equals [5] 20 percent of the sum of paragraphs I
17 and II.

18 3 Payment for Freshwater and Tidal Wetlands Losses. Amend RSA 482-A:30, III to read as
19 follows:

20 III. An administrative assessment which equals [20] 5 percent of the sum of paragraphs I
21 and II.

22 4 Payment for Stream or Shoreline Losses. Amend RSA 482-A:30-a, II to read as follows:

23 II. An administrative assessment equal to [5] 20 percent of the amount in paragraph I.

24 5 Payment for Stream or Shoreline Losses. Amend RSA 482-A:30-a, II to read as follows:

25 II. An administrative assessment equal to [20] 5 percent of the amount in paragraph I.

26 6 Rulemaking. Amend RSA 482-A:31, II to read as follows:

27 II. The method of calculating the amount of in lieu payments under RSA 482-A:30 and
28 RSA 482-A:30-a which shall approximate the total cost of wetlands construction, stream and river
29 construction, or such other mitigation actions as would have been required by the department and
30 incurred by the applicant in the absence of making such payments. An administrative assessment of
31 [5] 20 percent of the total cost shall be added as part of the calculation method.

32 7 Rulemaking. Amend RSA 482-A:31, II to read as follows:

1 II. The method of calculating the amount of in lieu payments under RSA 482-A:30 and
2 RSA 482-A:30-a which shall approximate the total cost of wetlands construction, stream and river
3 construction, or such other mitigation actions as would have been required by the department and
4 incurred by the applicant in the absence of making such payments. An administrative assessment of
5 [20] 5 percent of the total cost shall be added as part of the calculation method.

6 8 Report. Amend RSA 482-A:33 to read as follows:

7 482-A:33 Report. The department shall submit an annual report by October 1 beginning with
8 fiscal year 2006, to the fiscal committee, the chairperson of the house resources, recreation and
9 development committee, and the chairperson of the senate environment and wildlife committee
10 summarizing all receipts and disbursements of the aquatic resource compensatory mitigation fund,
11 including a description of all projects undertaken *and the status of the administrative*
12 *assessment account*. Each report shall be in such detail with sufficient information to be fully
13 understood by the general court and the public. After submission to the general court, the report
14 shall be available to the public.

15 9 Department Investigation. The department of environmental services shall investigate ways
16 of compiling and providing information on known compensatory mitigation opportunities to
17 applicants who need to compensate for unavoidable impacts by their proposed projects, as part of the
18 wetlands permitting process, and propose to make in lieu payments under RSA 482-A:28-33. The
19 department shall report on the results of this investigation on October 1, 2011 as part of its annual
20 report under RSA 482-A:33.

21 10 Effective Date.

22 I. Sections 3, 5, and 7 of this act shall take effect July 1, 2012.

23 II. Section 1 shall take effect July 1, 2010 at 12:01 a.m.

24 III. The remainder of this act shall take effect July 1, 2010.

*2009-2477h

AMENDED ANALYSIS

This bill temporarily increases the percentage of certain administrative assessments related to aquatic resource compensatory mitigation.

Voting Sheets

HOUSE COMMITTEE ON RESOURCES, RECREATION AND DEVELOPMENT

EXECUTIVE SESSION on HB 681-FN

BILL TITLE: relative to aquatic resource compensatory mitigation.

DATE: March 18, 2009

LOB ROOM: 305

Amendments:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.) **RETAIN**

Moved by Rep. McClammer

Seconded by Rep. Bolster

Vote: 20-0 (Please attach record of roll call vote.)

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote: (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE:

(Vote to place on Consent Calendar must be unanimous.)

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep. Suzanne H. Gottling, Clerk

HOUSE COMMITTEE ON RESOURCES, RECREATION AND DEVELOPMENT

EXECUTIVE SESSION on HB 681-FN

BILL TITLE: relative to aquatic resource compensatory mitigation.

DATE: 3/12/09 recessed to 3/17/09

LOB ROOM: 305

Amendments:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Motions: OTP OTP/A, ITL, Interim Study (Please circle one.) *withdrawn motions*

Moved by Rep. *Bolster*

Seconded by Rep. *Spaulding*

Vote: (Please attach record of roll call vote.)

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.) *retain*

Moved by Rep. *McClammer*

Seconded by Rep. *Bolster*

Vote: *20-0* (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE:

(Vote to place on Consent Calendar must be unanimous.)

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep. Suzanne H. Gottling, Clerk

RESOURCES, RECREATION AND DEVELOPMENT

Bill #: HB 681 Title: relative to aquatic resource compensatory mitigation

PH Date: 2 / 19 / 09

Exec Session Date: 3 / 17 / 09

Motion: Retain

Amendment #: _____

MEMBER	YEAS	NAYS
Spang, Judith T, Chairman	✓	
Tupper, Frank A, V Chairman	✓	
Parkhurst, Henry A. L.	✓	
Moody, Marcia G <i>Leveque</i>	✓	
Aguiar, James D	✓	
Gottling, Suzanne H, Clerk	✓	
Hubbard, Pamela J	✓	
Kepner, Susan R	✓	
Thomas, Yvonne D	✓	
Williams, Carol A	✓	
McClammer, Jim U	✓	
Russell, David H	✓	
Renzullo, Andrew	✓	
Christensen, Chris	✓	
Ahlgren, Christopher J	✓	
Kappler, L. Mike	✓	
Spaulding, Jayne E	✓	
Bolster, Peter S	✓	
Howard, Thomas J	✓	
St. Cyr, Jeffrey L	✓	
TOTAL VOTE:	20	0

HOUSE COMMITTEE ON RESOURCES, RECREATION AND DEVELOPMENT

EXECUTIVE SESSION on HB 681-FN

BILL TITLE: relative to aquatic resource compensatory mitigation.

DATE: November 24, 2009

LOB ROOM: 305

Amendments:

Sponsor: Rep. Tupper	OLS Document #:	2009	0005h
Sponsor: Rep. Ahlgren	OLS Document #:	2009	0008h
Sponsor: Rep.	OLS Document #:		

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep. McClammer
Seconded by Rep. Kepner
Vote: 12-8 (Please attach record of roll call vote.)

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep. Ahlgren
Seconded by Rep. Jasper
Vote: 9-11 (Please attach record of roll call vote.)

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep. Merrick
Seconded by Rep. Taylor
Vote: 14-6 (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE: NO

(Vote to place on Consent Calendar must be unanimous.)

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep. Suzanne H. Gottling, Clerk

HOUSE COMMITTEE ON RESOURCES, RECREATION AND DEVELOPMENT

EXECUTIVE SESSION on HB 681-FN

BILL TITLE: relative to aquatic resource compensatory mitigation.

DATE: November 24, 2009

LOB ROOM: 305

Amendments:

Sponsor: Rep. *Trupper*

OLS Document #: *0005h*

Sponsor: Rep. *Ahlgren*

OLS Document #: *0008h*

Sponsor: Rep.

OLS Document #:

Motions: OTP OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep. *McClammer*

Seconded by Rep. *Kepner*

Vote: *12-8* (Please attach record of roll call vote.)

OTP moved *Merreck*
second *Taylor*
vote *14-6*

Motions: OTP OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep. *Ahlgren*

Seconded by Rep. ~~*Christensen*~~ *Jasper*

Vote: *9-11* (Please attach record of roll call vote.)

0005h

CONSENT CALENDAR VOTE:

(Vote to place on Consent Calendar must be unanimous.)

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep. Suzanne H. Gottling, Clerk

RESOURCES, RECREATION AND DEVELOPMENT

Bill #: HB 681-FN Title: relative to aquatic resort compensatory mitigation

PH Date: / / Exec Session Date: 11 / 24 / 09

Motion: OTP Amendment #: 0005h

MEMBER	YEAS	NAYS
Spang, Judith T, Chairman	✓	
Tupper, Frank A, V Chairman	✓	
Parkhurst, Henry A. L.	✓	
Moody, Marcia G	✓	
Aguiar, James D <i>McMahon</i>	✓	
Gottling, Suzanne H, Clerk	✓	
Hubbard, Pamela J <i>Merruck</i>	✓	
Kepner, Susan R	✓	
Thomas, Yvonne D	✓	
Williams, Carol A <i>Taylor</i>	✓	
McClammer, Jim U	✓	
Russell, David H		✓
Renzullo, Andrew		✓
Christensen, Chris		✓
Ahlgren, Christopher J		✓
Kappler, L. Mike		✓
Spaulding, Jayne E <i>Graham</i>		✓
Bolster, Peter S	✓	
Howard, Thomas J <i>Gasper</i>		✓
St. Cyr, Jeffrey L		✓
TOTAL VOTE:	12	8

RESOURCES, RECREATION AND DEVELOPMENT

Bill #: HB 681FN/A Title: relative to aquatic resource compensatory mitigation

PH Date: / /

Exec Session Date: 11 / 24 / 09

Motion: OTPA

Amendment #: 0005h

MEMBER	YEAS	NAYS
Spang, Judith T, Chairman	✓	
Tupper, Frank A, V Chairman	✓	
Parkhurst, Henry A. L.	✓	
Moody, Marcia G	✓	
Aguiar, James D <i>McMahon</i>	✓	
Gottling, Suzanne H, Clerk	✓	
Hubbard, Pamela J <i>Merrick</i>	✓	
Kepner, Susan R	✓	
Thomas, Yvonne D	✓	
Williams, Carol A <i>Taylor</i>	✓	
McClammer, Jim U	✓	
Russell, David H	✓	
Renzullo, Andrew		✓
Christensen, Chris		✓
Ahlgren, Christopher J		✓
Kappler, L. Mike	✓	
Spaulding, Jayne E <i>Graham</i>		✓
Bolster, Peter S	✓	
Howard, Thomas J <i>Jasper</i>		✓
St. Cyr, Jeffrey L		✓
TOTAL VOTE:	14	6

HOUSE COMMITTEE ON WAYS AND MEANS

EXECUTIVE SESSION on HB 681

BILL TITLE: (New Title) relative to assessments for aquatic resource compensatory mitigation.

DATE: February 11, 2010

LOB ROOM: 202

Amendments:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep. Almy

Seconded by Rep. Vachon

Vote: 15-2 (Please attach record of roll call vote.)

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote: (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE: 15-2

(Vote to place on Consent Calendar must be unanimous.)

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep. William Butynski, Clerk

HOUSE COMMITTEE ON WAYS AND MEANS

EXECUTIVE SESSION on HB 681

BILL TITLE: (New Title) relative to assessments for aquatic resource compensatory mitigation.

DATE: 2/11/10

LOB ROOM: 202

Amendments:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep. *Almy*

Seconded by Rep. *Vachon*

Vote: *15 to 2* (Please attach record of roll call vote.)

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote: (Please attach record of roll call vote.)

OK

CONSENT CALENDAR VOTE:

(Vote to place on Consent Calendar must be unanimous.)

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep. William Butynski, Clerk

WAYS AND MEANS

Bill #: HB 687 Title: relative to assessments for aquatic resource compensatory mitigation
 PH Date: 2, 2, 10 Exec Session Date: 2, 11, 10

Motion: OTP by Almy and Vachon Amendment #: _____

MEMBER	YEAS	NAYS
Almy, Susan W, Chairman	✓	
Hatch, William A, V Chairman	✓	
Davis, Frank W	✓	
Butynski, William, Clerk	✓	
Vachon, Dennis P	✓	
Shattuck, Gilman	✓	
Kelley, John D	✓	
Mack, Ron J	✓	
Johnson, William G	✓	
Price, Susan G		
Walsh, Robert M	✓	
Major, Norman L	✓	
Griffin, Mary E	✓	
Lockwood, Priscilla P		✓
Boutin, David R		
Bettencourt, David J	✓	
Ober, Russell T		✓
Sapareto, Frank V		
Ulery, Jordan G	✓	
Osgood, Joe	✓	
	15	2
TOTAL VOTE:		

Committee Report

REGULAR CALENDAR

November 25, 2009

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

**The Majority of the Committee on RESOURCES,
RECREATION AND DEVELOPMENT to which was
referred HB681-FN,**

**AN ACT relative to aquatic resource compensatory
mitigation. Having considered the same, report the
same with the following amendment, and the
recommendation that the bill OUGHT TO PASS WITH
AMENDMENT.**

Rep. Jim U McClammer

FOR THE MAJORITY OF THE COMMITTEE

**MAJORITY
COMMITTEE REPORT**

Committee: **RESOURCES, RECREATION AND
DEVELOPMENT**
Bill Number: **HB681-FN**
Title: **relative to aquatic resource compensatory
mitigation.**
Date: **November 25, 2009**
Consent Calendar: **NO**
Recommendation: **OUGHT TO PASS WITH AMENDMENT**

STATEMENT OF INTENT

This bill enables developers and applicants to have an option to deposit funds into the aquatic resource mitigation (ARM) fund. The intent of the ARM program is to lower costs for applicants by expediting the permit process. Through HB 681, the administrative assessment is increased for two years from five percent to twenty percent, to cover the cost of DES personnel in administering the ARM program. After two years, the legislature will evaluate whether this assessment should be changed based on its two year history.

Vote 14-6

Rep. Jim U McClammer
FOR THE MAJORITY

Original: House Clerk
Cc: Committee Bill File

REGULAR CALENDAR

RESOURCES, RECREATION AND DEVELOPMENT

HB681-FN, relative to aquatic resource compensatory mitigation. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Jim U McClammer for the **Majority** of **RESOURCES, RECREATION AND DEVELOPMENT.**

This bill enables developers and applicants to have an option to deposit funds into the aquatic resource mitigation (ARM) fund. The intent of the ARM program is to lower costs for applicants by expediting the permit process. Through HB 681, the administrative assessment is increased for two years from five percent to twenty percent, to cover the cost of DES personnel in administering the ARM program. After two years, the legislature will evaluate whether this assessment should be changed based on its two year history. **Vote 14-6.**

Original: House Clerk

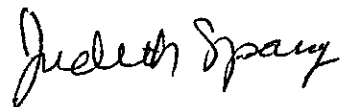
Cc: Committee Bill File

HB 681 Majority

OTP/A

This bill enables developers and applicants to have an option to deposit funds into the aquatic resource mitigation (ARM) fund. The intent of the ARM program is to lower costs for applicants by expediting the permit process. Through HB 681, the administrative assessment is increased for two years from five percent to twenty percent, to cover the cost of DES personnel in administering the ARM program. After two years, the legislature will evaluate whether this assessment should be changed based on its two year history.

Jim McClammer

A handwritten signature in cursive script, reading "Judith Spang". The signature is written in black ink and is positioned in the lower right quadrant of the page.

HB 681 - Am 0005 14-6 OTR

The bill enables developers/applicants to have an option to deposit funds into the Aquatic Resource Compensatory Fund. The intent is to lower the cost for applicant to comply with the permit process. The administrative assessment is ~~temporarily~~ increased for 50% to cover the cost of DES personnel in administration of the ARM fund.

Rep McClammer



This bill enables developers and applicants to have an option to deposit funds

into the Aquatic Resource Compensatory Mitigation Fund (ARM). The intent is to lower the cost for applicants by expediting to comply with the permit process. Through HB 681, the administrative assessment is temporarily increased, for two years, to from five percent to twenty percent to cover the cost of DES personnel in administering the ARM program.

Program is to lower

After two years, the legislature will evaluate whether this assessment should be changed, according to the based on its two-year history,

REGULAR CALENDAR

November 25, 2009

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

**The Minority of the Committee on RESOURCES,
RECREATION AND DEVELOPMENT to which was
referred HB681-FN,**

**AN ACT relative to aquatic resource compensatory
mitigation. Having considered the same, and being
unable to agree with the Majority, report with the
following Resolution: RESOLVED, That it is
INEXPEDIENT TO LEGISLATE.**

Rep. Christopher J Ahlgren

FOR THE MINORITY OF THE COMMITTEE

**MINORITY
COMMITTEE REPORT**

Committee: **RESOURCES, RECREATION AND
DEVELOPMENT**
Bill Number: **HB681-FN**
Title: **relative to aquatic resource compensatory
mitigation.**
Date: **November 25, 2009**
Consent Calendar: **NO**
Recommendation: **INEXPEDIENT TO LEGISLATE**

STATEMENT OF INTENT

Although the minority agrees with the merits of the Aquatic Resource Compensatory Fund program and believes the program should continue, we do not believe that now is the time to increase the administrative fee paid to the state of New Hampshire by 300%. The current shortfall was precipitated by federal funds for this program being eliminated. Without this "one time money" we are now again passing along the burden to our citizens. More importantly, we are placing this burden on one of our most depressed economic sectors, private construction. An alternative method of funding this program must be available and should be considered.

Rep. Christopher J Ahlgren
FOR THE MINORITY

Original: House Clerk
Cc: Committee Bill File

REGULAR CALENDAR

RESOURCES, RECREATION AND DEVELOPMENT

HB681-FN, relative to aquatic resource compensatory mitigation. **INEXPEDIENT TO LEGISLATE.**

Rep. Christopher J Ahlgren for the **Minority** of RESOURCES, RECREATION AND DEVELOPMENT. Although the minority agrees with the merits of the Aquatic Resource Compensatory Fund program and believes the program should continue, we do not believe that now is the time to increase the administrative fee paid to the state of New Hampshire by 300%. The current shortfall was precipitated by federal funds for this program being eliminated. Without this "one time money" we are now again passing along the burden to our citizens. More importantly, we are placing this burden on one of our most depressed economic sectors, private construction. An alternative method of funding this program must be available and should be considered.

Original: House Clerk

Cc: Committee Bill File

HB 681 Minority

ITL

Although the minority agrees with the merits of the Aquatic Resource Compensatory Fund program and believes the program should continue, we do not believe that now is the time to increase the administrative fee paid to the state of New Hampshire by 300%. The current shortfall was precipitated by federal funds for this program being eliminated. Without this "one time money" we are now again passing along the burden to our citizens. More importantly, we are placing this burden on one of our most depressed economic sectors, private construction. An alternative method of funding this program must be available and should be considered.

Chris Ahlgren

A handwritten signature in cursive script, appearing to read "Judith Gray". The signature is written in black ink and is located in the lower right quadrant of the page.

L/L "D 681-FIV OIP. 14-6
MINORITY REPORT Rep Christopher J. Ahlgren

ALTHOUGH THE MINORITY agrees with the merits of the Aquatic Resource Compensatory Fund program and believes the program should continue, we do not believe that now is the time to increase the ADMINISTRATIVE FEE paid to the STATE OF NEW Hampshire ~~should be increased by~~ by 300%.
The ^{CURRENT} ~~STATE~~ ^{shortfall} ~~fall~~ was precipitated by Federal funds for this program being eliminated. Without this "one time money" we are now ^{again} ~~now~~ passing along the burden to OUR CITIZENS. More importantly, we are placing this burden on ^{one of our} ~~our~~ ~~most~~ ^{most} depressed economic sectors, PRIVATE CONSTRUCTION.
An alternative ~~to~~ method of funding this program MUST be available and should be considered.



Chucy

CONSENT CALENDAR

February 12, 2010

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

The Committee on WAYS AND MEANS to which was referred HB681-FN,

AN ACT (New Title) relative to assessments for aquatic resource compensatory mitigation. Having considered the same, report the same with the recommendation that the bill OUGHT TO PASS.

Rep. Susan W Almy

FOR THE COMMITTEE

COMMITTEE REPORT

Committee:	WAYS AND MEANS
Bill Number:	HB681-FN
Title:	(New Title) relative to assessments for aquatic resource compensatory mitigation.
Date:	February 12, 2010
Consent Calendar:	YES
Recommendation:	OUGHT TO PASS

STATEMENT OF INTENT

The aquatic resource compensatory mitigation program is a voluntary program prized by developers and environmentalists alike. It was being subsidized by a federal grant that ran out. The developers have indicated that they would prefer to pay the true cost of the program rather than lose it. Raising the administrative assessment from 5% to 20% of the voluntary contribution to the mitigation fund achieves that. Given the short track record of the program, it is sunsetted in 2 years to allow reconsideration of the cost and assessment.

Vote 15-2.

Rep. Susan W Almy
FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

CONSENT CALENDAR

WAYS AND MEANS

**HB681-FN, (New Title) relative to assessments for aquatic resource compensatory mitigation.
OUGHT TO PASS.**

Rep. Susan W Almy for WAYS AND MEANS. The aquatic resource compensatory mitigation program is a voluntary program prized by developers and environmentalists alike. It was being subsidized by a federal grant that ran out. The developers have indicated that they would prefer to pay the true cost of the program rather than lose it. Raising the administrative assessment from 5% to 20% of the voluntary contribution to the mitigation fund achieves that. Given the short track record of the program, it is sunsetted in 2 years to allow reconsideration of the cost and assessment.
Vote 15-2.

Original: House Clerk
Cc: Committee Bill File

COMMITTEE REPORT

COMMITTEE: Ways and Means
BILL NUMBER: HB 687
TITLE: relative to amendments for aquatic resource
compensatory mitigation
DATE: 2/11/10 CONSENT CALENDAR: YES NO

- OUGHT TO PASS
 OUGHT TO PASS W/ AMENDMENT
 INEXPEDIENT TO LEGISLATE
 INTERIM STUDY (Available only 2nd year of biennium)

Amendment No. _____

STATEMENT OF INTENT:

The aquatic resource compensatory mitigation ~~fund~~ program is a voluntary program prized by developers and environmentalists alike. It was being subsidized by a federal grant that ran out. The developers have indicated that they ~~would~~ would prefer to pay the true cost of the program rather than lose it. Raising the administrative assessment from 5% to 20% of the voluntary contribution to the mitigation fund achieves that. Given the short track record of the program, it is sunsetted in 2 years to allow reconsideration of the cost + assessment.

COMMITTEE VOTE: 15 to 2

- Copy to Committee Bill File
- Use Another Report for Minority Report

RESPECTFULLY SUBMITTED,

Rep. [Signature]
For the Committee [Signature]

REP. ALMY

HB 681

The aquatic resource compensatory mitigation program is a voluntary program prized by developers and environmentalists alike. It was being subsidized by a federal grant that ran out. The developers have indicated that they would prefer to pay the true cost of the program rather than lose it. Raising the administrative assessment from 5% to 20% of the voluntary contribution to the mitigation fund achieves that. Given the short track record of the program, it is sunsetted in 2 years to allow reconsideration of the cost and assessment.

Rep. Susan W. Almy

A handwritten signature in black ink, appearing to read "S. Almy", written in a cursive style.