Bill as Introduced

HB 810-FN-A – AS INTRODUCED

2003 SESSION

03-0852
06/10

HOUSE BILL ***810-FN-A***

AN ACT relative to processing excavating and dredging and terrain alteration permits, changing the fees for permits, establishing 2 new positions, and making an appropriation therefor.

SPONSORS: Rep. Dickinson, Carr 4; Rep. Babson, Carr 6; Rep. Spang, Straf 72; Rep. Phinizy, Sull 23; Rep. R. Cooney, Rock 76; Sen. Gallus, Dist 1; Sen. Kenney, Dist 3

COMMITTEE: Resources, Recreation and Development

ANALYSIS

This bill:

I. Establishes time limits for the department of environmental to process excavating and dredging permits.

II. Increases fees for certain permits.

III. Requires a report to the wetlands council.

IV. Establishes 2 new civil engineer positions.

V. Makes an appropriation for the new positions.

This bill a request of the department of environmental services.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

HB 810-FN-A – AS INTRODUCED

03-0852
06/10

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Three

AN ACT relative to processing excavating and dredging and terrain alteration permits, changing the fees for permits, establishing 2 new positions, and making an appropriation therefor.

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

1 New Paragraph; Excavating and Dredging; Certain Exemptions. Amend RSA 482-A:3 by inserting after paragraph XIII the following new paragraph:

XIV. In processing an application for permits under this chapter the department shall:

(a) Within 20 days of receipt, examine the application, send notice to the applicant at the address provided on the application of any apparent error or omission with regard to the administrative completeness of the application, and notify the applicant of the name, official title, address, and telephone number of a department official or employee who may be contacted regarding the application.

(b) Within 120 days of receipt, or within 180 days if the application proposes more than one acre of jurisdictional impact, issue written technical comments on the application and request any additional information that the department is permitted by law to require.

(c) Where the department requests additional information pursuant to subparagraph (b), the department shall, within 60 days of the receipt of the applicant's complete response to said request for information:

(1) Approve or deny the application, in whole or in part; or

(2) Commence a non-adjudicative proceeding in accordance with this chapter and rules adopted by the commissioner.

(d) Where no request for additional information is made pursuant to subparagraph (b), the department shall, within a reasonable time not to exceed 90 days, or not to exceed 120 days if the application proposes more than one acre of jurisdictional impact:

(1) Approve or deny the application, in whole or in part; or

(2) Commence a non-adjudicative proceeding in accordance with this chapter and rules adopted by the commissioner.

(e) The time limits prescribed by this paragraph shall supersede any time limits provided in any other provision of law. If the department fails to render a decision within the time limits provided in this paragraph, the application shall be deemed to be approved.

(f) The time limits prescribed by this paragraph shall not apply to applications where a violation of this chapter exists on the same property.

(g) For purposes of subparagraphs (a) through (f), the date of receipt by the department is the date on which an application or other document is date stamped by the department as received.

2 Excavating and Dredging Permits; Fee Changes. Amend RSA 482-A:3, I to read as follows:

I. No person shall excavate, remove, fill, dredge or construct any structures in or on any bank, flat, marsh, or swamp in and adjacent to any waters of the state without a permit from the department. The permit application together with a detailed plan and a map showing the exact location of the proposed project, along with 4 copies of the permit application, plan and map, shall be submitted to the town or city clerk, accompanied by a filing fee in the form of a check made out by the applicant to the state of New Hampshire. The permit application fee shall be [~~$50~~] ***$100*** for minimum impact projects ***under this chapter***. Fees for minor and major projects shall be assessed based on the area of dredge, fill, or construction proposed [~~and the number of boat slips requested~~]. The rates shall be [~~$100 per boat slip~~] ***$2.00 per square foot for docking facilities*** and [~~$0.04~~] ***$0.10*** per square foot for all ***other*** proposed projects under this chapter. ***Where the repair, reconstruction, or reconfiguration of an existing permanent docking facility subject to the provisions of this section results in no greater square footage of docking structure over public water and represents an equal or greater protection of public water or the environment than the existing structure, the application fee shall be $100.*** At the time the permit application is submitted to the city or town clerk, the applicant shall provide postal receipts or copies, verifying that abutters, as defined in the rules of the department, and except as further provided in said rules, have been notified by certified mail. The postal receipts or copies shall be retained by the municipality. The town or city clerk shall immediately sign the application and forward by certified mail, the application, plan, map and filing fee to the department. The town or city clerk shall then immediately send a copy of the permit application, plan and map to the local governing body, the municipal planning board, if any, and the municipal conservation commission, if any, and may require an administrative fee not to exceed $10 plus the cost of postage by certified mail. One copy shall remain with the city or town clerk, and shall be made reasonably accessible to the public. The foregoing procedure notwithstanding, applications and fees for projects by agencies of the state may be filed directly with the department, with 4 copies of the application, plan and map filed at the same time with the town or city clerk to be distributed as set forth above.

3 New Section; Wetlands Program Annual Report. Amend RSA 482-A by inserting after section 482-A:15 the following new section:

482-A:15-a Wetlands Program Annual Report. The department shall report annually to the wetlands council on the wetlands program. The report shall include, but not be limited to, the status of the wetlands program including program performance, rules, and funding and the status of the Clean Water Act section 404 program in New Hampshire.

4 Terrain Alteration; Fee Increase. Amend RSA 485-A:17, II to read as follows:

II. The department shall charge a fee for each review of plans, including project inspections, required under this section. The fee shall be based on the extent of contiguous area to be disturbed. Except for RSA 483-B:9, the fee for plans encompassing an area of at least 100,000 square feet but less than 200,000 square feet shall be [~~$100~~] ***$500***. For the purposes of RSA 483-B:9, the fee for plans encompassing an area of at least 50,000 square feet but less than 200,000 square feet shall be [~~$100~~] ***$500***. An additional fee of [~~$100~~] ***$200*** shall be assessed for each additional area of up to 100,000 square feet to be disturbed. No permit shall be issued by the department until the fee required by this paragraph is paid. All fees required under this paragraph shall be paid when plans are submitted for review and shall be deposited in the treasury as unrestricted funds.

5 Positions Established; Civil Engineer V and Civil Engineer IV. There are created within the department of environmental services the classified, full-time positions of civil engineer V, at labor grade 30, and civil engineer IV at labor grade 27 which shall be under the direction of the commissioner under RSA 485-A:30, I-a. The employees in these positions shall be responsible for duties relative to RSA 485-A:17 and for multi-program permitting.

6 Appropriation. The sum of $131,000 is hereby appropriated to the department of environmental services for the fiscal year ending June 30, 2004, and the sum of $131,000 is hereby appropriated to the department of environmental services for the fiscal year ending June 30, 2005, for the purposes of funding salary, benefits, current expenses, and equipment for the civil engineer V and civil engineer IV positions established in section 5 of this act. These sums are in addition to any other funds appropriated to the department of environmental services. The governor is authorized to draw a warrant for said sums out of any money in the treasury not otherwise appropriated.

7 Effective Date. This act shall take effect July 1, 2003.

LBAO
03-0852
1/28/03

HB 810-FN-A –FISCAL NOTE

AN ACT relative to processing excavating and dredging and terrain alteration permits, changing the fees for permits, establishing 2 new positions, and making an appropriation therefor.

FISCAL IMPACT:

The Office of Legislative Budget Assistant is unable to complete a fiscal note for this bill as it is awaiting information from the Department of Environmental Services. When completed, the fiscal note will be forwarded to the House Clerk's Office.

HB 810-FN-A – AS AMENDED BY THE HOUSE

12mar03... 0560h

2003 SESSION

03-0852
06/10

HOUSE BILL ***810-FN-A***

AN ACT relative to processing excavating and dredging and terrain alteration permits, changing the fees for permits, establishing 2 new positions, and making an appropriation therefor.

SPONSORS: Rep. Dickinson, Carr 4; Rep. Babson, Carr 6; Rep. Spang, Straf 72; Rep. Phinizy, Sull 23; Rep. R. Cooney, Rock 76; Sen. Gallus, Dist 1; Sen. Kenney, Dist 3

COMMITTEE: Resources, Recreation and Development

AMENDED ANALYSIS

I. Establishes time limits for the department of environmental services to process excavating and dredging permits.

II. Increases fees for certain permits.

III. Requires a report to the wetlands council.

IV. Establishes 2 new civil engineer positions.

V. Makes an appropriation for the new positions.

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.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Three

AN ACT relative to processing excavating and dredging and terrain alteration permits, changing the fees for permits, establishing 2 new positions, and making an appropriation therefor.

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

1 New Paragraph; Excavating and Dredging; Certain Exemptions. Amend RSA 482-A:3 by inserting after paragraph XIII the following new paragraph:

XIV. In processing an application for permits under this chapter, except for a permit by notification, the department shall:

(a) Within 14 days of receipt by the department, issue a notice of administrative completeness or send notice to the applicant, the address provided on the application, identifying any additional information required to make the application administratively complete and providing the applicant with the name and telephone number of the department employee who may be contacted regarding the application. Each receipt of additional information in response to any notice shall re-commence the 14-day period until the department issues a notice of administrative completeness.

(b) Within 75 days of the issuance of a notice of administrative completeness for projects where the applicant proposes under one acre of jurisdictional impact and 105 days for all other projects, request any additional information that the department is permitted by law to require to complete its evaluation of the application, together with any written technical comments the department deems necessary. Any request for additional information shall specify that the applicant submit such information as soon as practicable and shall notify the applicant that if the requested information is not received within 120 days of the request, the department shall deny the application.

(c) Where the department requests additional information pursuant to subparagraph (b), the department shall, within 30 days of the department's receipt of the information:

(1) Approve or deny the application, in whole or in part; or

(2) Commence a non-adjudicative proceeding in accordance with this chapter and rules adopted by the commissioner; or

(3) Extend the time for response for good cause and with the written agreement of the applicant.

(d) Where no request for additional information is made pursuant to subparagraph (b), the department shall, within 75 days from the issuance of the notice of administrative completeness, or 105 days if the application proposes more than one acre of jurisdictional impact:

(1) Approve or deny the application, in whole or in part; or

(2) Commence a non-adjudicative proceeding in accordance with this chapter and rules adopted by the commissioner.

(e) Where the department has commenced a non-adjudicative hearing on an application filed under this chapter, the department shall, within 60 days following the closure of the hearing record, approve or deny the application either in whole or in part.

(f) The time limits prescribed by this paragraph shall supersede any time limits provided in any other provision of law. If the department fails to issue a notice of administrative completeness or render any other decision within the time limits provided in this paragraph, the application shall be deemed to be approved.

(g) The time limits prescribed by this paragraph shall not apply to an application where the applicant has been adjudicated after final appeal, or otherwise does not contest, the department's designation as a chronic non-complier in accordance with rules adopted pursuant to this chapter.

2 Excavating and Dredging Permits; Fee Changes. RSA 482-A:3, I is repealed and reenacted to read as follows:

I. No person shall excavate, remove, fill, dredge or construct any structures in or on any bank, flat, marsh, or swamp in and adjacent to any waters of the state without a permit from the department. The permit application together with a detailed plan and a map showing the exact location of the proposed project, along with 4 copies of the permit application, plan and map, shall be submitted to the town or city clerk, accompanied by a filing fee in the form of a check made out by the applicant to the state of New Hampshire. The permit application fee shall be $100 for minimum impact projects under this chapter. The permit application fee for minor and major shoreline structure projects shall be $100 plus an impact fee, based on the area of dredge, fill, or dock surface area proposed, or a combination. The shoreline structure impact fee shall be $1 per square foot for permanent dock surface area; $.50 per square foot for seasonal dock surface area; and $.10 per square foot for dredge or fill surface area or both. The permit application fees for minor or major projects shall be $.10 per square foot of proposed impact for all other projects under this chapter. For projects involving the repair, reconstruction, or reconfiguration of an existing docking structure, the application fee shall be $100. At the time the permit application is submitted to the city or town clerk, the applicant shall provide postal receipts or copies, verifying that abutters, as defined in the rules of the department, and except as further provided in said rules, have been notified by certified mail. The postal receipts or copies shall be retained by the municipality. The town or city clerk shall immediately sign the application and forward by certified mail, the application, plan, map and filing fee to the department. The town or city clerk shall then immediately send a copy of the permit application, plan and map to the local governing body, the municipal planning board, if any, and the municipal conservation commission, if any, and may require an administrative fee not to exceed $10 plus the cost of postage by certified mail. One copy shall remain with the city or town clerk, and shall be made reasonably accessible to the public. The foregoing procedure notwithstanding,

applications and fees for projects by agencies of the state may be filed directly with the department, with 4 copies of the application, plan and map filed at the same time with the town or city clerk to be distributed as set forth above.

3 Excavating and Dredging Permits; Fee Changes. Amend RSA 482-A:3, I to read as follows:

I. No person shall excavate, remove, fill, dredge or construct any structures in or on any bank, flat, marsh, or swamp in and adjacent to any waters of the state without a permit from the department. The permit application together with a detailed plan and a map showing the exact location of the proposed project, along with 4 copies of the permit application, plan and map, shall be submitted to the town or city clerk, accompanied by a filing fee in the form of a check made out by the applicant to the state of New Hampshire. The permit application fee shall be $100 for minimum impact projects under this chapter. The permit application fee for minor and major shoreline structure projects shall be $100 plus an impact fee, based on the area of dredge, fill, or dock surface area proposed, or a combination. The shoreline structure impact fee shall be $1 per square foot for permanent dock surface area; $.50 per square foot for seasonal dock surface area; and $.10 per square foot for dredge or fill surface area or both. The permit application fees for minor or major projects shall be [~~$.10~~] ***$.06*** per square foot of proposed impact for all other projects under this chapter. For projects involving the repair, reconstruction, or reconfiguration of an existing docking structure, the application fee shall be $100. At the time the permit application is submitted to the city or town clerk, the applicant shall provide postal receipts or copies, verifying that abutters, as defined in the rules of the department, and except as further provided in said rules, have been notified by certified mail. The postal receipts or copies shall be retained by the municipality. The town or city clerk shall immediately sign the application and forward by certified mail, the application, plan, map and filing fee to the department. The town or city clerk shall then immediately send a copy of the permit application, plan and map to the local governing body, the municipal planning board, if any, and the municipal conservation commission, if any, and may require an administrative fee not to exceed $10 plus the cost of postage by certified mail. One copy shall remain with the city or town clerk, and shall be made reasonably accessible to the public. The foregoing procedure notwithstanding, applications and fees for projects by agencies of the state may be filed directly with the department, with 4 copies of the application, plan and map filed at the same time with the town or city clerk to be distributed as set forth above.

4 New Section; Wetlands Program Annual Report. Amend RSA 482-A by inserting after section 482-A:15 the following new section:

482-A:15-a Wetlands Program Annual Report. The department shall report annually to the wetlands council on the wetlands program. The report shall include, but not be limited to, the status of the wetlands program including program performance, rules, and funding and the status of the Clean Water Act section 404 program in New Hampshire.

5 Terrain Alteration; Fee Increase. Amend RSA 485-A:17, II to read as follows:

II. The department shall charge a fee for each review of plans, including project inspections, required under this section. The fee shall be based on the extent of contiguous area to be disturbed. Except for RSA 483-B:9, the fee for plans encompassing an area of at least 100,000 square feet but less than 200,000 square feet shall be [~~$100~~] ***$500***. For the purposes of RSA 483-B:9, the fee for plans encompassing an area of at least 50,000 square feet but less than 200,000 square feet shall be [~~$100~~] ***$500***. An additional fee of [~~$100~~] ***$200*** shall be assessed for each additional area of up to 100,000 square feet to be disturbed. No permit shall be issued by the department until the fee required by this paragraph is paid. All fees required under this paragraph shall be paid when plans are submitted for review and shall be deposited in the treasury as unrestricted funds.

6 Positions Established; Civil Engineer V and Civil Engineer IV. There are created within the department of environmental services the classified, full-time positions of civil engineer V, at labor grade 30, and civil engineer IV at labor grade 27 which shall be under the direction of the commissioner under RSA 485-A:30, I-a. The employees in these positions shall be responsible for duties relative to RSA 485-A:17 and for multi-program permitting.

7 Appropriation. The sum of $131,000 is hereby appropriated to the department of environmental services for the fiscal year ending June 30, 2004, and the sum of $131,000 is hereby appropriated to the department of environmental services for the fiscal year ending June 30, 2005, for the purposes of funding salary, benefits, current expenses, and equipment for the civil engineer V and civil engineer IV positions established in section 5 of this act. These sums are in addition to any other funds appropriated to the department of environmental services. The governor is authorized to draw a warrant for said sums out of any money in the treasury not otherwise appropriated.

8 Effective Date.

I. Section 3 of this act shall take effect July 1, 2006.

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

LBAO
03-0852
Revised 2/4/03

HB 810 FISCAL NOTE

AN ACT relative to processing excavating and dredging and terrain alteration permits, changing the fees for permits, establishing 2 new positions, and making an appropriation therefor.

FISCAL IMPACT:

The Department of Environmental Services has determined this bill will increase state general fund revenues by $150,000 in FY 2004 and each year thereafter. State general fund expenditures will increase by $130,767 in FY 2004, $136,163 in FY 2005, $141,653 in FY 2006 and by $147,784 in FY 2007. State restricted revenue will increase by $498,000 in FY 2004 and each year thereafter. State restricted expenditures will increase by $75,000 in FY 2004 and each year thereafter. County expenditures will increase by $1,500 in FY 2004 and each year thereafter. Local expenditures will increase by $41,000 in FY 2004 and each year thereafter. There will be no fiscal impact on county and local revenue.

This bill appropriates $131,000 in FY 2004 and $131,000 in FY 2005 from the general fund to the Department of Environmental Services.

METHODOLOGY:

The Department stated this bill has two components: one relating to Terrain Alternations Permits and the other Excavating and Dredging Permits. The fiscal note is presented in that format. The explanation, assumptions and calculations are listed below.

Terrain Alteration - Costs will be incurred by the creation of classified, full-time positions of Civil Engineer V at labor grade 30 and Civil Engineer IV at labor grade 27. Additional revenue will be generated by an increase in permit application fees. An estimate of the number of applications received per year and the average permit fee per application was determined based upon an average obtained from calendar years 1998 through 2001. Terrain Alteration revenue and expenditure calculations are as follows:

State Revenue (general fund):

$500/permit application fee (avg. fee increase) x 300 applications = $150,000 (each FY)

State Expenditure (general fund):

Civil Engineer IV (labor grade 27) $41,165 + $15,231 ($41,165 x 37% benefit rate) = $56,396 + $500 (current expense) + $2,207 (office space rent) + $900 (travel) + $1,400 (equipment) = $61,404

Civil Engineer V (labor grade 30) $46,976 + $17,381 ($46,976 x 37% benefit rate) = $64,357 + $500 (current expense) + $2,207 (office space rent) + $900 (travel) + $1,400 (equipment) = $69,364

FY 2004 = $130,767 state expenditures for both positions

FY 2005 = $136,163 includes labor grade step increase

FY 2006 = $141,653 includes labor grade step increase

FY 2007 = $147,784 includes labor grade step increase

County Expenditure:

3 applications per year x $500 = $1,500 (each FY)

Local Expenditure:

37 applications per year x $500 = $18,500 (each FY)

Excavating and Dredging Permits - Additional FY 2004 costs will be incurred by municipal governments who submit applications for wetland permits. The estimate is based upon the average number of applications and associated impacts received over the last five years with no change in numbers for FY 2005-2007. The same holds true for other state agencies that submit applications. The additional FY 2004 revenue estimate is based upon the average number of permit applications and associated impacts received over the last five years with no change in the number of applications for FY 2005-2007.

Excavating and Dredging Permit Revenue and Expenditure calculations are as follows:

State Revenue (restricted):

Boat Slips = (360 avg. SF/dock x $2SF x 1 dock/2 slips x 300 slips) – (300 slips x $100/slip) = $108,000 - $30,000 = $78,000

All other projects: $0.06/SF (fee increase) x 7,000,000 SF (avg. annual impact): $420,000

Total Revenue Increase: $498,000 (each FY)

State Expenditures (restricted):

Other state agencies submitting applications = 250 applications x 5,000 SF/application x $0.06/SF (fee increase) = $75,000 (each FY)

Local Expenditure:

Municipalities submitting applications = 150 applications x 2,500 SF/application x $0.06 (fee increase) = $22,500 (each FY)

LBAO
03-0852
Amended 3/18/03

HB 810 FISCAL NOTE

AN ACT relative to processing excavating and dredging and terrain alteration permits, changing the fees for permits, establishing 2 new positions, and making an appropriation therefor.

FISCAL IMPACT:

The Department of Environmental Services has determined this bill, as amended by the House (**House Amendment #2003-0560h**), will increase state general fund revenues by $150,000 in FY 2004 and each year thereafter. State general fund expenditures will increase by $130,767 in FY 2004, $136,163 in FY 2005, $141,653 in FY 2006 and by $147,784 in FY 2007. State restricted revenue will increase by $474,000 in FY 2004 through FY 2006 and by $194,000 in FY 2007 and each year thereafter. State restricted expenditures will increase by $75,000 in FY 2004 through FY 2006 and by $25,000 in FY 2007 and each year thereafter. County expenditures will increase by $1,500 in FY 2004 and each year thereafter. Local expenditures will increase by $41,000 in FY 2004 through FY 2006 and by $26,000 in FY 2007 and each year thereafter. There will be no fiscal impact on county and local revenue.

This bill appropriates $131,000 in FY 2004 and $131,000 in FY 2005 from the general fund to the Department of Environmental Services.

METHODOLOGY:

The Department stated this bill has two components: one relating to Terrain Alternations Permits and the other Excavating and Dredging Permits. The fiscal note is presented in that format. The explanation, assumptions and calculations are listed below.

Terrain Alteration - Costs will be incurred by the creation of classified, full-time positions of Civil Engineer V at labor grade 30 and Civil Engineer IV at labor grade 27. Additional revenue will be generated by an increase in permit application fees. An estimate of the number of applications received per year and the average permit fee per application was determined based upon an average obtained from calendar years 1998 through 2001. Terrain Alteration revenue and expenditure calculations are as follows:

State Revenue (general fund):

$500/permit application fee (avg. fee increase) x 300 applications = $150,000 (each FY)

State Expenditure (general fund):

Civil Engineer IV (labor grade 27) $41;165 + $15,231 ($41,165 x 37% benefit rate) = $56,396 + $500 (current expense) + $2,207 (office space rent) + $900 (travel) + $1,400 (equipment) = $61,404

Civil Engineer V (labor grade 30) $46,976 + $17,381 ($46,976 x 37% benefit rate) = $64,357 + $500 (current expense) + $2,207 (office space rent) + $900 (travel) + $1,400 (equipment) = $69,364

FY 2004 = $130,767 state expenditures for both positions

FY 2005 = $136,163 includes labor grade step increase

FY 2006 = $141,653 includes labor grade step increase

FY 2007 = $147,784 includes labor grade step increase

County Expenditure:

3 applications per year x $500 = $1,500 (each FY)

Local Expenditure:

37 applications per year x $500 = $18,500 (each FY)

Excavating and Dredging Permits - Additional FY 2004 costs will be incurred by municipal governments who submit applications for wetland permits. The estimate is based upon the average number of applications and associated impacts received over the last five years with no change in numbers for FY 2005-2007. The same holds true for other state agencies that submit applications. The additional FY 2004 revenue estimate is based upon the average number of permit applications and associated impacts received over the last five years with no change in the number of applications for FY 2005-2007.

Excavating and Dredging Permit Revenue and Expenditure calculations are as follows:

State Revenue (restricted):

Minimum impact projects: (600 average # of applications) x ($50 fee increase) = $30,000

Boat Slips = (360 avg. SF/dock x $1SF x 1 dock/2 slips x 300 slips) – (300 slips x $100/slip) = $54,000 - $30,000 = $24,000

All other projects: $0.06/SF (fee increase) x 7,000,000 SF (avg. annual impact): $420,000 FY 2004, FY 2005 and FY 2006

$0.02/SF (fee increase) x 7,000,000 SF = $140,000 FY 2007

Total Revenue Increase: $474,000 (each FY)

State Expenditures (restricted):

Other state agencies submitting applications = 250 applications x 5,000 SF/application x $0.06/SF (fee increase) = $75,000 FY 2004, FY 2005, FY 2006

250 applications x 5,000 x $0.02/SF = $25,000 FY 2007

Local Expenditure:

Municipalities submitting applications = 150 applications x 2,500 SF/application x $0.06 (fee increase) = $22,500 FY 2004, FY 2005, FY 2006

150 x 2,500 x $0.02/SF = $7,500 FY 2007

Amendments

Rep. C. Christiansen, Hills. 66
March 6, 2003
2003-0560h
06/09

Amendment to HB 810-FN-A

Amend the bill by replacing sections 1 and 2 with the following:

1 New Paragraph; Excavating and Dredging; Certain Exemptions. Amend RSA 482-A:3 by inserting after paragraph XIII the following new paragraph:

XIV. In processing an application for permits under this chapter, except for a permit by notification, the department shall:

(a) Within 14 days of receipt by the department, issue a notice of administrative completeness or send notice to the applicant, the address provided on the application, identifying any additional information required to make the application administratively complete and providing the applicant with the name and telephone number of the department employee who may be contacted regarding the application. Each receipt of additional information in response to any notice shall re-commence the 14-day period until the department issues a notice of administrative completeness.

(b) Within 75 days of the issuance of a notice of administrative completeness for projects where the applicant proposes under one acre of jurisdictional impact and 105 days for all other projects, request any additional information that the department is permitted by law to require to complete its evaluation of the application, together with any written technical comments the department deems necessary. Any request for additional information shall specify that the applicant submit such information as soon as practicable and shall notify the applicant that if the requested information is not received within 120 days of the request, the department shall deny the application.

(c) Where the department requests additional information pursuant to subparagraph (b), the department shall, within 30 days of the department's receipt of the information:

(1) Approve or deny the application, in whole or in part; or

(2) Commence a non-adjudicative proceeding in accordance with this chapter and rules adopted by the commissioner; or

(3) Extend the time for response for good cause and with the written agreement of the applicant.

(d) Where no request for additional information is made pursuant to subparagraph (b), the department shall, within 75 days from the issuance of the notice of administrative completeness, or 105 days if the application proposes more than one acre of jurisdictional impact:

(1) Approve or deny the application, in whole or in part; or

(2) Commence a non-adjudicative proceeding in accordance with this chapter and

rules adopted by the commissioner.

(e) Where the department has commenced a non-adjudicative hearing on an application filed under this chapter, the department shall, within 60 days following the closure of the hearing record, approve or deny the application either in whole or in part.

(f) The time limits prescribed by this paragraph shall supersede any time limits provided in any other provision of law. If the department fails to issue a notice of administrative completeness or render any other decision within the time limits provided in this paragraph, the application shall be deemed to be approved.

(g) The time limits prescribed by this paragraph shall not apply to an application where the applicant has been adjudicated after final appeal, or otherwise does not contest, the department's designation as a chronic non-complier in accordance with rules adopted pursuant to this chapter.

2 Excavating and Dredging Permits; Fee Changes. RSA 482-A:3, I is repealed and reenacted to read as follows:

I. No person shall excavate, remove, fill, dredge or construct any structures in or on any bank, flat, marsh, or swamp in and adjacent to any waters of the state without a permit from the department. The permit application together with a detailed plan and a map showing the exact location of the proposed project, along with 4 copies of the permit application, plan and map, shall be submitted to the town or city clerk, accompanied by a filing fee in the form of a check made out by the applicant to the state of New Hampshire. The permit application fee shall be $100 for minimum impact projects under this chapter. The permit application fee for minor and major shoreline structure projects shall be $100 plus an impact fee, based on the area of dredge, fill, or dock surface area proposed, or a combination.. The shoreline structure impact fee shall be $1 per square foot for permanent dock surface area; $.50 per square foot for seasonal dock surface area; and $.10 per square foot for dredge or fill surface area or both. The permit application fees for minor or major projects shall be $.10 per square foot of proposed impact for all other projects under this chapter. For projects involving the repair, reconstruction, or reconfiguration of an existing docking structure, the application fee shall be $100. At the time the permit application is submitted to the city or town clerk, the applicant shall provide postal receipts or copies, verifying that abutters, as defined in the rules of the department, and except as further provided in said rules, have been notified by certified mail. The postal receipts or copies shall be retained by the municipality. The town or city clerk shall immediately sign the application and forward by certified mail, the application, plan, map and filing fee to the department. The town or city clerk shall then immediately send a copy of the permit application, plan and map to the local governing body, the municipal planning board, if any, and the municipal conservation commission, if any, and may require an administrative fee not to exceed $10 plus the cost of postage by certified mail. One copy shall remain with the city or town clerk, and shall be made reasonably accessible to the public. The foregoing procedure notwithstanding, applications and fees for projects by agencies of the state may be filed directly with the department,

with 4 copies of the application, plan and map filed at the same time with the town or city clerk to be distributed as set forth above.

Amend the bill by inserting after section 2 the following and renumbering the original sections 3-7 to read as 4-8, respectively:

3 Excavating and Dredging Permits; Fee Changes. Amend RSA 482-A:3, I to read as follows:

I. No person shall excavate, remove, fill, dredge or construct any structures in or on any bank, flat, marsh, or swamp in and adjacent to any waters of the state without a permit from the department. The permit application together with a detailed plan and a map showing the exact location of the proposed project, along with 4 copies of the permit application, plan and map, shall be submitted to the town or city clerk, accompanied by a filing fee in the form of a check made out by the applicant to the state of New Hampshire. The permit application fee shall be $100 for minimum impact projects under this chapter. The permit application fee for minor and major shoreline structure projects shall be $100 plus an impact fee, based on the area of dredge, fill, or dock surface area proposed, or a combination. The shoreline structure impact fee shall be $1 per square foot for permanent dock surface area; $.50 per square foot for seasonal dock surface area; and $.10 per square foot for dredge or fill surface area or both. The permit application fees for minor or major projects shall be [~~$.10~~] ***$.06*** per square foot of proposed impact for all other projects under this chapter. For projects involving the repair, reconstruction, or reconfiguration of an existing docking structure, the application fee shall be $100. At the time the permit application is submitted to the city or town clerk, the applicant shall provide postal receipts or copies, verifying that abutters, as defined in the rules of the department, and except as further provided in said rules, have been notified by certified mail. The postal receipts or copies shall be retained by the municipality. The town or city clerk shall immediately sign the application and forward by certified mail, the application, plan, map and filing fee to the department. The town or city clerk shall then immediately send a copy of the permit application, plan and map to the local governing body, the municipal planning board, if any, and the municipal conservation commission, if any, and may require an administrative fee not to exceed $10 plus the cost of postage by certified mail. One copy shall remain with the city or town clerk, and shall be made reasonably accessible to the public. The foregoing procedure notwithstanding, applications and fees for projects by agencies of the state may be filed directly with the department, with 4 copies of the application, plan and map filed at the same time with the town or city clerk to be distributed as set forth above.

Amend the bill by replacing section 8 with the following:

8 Effective Date.

I. Section 3 of this act shall take effect July 1, 2006.

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

2003-0560h

AMENDED ANALYSIS

This bill:

I. Establishes time limits for the department of environmental services to process excavating and dredging permits.

II. Increases fees for certain permits.

III. Requires a report to the wetlands council.

IV. Establishes 2 new civil engineer positions.

V. Makes an appropriation for the new positions.

House Finance
March 31, 2003
2003-1052h
06/09

Amendment to HB 810-FN-A

Amend paragraph II of section 8 of the bill by replacing it with the following:

II. The remainder of this act shall take effect July 1, 2003.

Committee Minutes

Copy

MINUTES
HOUSE COMMITTEE ON FINANCE
DIVISION I - WORK & EXECUTIVE SESSION
March 31, 2003 – Room 209, Legislative Office Building

Division Members Present: Reps. Stone, Holbrook, Wheeler, Anderson, Blanchard, Coes, Johnson, King, Mitchell

Rep. Stone, chairman, called the work session to order at 9:00 am.

Reconvened HB 109 and passed out suggested amendment.

9:15 a.m.
*****HB 671, establishing a contributory defined benefit judicial retirement plan.**

Rep. O'Neil and Rep. Wheeler presented description of the benefits and described both the additional costs and the long term benefits. Discussion followed. Rep. Wheeler moved to adopt and Rep. Holbrook seconded the motion. Passed 9-0 OTP.

9:50 a.m.
*****HB 638, increasing the oil import license fee, changing the rate of interest assessed on overdue oil import fees, and repealing underground storage facility permit fees.**

Amendment for a fee increase, increases inspection capability, and relieves the general fund of any obligation. Suggested effective date of July 1, 2003.

10:00
*****HB 810 FN-A, relative to processing excavating and dredging and terrain alteration permits, changing the fees for permits, establishing 2 new positions, and making an appropriation therefor.**

Fee increases from a $.04 to $.10, establishes 2 new positions, allows the department to get the work done without impact on general fund. There is however an estimated impact on local funds of $22,500 per year. Called an executive session and voted to Pass 9-0.

*****HB638, increasing the oil import license fee, changing the rate of interest assessed on overdue oil import fees, and repealing underground storage facility permit fees.**

Amend to July 1, 2003. OTPA.

*****HB 671, establishing a contributory defined benefit judicial retirement plan.**

Rep. Wheeler moved to OTP and Rep. Holbrook seconded the motion. OTP 9-0.

*****HB 109, (New Title) relative to telemarketing practices.**

Motion by **Rep. King** and seconded by **Rep. Coes** to correct wording in lines 20-24 on Pg. 2 and Pg. 3 lines 15-16. **Rep. Wheeler** moved and **Rep. Coes** seconded to OTP as amended. OTPA.

No other bills before the Committee, Rep. stone adjourned the work session.

Respectfully submitted:

Robert L. Wheeler
Clerk for Division I

State of New Hampshire

HOUSE OF REPRESENTATIVES

CONCORD

April 18, 2003

34 Harrison Avenue
Portsmouth NH 03801-5768
(603) 436-7008

Richard H. Clough, CAE
Executive Director
Granite State Designers and Installers Association
76 South State Street
Concord 03301-3520

RE: HB 810, relative to processing excavating and dredging and terrain alteration permits, changing the fees for permits, establishing two new positions, and making an appropriation therefor

Dear Mr. Clough:

Please accept my apology for misstating your position on HB 810 in the "blurb" that I wrote and that appeared in House Calendar No. 31. I did review the previous reports by Representative Harry Merrow of the Resources, Recreation and Development Committee (House Calendar No. 19) and Representative Kevin Camm of the Ways and Means Committee (House Calendar No. 25).

For your information, I am enclosing a copy of a letter sent to the House Finance Committee from the Department of Environmental Services dated March 31, 2003, regarding HB 810. In that letter, Acting Commissioner Monaco says that the Department "...worked on the bill language with members of the ... Granite State Designers and Installers Association (GSDI) ...". I presumed that implied GSDI's support.

Again, I am very sorry if I misstated your position on this matter.

Sincerely,

Mary Ann Blanchard

Rep. MaryAnn Blanchard co
Rockingham County, District 86

MB:co
Enclosure: DES Letter re: HB 810 dated 3/31/03

cc: Hon. Neal M. Kurk, Chairman, House Finance Committee
Hon. Harry Merrow
Hon. Kevin Camm
Hon. Joseph E. Stone, Chairman, Finance Committee, Division I

NHDES

DEPARTMENT OF ENVIRONMENTAL SERVICES
6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095
(603) 271-3503 FAX (603) 271-2982

March 31, 2003

The Honorable Joseph E. Stone, Chairman
House Finance, Division I
Room 209, Legislative Office Building
Concord, NH 03301

Subject: HB 810, relative to processing excavating and dredging and alteration of terrain permits, changing the fee for permits, establishing two new positions, and making an appropriation therefor.

Dear Chairman Major:

Thank you for the opportunity to comment on HB 810, which proposes mandatory time frames and a new fee structure for the review of wetlands applications. It also establishes a new fee structure to support two new positions for review of terrain alteration applications. The Department of Environmental Services (DES) supports this bill. Statutory time frames for application processing ensure the predictability that the regulated community needs. The proposed application fee increases provide the long-term financial support necessary to stabilize DES staff funding. These funding levels will ensure that we can consistently deliver quality reviews and decisions, while developing continued improvements in the delivery of services to the regulated community.

We worked on the bill language with members of the New Hampshire Marine Trades Association (MTA), Granite State Designers and Installers Association (GSDI), New Hampshire Association of General Contractors (AGC), New Hampshire Association of Natural Resource Scientists (NHANRS) and New Hampshire Association of Conservation Commissions (NHACC).

Timeliness has been a chronic concern with wetlands program application reviews and permitting. DES recognizes this concern and, over the last few years, has made significant program process and organization improvements to address this issue while maintaining the appropriate level of environmental protection. Some significant program improvements are summarized in Attachment 1. For example, we have begun the rulemaking process that would greatly expand the permit by notification procedure to many more projects such as the installation of culverts and utility lines for single-family residential lots, installation of dry hydrants, and maintenance of existing culverts, swales, and ditches, and maintenance of existing structures such as docks, beaches, walls, riprap slopes and bridges. Permit by notification both streamlines small project permitting and allows DES staff to focus on the larger, more significant projects. We also are actively engaged in the process of completing compensatory mitigation rules, which will serve to facilitate wetlands permit application processing by establishing a common understanding of the criteria for this program. DES will continue to develop other new approaches to promote a more efficient and effective wetlands program such as working towards integrated electronic permitting ("e-permitting") in the Land Resources Management Program.

However, in the long term, improvements will only continue if we can stabilize funding to support the current full staffing level while we invest in other improvements.

Organization changes have also had a direct positive impact on Wetlands Bureau operations. In 2002, Collis Adams became Wetlands Bureau Administrator and has had an immediate positive impact. Previously, we had placed the programs that regulate development projects under a common manager, Rene Pelletier, in the Land Resources Management Program to improve coordination of development permitting activities. In addition, four senior level technical staff positions were added using funding from the wetlands fee account, although one has been left vacant this fiscal year due to inadequate funding.

Process and organization changes have resulted in improvement in program performance and consistency. Attachment 2 illustrates the total applications ("new" and "second reviews") in queue at the beginning of each of the last nineteen months (July 2001 to January 2003) and the age of applications-in-queue at the beginning of each of those same months. This shows that significant improvements in turnaround time have occurred and been stabilized, even with 3 to 5 staff vacancies during this period. We are confident that the size and age of the application review queue will continue to improve over the course of 2003 while maintaining review quality, if HB 810 becomes law.

Attachment 3 provides a summary of the wetlands fee account revenues, expenses and fund balance projected through the end of State FY 2003. The current in-house staffing levels, which are less than full staff by 4 positions, can only be supported by the current wetlands fee account through the end of the current fiscal year. As shown, the account balance on June 30, 2002 was less than $100,000 for the first time since the fund's inception, and the balance is also projected to be under $100,000 at the end of SFY 2003. The usual expected annual permit fee revenues of about $326,000 cannot meet current staff expenses. The wetlands fee account revenues and expenses will only be balanced this year due to several unusually large fines which were paid. Fine revenue is unpredictable as it depends on compliance actions related to wetlands violations and is strongly not preferred by DES as a funding source due to the negative perception caused by dependence on fine income to support staff. Without fee increases, additional staff reductions will be required if the fee account is drawn down to below zero in SFY 2004.

If HB 810 is passed, the fee increase will enable the Bureau to be fully staffed and will stabilize staffing levels for the foreseeable future to maintain and improve wetlands program performance. Governor Benson's proposed budget for the Wetlands Fee Account is $978,010 in SFY 2004 and $1,005,951 in SFY 2005, assuming full program staffing. The proposed fees are designed to raise approximately $854,000 in revenues based upon the latest five-year average permit activity (see Fiscal Note).

HB 810 also proposes to increase the permit fees for the significant alteration of terrain ("site specific") program, which permits large development sites that require erosion control and stormwater management, to improve service by supporting additional staffing. As presented on Attachment 4, this program's workload has steadily increased over the last ten years, while the

application review staff has remained constant at two civil engineers, one of whom also has other supervisory, compliance and outreach responsibilities. The current fee schedule was established in 1990. Over the last year, DES has regularly temporarily transferred personnel into this program from other programs when application review times have grown to unacceptable levels. For example, in 2002, for three months, we temporarily transferred, on a full-time basis, a civil engineer from the Dam Bureau with the necessary technical expertise in hydrology and site development. While the site specific application review queues were reduced as a result of this reassignment, it caused negative impacts on our dam programs, including delays in dam inspections. In the long term, these types of transfers are risky for the state because other critical public safety and environmental functions are left unattended. Consequently, we propose to use the fee increase to support two additional engineering positions to ensure timely reviews of all projects in this program. These positions will also support our long-term efforts to better coordinate and integrate all DES programs that permit development in New Hampshire. The proposed fee increase is from $100 to $500 for the first 199,000 square feet of impact and to $200 per 100,000 square feet of additional impacts. The estimated additional fee revenues of $150,000 are projected to exceed the required costs for the two new staff and to provide a small surplus to the state general fund.

Thank you again for this opportunity to comment on HB 810. Please do not hesitate to call either me at 271-3503, or Rene Pelletier at 271-2951, if you have any questions or need additional information.

Very truly yours,

Robert Monaco
Acting Commissioner

cc: Reps. Dickinson, Babson, Spang, Phinizy, R. Cooney
Sens. Gallus, Kenney

ATTACHMENT 1
OTHER SIGNIFICANT WETLANDS PROGRAM IMPROVEMENTS (1999-2002)

Lake Winnipesaukee "Breakwater" Rule: This new rule established specific locations on a map where breakwaters are allowed due to the reach of exposure to wind and wave action, and provides clear criteria on when breakwaters might be allowed in other areas. This has significantly simplified the analysis of these proposals by applicants and DES, and has streamlined the approval process by both DES and the Executive Council.

Merger of Shoreland Protection and Shoreline Structures Programs: This merger combined with the assignment of additional resources to the Shoreline Subsection improved the effectiveness of both programs in addressing permit applications, community outreach, and compliance. During boating season, DES personnel from this program are now present on the Lake Winnipesaukee during the summer months for compliance inspections and technical assistance on both the Shoreland Protection and Shoreline Structures Program requirements.

Forestry compliance and outreach: The Wetlands Bureau has been working closely with DRED Forest Rangers. Over the last two years, the Bureau has been involved in more than 24 workshops reaching more than 500 loggers and solved numerous problems in the field.

Existing Permit by notification rules: New rules were developed that allowed applicants to construct minimum impact seasonal docks and exploratory drilling for municipal wells and geotechnical exploration for public projects, as soon as required town signatures are obtained and the notification has been submitted to DES, instead of waiting for a full permit application review by DES.

Proposed rules on permit by notification for routine highway and railway maintenance: Formal rulemaking has been initiated to allow routine culvert and maintenance work to commence upon notification, provided NHDOT's *Best Management Practices for Routine Roadway Maintenance Activities in New Hampshire* are followed. These proposed rules are applicable to DOT, town road agents, private roads, and railroads.

Other Permit by Notification Rules: DES is in the process of completing and filing other permit by notification rules for projects such as repair or replacement of retaining walls, docking structures, culverts, dredges, rip-rap slopes, maintenance dredging, replenishment of beaches and access to residential building lots.

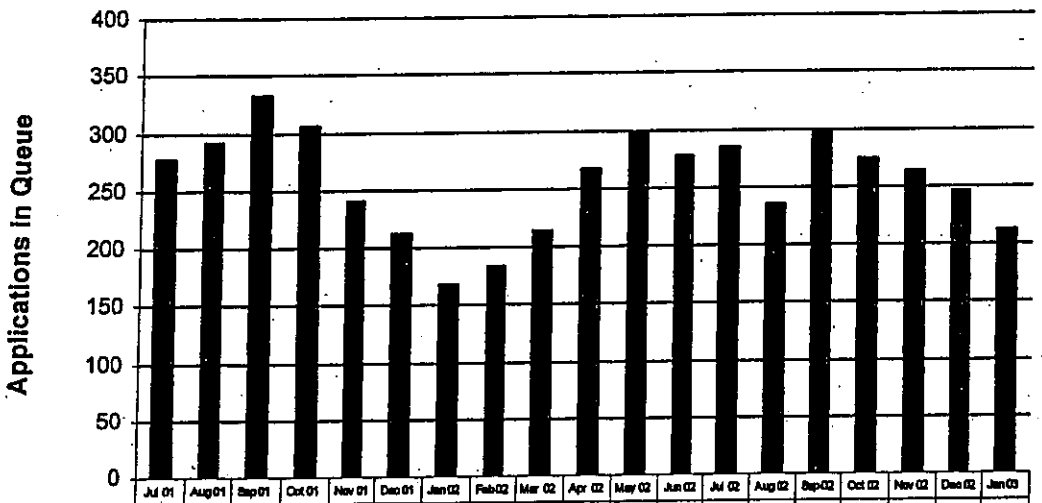
Proposed "Lifetime Maintenance" Rules: DES has initiated rulemaking that would allow maintenance of documented legal structures, for as long as the structure stays under the same ownership, without needing a new permit for each maintenance event.

Wetlands Mitigation Banking Study and Draft Compensatory Rules: DES has funded a study by the North Country Council on the feasibility of wetlands mitigation banking and will encourage this approach on a statewide level. Over the long term, these initiatives are expected to both streamline permitting and improve New Hampshire's overall approach to wetlands mitigation projects. DES has also developed a set of draft mitigation rules that will completely clarify mitigation requirements for projects with significant wetlands and continues to discuss this proposal with outside stakeholders.

e-Business and Database Improvements: Permit application status can now checked on-line. A new database link has been established with the Natural Heritage Inventory program at DRED. This allows DES to cross reference permit application locations with known areas of RTE species or exemplary natural communities. This eliminates a step in the permitting process for applicants.

Department Liaisons Established for NHDOT and NH F&G Projects: DES has established a liaison to work with NH F&G on projects involving access to public waters. This has resulted in a consolidated and expedited review and approval process involving all regulatory programs within DES. DES also has established a position dedicated to NHDOT permit applications resulting in greater coordination, improved review process, and expedited approvals for public transportation projects, particularly for routine road maintenance and improvements.

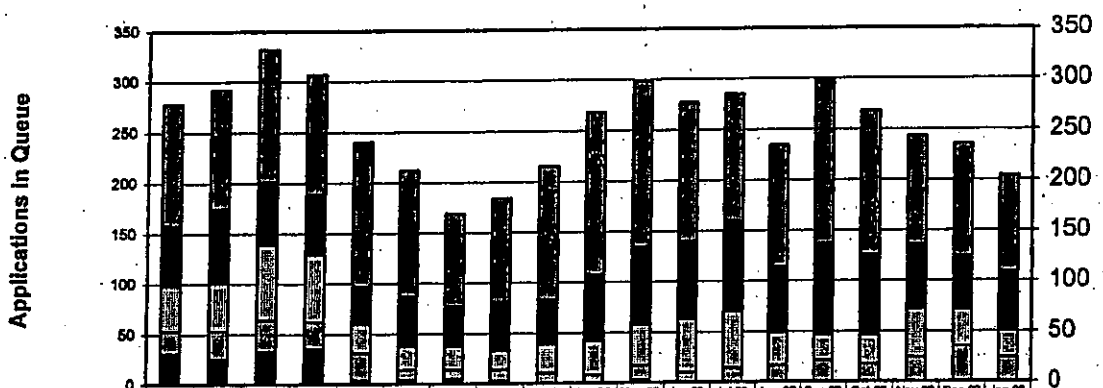
Wetlands Bureau, Permitting Section
Total Review Queue, by Month



	Jul 01	Aug 01	Sep 01	Oct 01	Nov 01	Dec 01	Jan 02	Feb 02	Mar 02	Apr 02	May 02	Jun 02	Jul 02	Aug 02	Sep 02	Oct 02	Nov 02	Dec 02	Jan 03
Second Reviews	34	46	70	65	64	60	60	39	39	47	39	42	45	41	43	49	38	39	39
New Applications	244	248	262	242	169	152	119	145	178	221	259	235	239	195	257	226	226	216	174

DATA SHOWN INDICATES REVIEW QUEUE STATUS ON THE FIRST FRIDAY OF EACH MONTH

Wetlands Bureau, Permitting Section
Review Queue Age, by Month

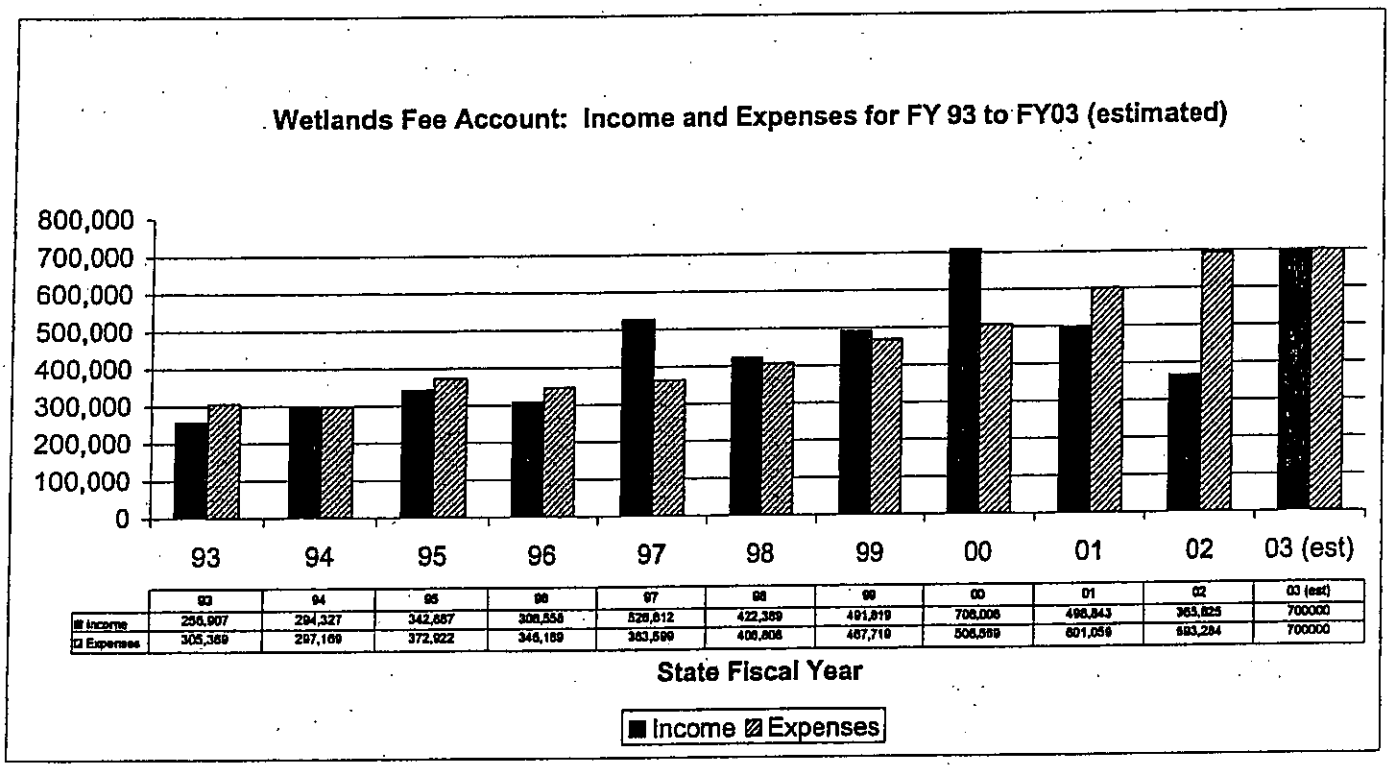


	Jul 01	Aug 01	Sep 01	Oct 01	Nov 01	Dec 01	Jan 02	Feb 02	Mar 02	Apr 02	May 02	Jun 02	Jul 02	Aug 02	Sep 02	Oct 02	Nov 02	Dec 02	Jan 03
0 - 30 days	120	117	131	118	143	128	92	103	132	160	183	137	128	120	162	142	107	111	95
31 - 60 days	80	74	62	80	37	50	40	48	44	66	77	77	90	66	91	80	64	53	58
61 - 90 days	45	48	75	67	29	23	23	19	29	34	41	53	58	33	25	29	46	36	27
91 - 120 days	22	28	31	27	27	10	9	11	10	8	14	10	14	16	21	17	24	35	24
> 120 days	31	25	33	35	4	4	5	3	0	0	3	0	0	0	0	0	0	0	0
Total Files	278	292	332	307	240	212	189	184	215	268	298	277	285	234	299	268	243	235	204

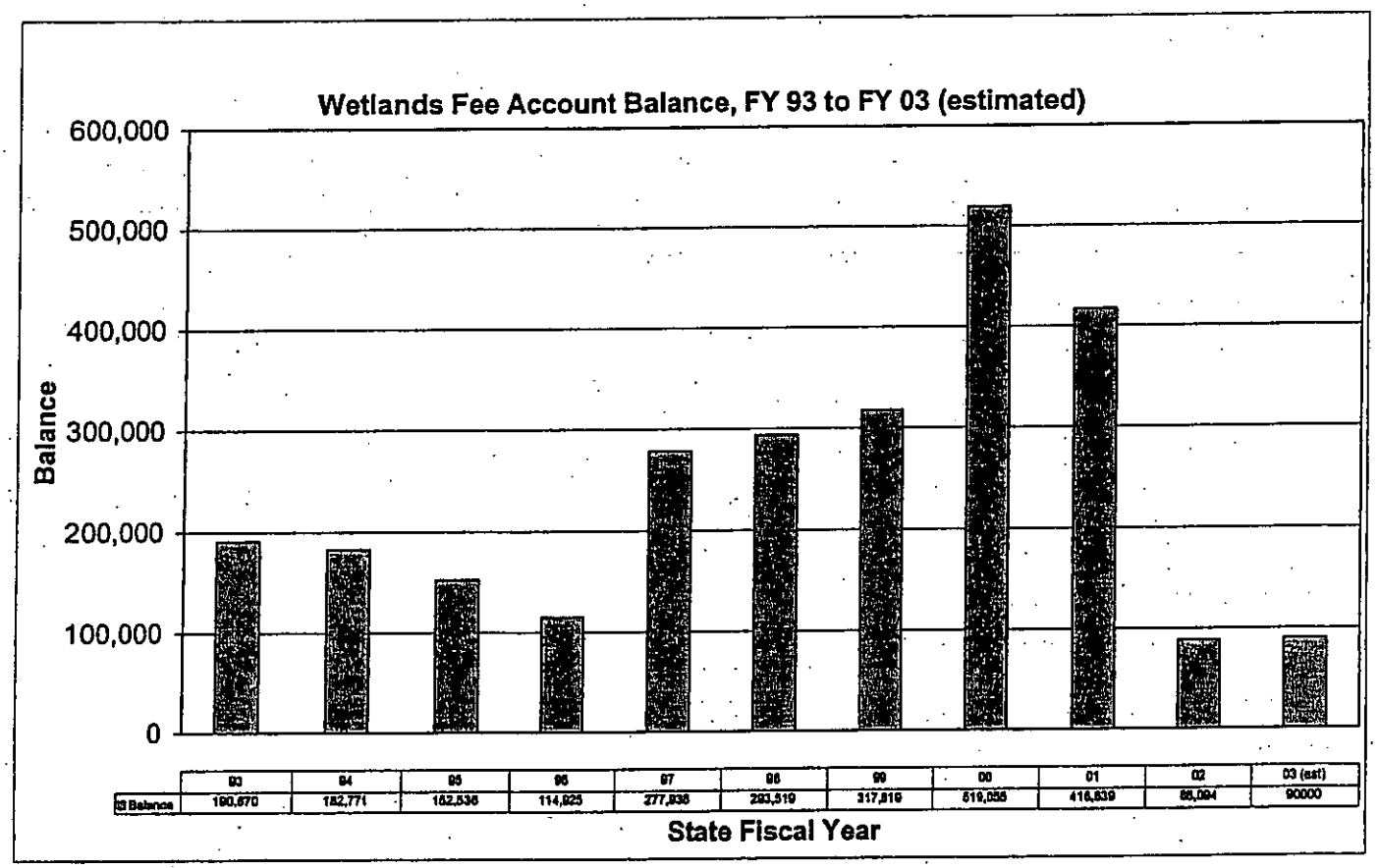
DATA SHOWN INDICATES REVIEW QUEUE AGE STATUS ON THE FIRST FRIDAY OF EACH MONTH

ATTACHMENT 3

WETLANDS FEE ACCOUNT INCOME, EXPENSES AND BALANCE: STATE FY 1993 TO 2003 (Estimated)

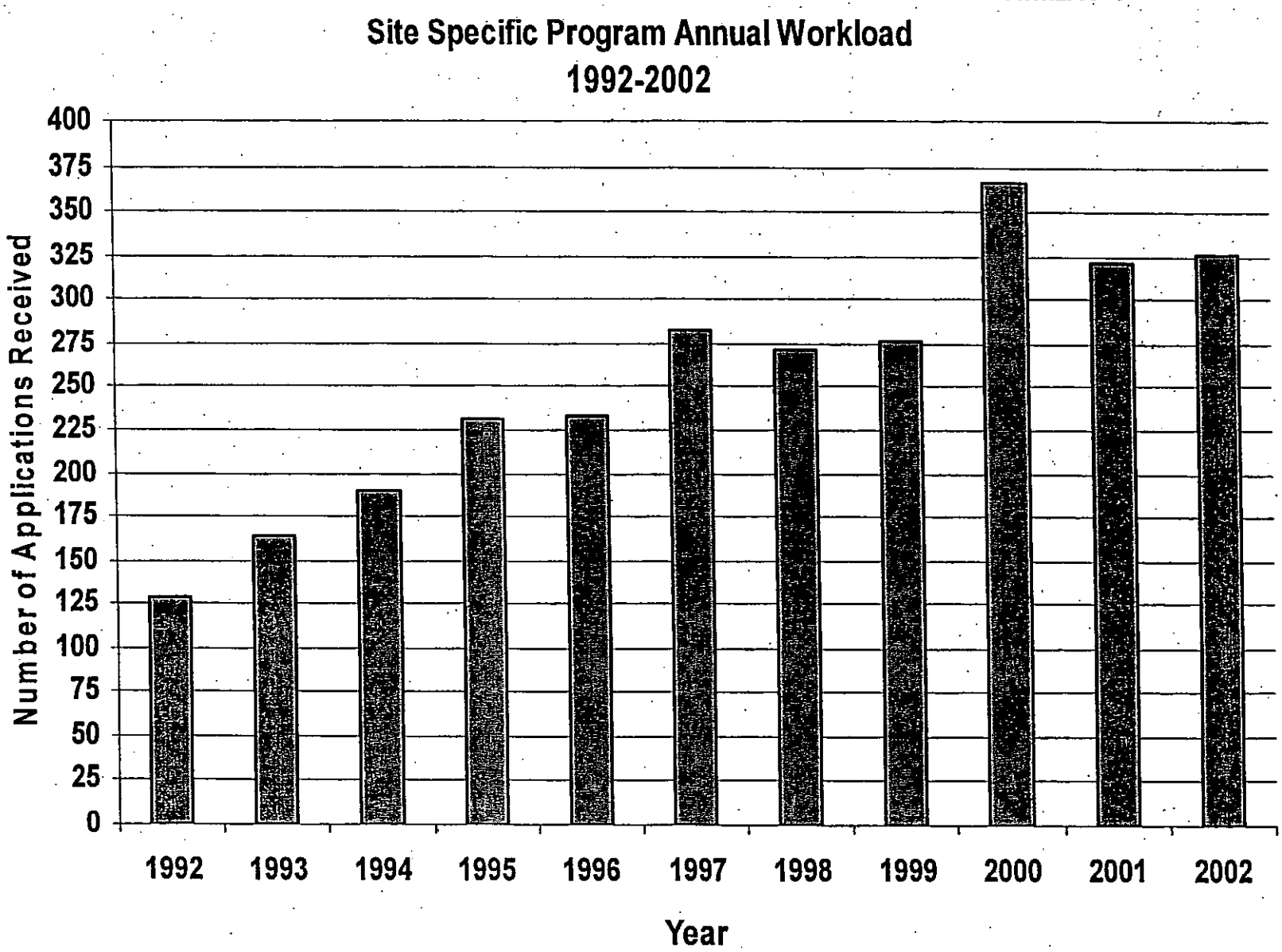


	93	94	95	96	97	98	99	00	01	02	03 (est)
Income	256,907	294,327	342,667	308,558	528,612	422,389	491,819	706,006	498,843	393,825	700000
Expenses	305,369	297,169	372,922	346,169	383,599	406,808	467,719	506,589	601,059	693,284	700000



	93	94	95	96	97	98	99	00	01	02	03 (est)
Balance	190,670	182,771	152,536	114,925	277,938	293,519	317,819	519,055	416,839	86,094	90000

ATTACHMENT 4



DIVISION I
2003 SESSION

Date: 3/31/03 Bill #: H.B. 810

Bill Title: _____

Amendments

Sponsor: OLS Document #:

Sponsor: OLS Document #:

Sponsor: OLS Document #:

Motions: OTP, OTPA, ITL, TABLE, RETAIN

Motion made by: Blanchard **Seconded by:** Mitchell

	YEAS	NAYS	ABSENT
Stone, Joseph, Chairman	9		
Holbrook, Robert, Vice Chairman	1		
Wheeler, Robert, Clerk	2		
Anderson, Eric	3		
Blanchard, Maryann	4		
Coes, Betsy	5		
Johnson, Robert	6		
King, Fred	7		
Mitchell, McKim	8		
Kurk, Neal			

9 -0

Rep. Robert Wheeler
Division I Clerk

MINUTES
HOUSE COMMITTEE ON FINANCE
EXECUTIVE SESSION – March 31, 2003
Room 210-211, Legislative Office Building

Rep. Kurk, chairman of the committee, called the executive session to order at 1:15 p.m.

Members Present: Reps. Kurk, Weyler, Holbrook, Robert Johnson, Stone, Anderson, Wendelboe, Hager, Mercer, Emerton, Wheeler, Rodeschin, Rogers Johnson, Elliott, Dodge, King, Wallner, Smith, Blanchard, Coes, Mitchell, Densmore, Eaton

HB 109-FN, (New Title) relative to telemarketing practices.

Motion by **Rep. Wheeler**, seconded by **Rep. Coes** OTP as amended (#1054). Motion passed on a 23-0 roll call vote for the consent calendar.

HB 274-A, making an appropriation for the restoration of the White Island Light Station.

Motion by **Rep. Holbrook**, seconded by **Rep. Coes** to RETAIN the bill. Motion passed on a 23-0 roll call vote.

HB 577-FN-A-L, (New Title) relative to implementing the Help America Vote Act of 2002 and relative to rulemaking by the secretary of state

Amendment #0970h moved by **Rep. Wheeler**, seconded by **Rep. Blanchard.** Roll call vote of OTPA 23-0.

HB 638 FN, increasing the oil import license fee, changing the rate of interest assessed on overdue oil import fees, and repealing underground storage facility permit fees.

Rep. Holbrook moved and **Rep. King** seconded the motion to adopt amendment #1051h. Voice vote – passed. Motion by **Rep. Holbrook** to OTPA with **Rep. King** seconding this motion. Roll call vote 22-1.

HB 671 FN A, establishing a contributory defined benefit judicial retirement plan.

Rep. Wheeler made a motion of OTP and **Rep. Holbrook** seconded this motion. Roll call vote of 22-1 OTP.

HB 810 FN A, relative to processing excavating and dredging and terrain alteration permits, changing the fees for permits, establishing 2 new positions, and making an appropriation therefor.

Rep. Blanchard made a motion to adopt amendment 1052h and **Rep. Mitchell** seconded this motion. Voice vote – Passed. **Rep. Blanchard** moved and **Rep. Mitchell** seconded the motion of OTPA. Roll call vote of 21-1.

HB 619 FN A, expanding opportunities for dropout prevention and dropout recovery and making an appropriation therefor.

Motion by **Rep. Hager** and seconded by **Rep. Weyler** to adopt amendment 1025h. Voice vote – passed. **Rep. Hager** moved to OPTA and **Rep. Weyler** seconded this motion. Roll call vote 22-0.

HB 677 FN, increasing the number of reserved student slots in medical programs, and establishing a loan forgiveness program for physicians who practice in underserved areas, and making an appropriation therefor.

Rep. Hager moved and **Rep. Smith** seconded the motion to OTP. Roll call vote of 22-1.

Rep. Kurk, chairman of the committee, adjourned the executive session at 3:00 p.m.

Respectfully submitted,

Rep. Joseph E. Stone
For the Committee

OFFICE OF THE HOUSE CLERK

2003 SESSION

FINANCE

Bill #: HB 610 **Title:** _____

PH Date: 1 / 1 Exec Session Date: 3 / 31 / 03

Motion: OTP A Amendment #: 1052

MEMBER	YEAS	NAYS
Kurk, Neal M. Chairman	21	
Wevler, Kenneth L. V Chairman	1	
Holbrook, Robert G	2	
Johnson, Robert A	3	
Stone, Joseph E	4	
Anderson, Eric	5	
Wendelboe, Fran	6	
Hager, Elizabeth S	7	
Mercer, Robert S	8	
Emerton, Larry A	9	
Wheeler, Robert L	10	
Rodeschin, Beverly T	11	
Johnson, Rogers J		
Elliott, Larry G		1
Dodge, Robert K	12	
Hunter, Bruce F		
King, Frederick W	13	
Wallner, Mary Jane	14	
Smith, Mariorie K	15	
Blanchard, MaryAnn N	16	
Coes, Betsy A	17	
Mitchell, McKim W	18	
Densmore, Edward D	19	
Eaton, Daniel A	20	
TOTAL VOTE:	21	1

Printed: 1/6/2003

Speakers

SIGN UP SHEET

To Register Opinion If Not Speaking

Bill # HB 810-FN-A Date February 18, 2003

Committee Resources, Recreation + Development

**** Please Print All Information ****

Name	Address	Phone	Representing	(check one) Pro	Con
LEONARD LORD	CAREX ECOSYSTEM SCIENCES 538 CENTRAL AVE, DOVER, NH 03820	603-742-6665	NH ASSOCIATION OF NATURAL RESOURCE SCIENTISTS	✓	
Governor's Office					✓
Senator J. Kenney				✓	
Rudolph Haack	NHDES	271-2303		✓	
Rep Richard Coon	Dist 76			✓	

SIGN UP SHEET

To Register Opinion If Not Speaking

Bill # HB 810 Date 3/18/2003

Committee Ways & Means

** Please Print All Information **

Name	Address	Phone	Representing	(check one) Pro	Con
Rep Paul L. Ballasiof	Ossipee Dist. 6			✓	
Marjory Swope	Concord 224-7811		NH Assn of Conservation Commissions	✓	

Hearing Minutes

HOUSE COMMITTEE ON RESOURCES, RECREATION AND DEVELOPMENT

PUBLIC HEARING ON HB 810-FN-A

BILL TITLE: relative to processing excavating and dredging and terrain alteration permits, changing the fees for permits, establishing 2 new positions, and making an appropriation therefor.

DATE: March 3, 2003

LOB ROOM: 305 **Time Public Hearing Called to Order:** 11:00 A.M.

Time Adjourned: 12:10 P.M.

(please circle if present)

Committee Members: Reps. Royce, Lawton, R. Cooney, D. Fields, Russell, Bruno, D. Christensen, Akins, Camm, Ruffner, Cail, Campbell, C. LaFlamme, Merrow, Wiley, Spang, McEachern, Bleyler, Brueggemann, Donovan and Parkhurst.

Bill Sponsors: Rep. Dickinson, Carr 4; Rep. Babson, Carr 6; Rep. Spang, Straf 72; Rep. Phinizy, Sull 23; Rep. R. Cooney, Rock 76; Sen. Gallus, Dist 1; Sen. Kenney, Dist 3

TESTIMONY

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

Rep. Howard C. Dickinson - Prime sponsor of the bill. Asked by DES to introduce bill. Yields to Mr. Pelletier.

*** Rene Pelletier, NH Department of Environmental Services (DES)** - Bill has two components. First is a 10 cent/ft. increase, second is restructuring dock permits, third is terrain alteration fee increase. Will allow system to be fully funded by fees. Reduces turn-around times from 80 days to 30.

Gary Abbott, Associated General Contractors - Opposes the bill as written. Thinks 150% fee increase is too much. Needs a sunset provision. Association will work with subcommittee.

Chairman Royce: What do you think is a fair increase? ANS: It depends on efficiency of department.

Rep. Camm: What is you opinion about turnaround time? ANS: Trying to get from 120 days to 90.

Rep. Christensen: How many applications are returned due to incompleteness? ANS: Don't know exactly, but there are several.

Leonard Lord, NH Association of Natural Resource Scientists - Supports the bill. Contractors willing to pay more if the turnaround time improves.

*** Dick Wentzell** - Opposes the bill. Claims DES doesn't need the fee increase. Claims DES is the worst Department in State and doesn't have qualified people.

Marjory Swope, NH Association of Conservation Commission - Supports the bill. Would like to see proposed time limits.

Jim Spaulding, Civil Engineer - Supports the bill. Feels fee increase is nominal and will speed process.

*** Paul Goodwin, Marine Trades** - Supports the bill with amendments.

Christopher Covel, Covel & Associates - Supports the bill. DES needs funding.

Rep. Judith Spang - Supports the bill. Suggests addressing policy issues in interest of time. Send it to Finance.

Rep. Merrow: Shouldn't we wait to see amendment before sending to Finance? ANS: Yes.

Rene Pelletier, DES - Hopes that R.R.& D. has a Subcommittee on this bill.

Chairman Royce: Do you have certified soil scientists? ANS: Yes. (5)

Rep. Parkhurst: NH Certified? ANS: Yes.

Respectfully submitted,

David H. Russell

Rep. David H. Russell
Clerk

HOUSE COMMITTEE ON WAYS AND MEANS

PUBLIC HEARING ON HB 810

BILL TITLE: **relative to processing excavating and dredging and terrain alteration permits, changing the fees for permits, establishing 2 new positions, and making an appropriation therefor.**

DATE: 3/18/2003

LOB ROOM: 202 **Time Public Hearing Called to Order:** 11:20

Time Adjourned: 11:50

(please circle if present)

Committee Members: Reps. Major, J. Gilbert, V. Clark, Hess, Langone, Giuda, Griffin, Gibson, Jasper, Hinkle, Hughes, Ingram, McCormick, Roessner, Camm, Almy, Davis, Espiefs, C. Hamm, Hammond and C. Pappas.

Bill Sponsors:

TESTIMONY

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

MARCH 18, 2003

HB 810, relative to processing excavating and dredging and terrain alteration permits, changing the fees for permits, establishing 2 new positions, and making an appropriation therefor.

Chairman Major opened the public hearing on this bill at 11:20 a.m. and called attention to the fact that this committee is addressing only the revenue aspects of the bill. He then recognized Rep. Kevin Camm, representing the Resources and Recreation committee, to bring us up to date on the bill. Rep. Camm said that the bill establishes timeframes relative to application proceedures, and includes fee increases that run as high as 500% of previous fee levels.

No questions.

The chair next recognized James Gove, of Gove Environmental Services, who spoke in support of the bill. He said that as a consultant, he has polled his clients with respect to their feelings about the fee increases, and they are uniform in not objecting to them. They think that if the fees are necessary in order to get action on their applications in a timely manner, they are quite willing to pay them.

QUESTIONS:
Rep. Hammond: How will this impact the small contractor or job?
Ans.: It won't affect them at all.

No further questions.

The chair next recognized Jim Spaulding, an independent contractor who also supports the bill. He said that a $500 fee in exchange for a two or three month time improvement is quite acceptable.

No questions.

The chair next recognized Lawrence Morse, of NH Soil Consultants Inc., who agreed with the previous speakers that the increase in fees contained in the bill is insignificant compared to the carrying costs saved by the reduction in turnaround time for permits.

No questions.

The chair next recognized Frank Catapano, of Newbury Development, also in support of the bill. He said that a project can have $30,000 per month in carrying costs, and the fees are minimal for saving what could be five or more months of waiting for permits.

No questions.

The chair next recognized Gary Abbott, of the Association of General Contractors, who said that they opposed a similar bill last year but support this one. The difference is that this bill significantly reduces timelines for permitting. He said that a current permit for a one-acre site will go from $1700 to $4300 dollars, which is not insignificant; but having a statutory requirement for the timeframes is worth it. There is something quantifiable in the law. The bill includes a rollback of the fee, so that if an assessment of the performance indicates that the Department is not fullfilling its obligation, the additional fee will be reduced. He thinks that's a good "carrot". He hopes that the committee will support the bill.

QUESTIONS:
Rep. Camm: Have you reviewed the fiscal note for this bill?
Ans.: No, I have not.

No further questions.

The chair next recognized Tim Boyd, from the Crotched Mountain Ski Area, who said that he supports the bill even though he doesn't like increasing fees for anything. He said this is not just smart government, it's smart business. Other states don't have specific guidelines, and he thinks that can sometimes be a deal-killer.

No questions.

The chair then recognized Christopher Covel, of Covel and Associates LLc, who said that he supports this bill because it provides additional staff that the Resources Department needs. He said that he works for many municipalities, and they have also experienced carrying costs associated with delays in permitting. He provided a letter of support for the file.

No questions.

The chair next recognized Michael Landry, of Dorchester Sand and Stone Company, who said that he came to oppose the bill because he carries costs of his projects himself. However, the testimony of previous individuals, with respect to statutory faster turnaround and the prospective rollback if improvements do not occur, have made him change his mind.

No questions.

The chair next recognized Dick Wentzell, from Newport NH, who said that there is already an obligation for fast turnaround of permits, and that they don't need more personnel. He opposes the bill, and thinks that it may be illegal to increase fees more than 125%.

No questions.

The chair next recognized Harry Stewart, of NHDES, speaking in support of the bill. He said that they have made significant improvements in their proceedures in the recent past but need additional funds to continue. It has been a few unusually high fines that have provided enough funding to do what they have so far. He provided a written copy of his testimony for the file.

QUESTIONS:
Rep. Jasper: Can you explain why the fiscal note indicates an increase in local expenses?
Ans.: I'm not sure about that, I'll have to get back to you.

Rep. Camm: How many personnel will you have?
Ans: There are 13 positions in the fee account, but 4 of them are currently vacant. There are 35 full time and 14 part time, in total, in the wetlands department. They are not all involved in permitting.

Rep. Almy: Does this dedicated fund have an automatic lapse to the general fund if it goes above a set level?
Ans: No, it does not.

No further questions.

There being no further testimony offered, the public hearing on HB 810 was closed at 11:50 a.m.

Respectfully submitted,

Rep. Vivian R. Clark,
Committee Clerk

Sub-Committee Actions

HOUSE COMMITTEE ON RESOURCES, RECREATION AND DEVELOPMENT

SUBCOMMITTEE WORK SESSION ON HB 810-FN-A

BILL TITLE: relative to processing excavating and dredging and terrain alteration permits, changing the fees for permits, establishing 2 new positions, and making an appropriation therefor.

DATE: 3/4/03 & 3/5/03

Subcommittee Members: Reps. Christensen, LaFlamme, Camm, & Merrow

Comments and Recommendations:

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. Christensen

Seconded by Rep. Camm

Vote: 2-1

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

Moved by Rep. Christensen

Seconded by Rep. Camm

Vote: 2-1

Respectfully submitted,

Rep. Harry C. Merrow
Subcommittee Chairman/Clerk

HOUSE COMMITTEE ON RESOURCES, RECREATION AND DEVELOPMENT

SUBCOMMITTEE WORK SESSION ON HB 810-FN-A

BILL TITLE: relative to processing excavating and dredging and terrain alteration permits, changing the fees for permits, establishing 2 new positions, and making an appropriation therefor.

DATE: 3/4/03 @ 3:15 pm. 3/5/03 @ 2:30

Subcommittee Members: Reps. Christensen, Laflamme, Camm, & Merrow

Comments and Recommendations: - (A) Pgm II-I Change app. fee to $4. — on II Change $8 to $4 (B) Amend 4 (II) Terrain Alteration Fee — Change both $500 fees to $250 (C) Eliminate 1 Pos and keep Civil Eng V and change $131,000 to $66,000

Finally amend to leave except change $10 to $4 of all Senate enactments next as originally amended

Amendments:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

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

Moved by Rep. Christensen

Seconded by Rep. Camm.

Vote: 2-1

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

Moved by Rep. Christensen

Seconded by Rep. Camm.

Vote: 2-1

Respectfully submitted,

Rep.
Subcommittee Chairman/Clerk

State of New Hampshire

HOUSE OF REPRESENTATIVES

3/4/03. CONCORD
Subcommittee 3:15 PM.

Sessions 810

Time Frames

① Jeffery Meyers AGC Agency
Discussed Time Frames --

② Penny Pelletier - ~~Exposito~~. DES
More Discussion of Time Frames Acceptable

③ Gary Abbott -- Lobbyist - Industry

Fees

① Paul Goodwin -
Discussion of Docks & Fees.

~~Hi Loop~~

After much discussion on fees - voted to change to $8 + drop to 6¢ rather than $8 + 10¢ - unanimous vote.

See sheet for other Amendments

Adjourn 5:05 PM

State of New Hampshire

HOUSE OF REPRESENTATIVES

CONCORD

4PM

S/OFA Subt.—

Voted on amendment.

Passed 2-1

Voted on Bill

Passed Sub vote 2.

Adjourn 4:10

Clean copy as amended

HB 810-FN-A – AS AMENDED 3/04/03
2003 SESSION
03-0852
06/10
HOUSE BILL ***810-FN-A***
AN ACT relative to processing excavating and dredging and terrain alteration permits, changing the fees for permits, establishing 2 new positions, and making an appropriation therefor.
SPONSORS: Rep. Dickinson, Carr 4; Rep. Babson, Carr 6; Rep. Spang, Straf 72; Rep. Phinizy, Sull 23; Rep. R. Cooney, Rock 76; Sen. Gallus, Dist 1; Sen. Kenney, Dist 3
COMMITTEE: Resources, Recreation and Development

ANALYSIS
This bill:
I. Establishes time limits for the department of environmental to process excavating and dredging permits.
II. Increases fees for certain permits.
III. Requires a report to the wetlands council.
IV. Establishes 2 new civil engineer positions.
V. Makes an appropriation for the new positions.

03-0852
06/10
STATE OF NEW HAMPSHIRE
In the Year of Our Lord Two Thousand Three
AN ACT relative to processing excavating and dredging and terrain alteration permits, changing the fees for permits, establishing 2 new positions, and making an appropriation therefor.

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

1 New Paragraph; Excavating and Dredging; Certain Exemptions. Amend RSA 482-A:3 by inserting after paragraph XIII the following new paragraph:

XIV. In processing an application for permits under this chapter, except for a permit by notification, the department shall:

(a) Within 14 days of receipt by the DES, issue a notice of administrative completeness or send notice to the applicant at the address provided on the application identifying any additional information required to deem the application administratively complete and provide the applicant with of the name, and telephone number of a the department employee who may be contacted regarding the application. The receipt of additional information in response to any notice shall re-commence a 14-day period until the Department issues a notice of administrative completeness.

(b) Within 75 days of the issuance of the notice of administrative completeness for projects where the applicant proposes under one acre of jurisdictional impact and 105 days for all other projects, request any additional information that the

department is permitted by law to require to complete its evaluation the application. together with any written technical comments the Department deems necessary. Any request for additional information shall specify that the applicant submit such information as soon as practicable and shall notify the applicant that if the requested information is not received within 120 days of the request. the Department shall deny the application.

(c) Where the department requests additional information pursuant to subparagraph (b). the department shall. within 30 days of the department's receipt of information:

(1) Approve or deny the application. in whole or in part: or

(2) Commence an non-adjudicative proceeding in accordance with this chapter rules adopted by the commissioner: or

(3) Extend the time for response for good cause and with the written agreement of the applicant

(d) Where no request for additional information is made pursuant to subparagraph (b). the department shall. within 75 days from the issuance of the notice of administrative completeness or105 days if the application proposes more than one acre of jurisdictional impact:

(1) Approve or deny the application. in whole or in part: or

(2) Commence a non-adjudicatory proceeding in accordance with this chapter and rules adopted by the commissioner.

(e) Where the department has commenced a non-adjudicatory hearing on an application filed under this chapter. the department shall. within 60 days following the closure of the hearing record . approve or deny the application. either in whole or in part.

(f) The time limits prescribed by this paragraph shall supercede any time limits provided in any other provision of law. If the department fails to issue a notice of administrative completeness or render any other decision within the time frames provided in this paragraph. the application shall be deemed to be approved by the department.

(g) The time limits prescribed by this paragraph shall not apply to an application where the applicant has been adjudicated after final appeal. or otherwise does not contest the Department's designation as. a chronic violator in accordance with Env-C 209.

2 Excavating and Dredging Permits; Fee Changes. Amend RSA 482-A:3, I to read as follows:
I. No person shall excavate, remove, fill, dredge or construct any structures in or on any bank, flat, marsh, or swamp in and adjacent to any waters of the state without a permit from the department. The permit application together with a detailed plan and a map showing the exact location of the proposed project, along with 4 copies of the permit application, plan and map, shall be submitted to the town or city clerk, accompanied by a filing fee in the form of a check made out by the applicant to the state of New Hampshire. The permit application fee shall be ***$100.00*** for minimum impact projects ***under this chapter***. The permit application fee for minor and major ***shoreline structure*** projects shall be ***$100.00 plus an impact fee*** based on the area of dredge, fill, ***and/***or ***dock surface area proposed.*** The ***shoreline structure impact fee*** ~~***rates***~~ shall be ***$1.00 per square foot for permanent dock surface area, $0.50 per square foot for seasonal dock surface area and $0.10*** per square foot ***for dredge and/or fill surface area. The permit application fees for minor or major projects shall be $0.10*** per square foot ***of proposed impact*** for all ***other*** projects under this chapter. ***For projects involving the repair, reconstruction, or reconfiguration of an existing docking structure, the application fee shall be $100.00.*** At the time the permit application is submitted to the city or town clerk, the applicant shall provide postal receipts or copies, verifying that abutters, as defined in the rules of the department, and except as further provided in said rules, have been notified by certified mail. The postal receipts or copies shall be retained by the municipality. The town or city clerk shall immediately sign the application and forward by certified mail, the application, plan, map and filing fee to the department. The town or city clerk shall then immediately send a copy of the permit application, plan and map to the local governing body, the municipal planning board, if any, and the municipal conservation commission, if any, and may require an administrative fee not to exceed $10 plus the cost of postage by certified mail. One copy shall remain with the city or town clerk, and shall be made reasonably accessible to the public. The foregoing procedure notwithstanding, applications and fees for projects by agencies of the state may be filed directly with the department, with 4 copies of the application, plan and map filed at the same time with the town or city clerk to be distributed as set forth above.

II No person shall excavate, remove, fill, dredge or construct any structures in or on any bank, flat, marsh, or swamp in and adjacent to any waters of the state without a permit from the department. The permit application together with a detailed plan and a map showing the exact location of the proposed project, along with 4 copies of the permit application, plan and map, shall be submitted to the town or city clerk, accompanied by a filing fee in the form of a check made out by the applicant to the state of New Hampshire. The permit application fee shall be ***$100.00*** for minimum impact projects ***under this chapter***. The permit application fee for minor and major ***shoreline structure*** projects shall be ***$100.00 plus an impact fee*** based on the area of dredge, fill, ***and/***or ***dock surface area proposed.*** The ***shoreline structure impact fee*** shall be ***$1.00 per square foot for permanent dock surface area, $0.50 per square foot for seasonal dock surface area and $0.10*** per square foot ***for dredge and/or fill surface area. The permit application fees for minor or major projects shall be $0.08*** per square foot ***of proposed impact*** for all ***other*** projects under this chapter. ***For projects involving the repair, reconstruction, or reconfiguration of an existing docking structure, the application fee shall be $100.00.*** At the time the permit application is submitted to the city or town clerk, the applicant shall provide

postal receipts or copies, verifying that abutters, as defined in the rules of the department, and except as further provided in said rules, have been notified by certified mail. The postal receipts or copies shall be retained by the municipality. The town or city clerk shall immediately sign the application and forward by certified mail, the application, plan, map and filing fee to the department. The town or city clerk shall then immediately send a copy of the permit application, plan and map to the local governing body, the municipal planning board, if any, and the municipal conservation commission, if any, and may require an administrative fee not to exceed $10 plus the cost of postage by certified mail. One copy shall remain with the city or town clerk, and shall be made reasonably accessible to the public. The foregoing procedure notwithstanding, applications and fees for projects by agencies of the state may be filed directly with the department, with 4 copies of the application, plan and map filed at the same time with the town or city clerk to be distributed as set forth above.

3 New Section; Wetlands Program Annual Report. Amend RSA 482-A by inserting after section 482-A:15 the following new section:

482-A:15-a Wetlands Program Annual Report. The department shall report annually to the wetlands council on the wetlands program. The report shall include, but not be limited to, the status of the wetlands program including program performance, rules, and funding and the status of the Clean Water Act section 404 program in New Hampshire.

4 Terrain Alteration; Fee Increase. Amend RSA 485-A:17, II to read as follows:

II. The department shall charge a fee for each review of plans, including project inspections, required under this section. The fee shall be based on the extent of contiguous area to be disturbed. Except for RSA 483-B:9, the fee for plans encompassing an area of at least 100,000 square feet but less than 200,000 square feet shall be ***$500***. For the purposes of RSA 483-B:9, the fee for plans encompassing an area of at least 50,000 square feet but less than 200,000 square feet shall be ***$500***. An additional fee of ***$200*** shall be assessed for each additional area of up to 100,000 square feet to be disturbed. The department shall issue no permit until the fee required by this paragraph is paid. All fees required under this paragraph shall be paid when plans are submitted for review and shall be deposited in the treasury as unrestricted funds.

5 Positions Established; Civil Engineer V and Civil Engineer IV. There are created within the department of environmental services the classified, full-time positions of civil engineer V, at labor grade 30, and civil engineer IV at labor grade 27 which shall be under the direction of the commissioner under RSA 485-A:30, I-a. The employees in these positions shall be responsible for duties relative to RSA 485-A:17 and for multi-program permitting.

6 Appropriation. The sum of $131,000 is hereby appropriated to the department of environmental services for the fiscal year ending June 30, 2004, and the sum of $131,000 is hereby appropriated to the department of environmental services for the fiscal year ending June 30, 2005, for the purposes of funding salary, benefits, current expenses, and equipment for the civil engineer V and civil engineer IV positions established in section 5 of this act. These sums are in addition to any other funds appropriated to the department of environmental services. The governor is authorized to draw a warrant for said sums out of any money in the treasury not otherwise appropriated.

7 Effective Date. This act, except Section 2, II shall take effect 60 days after passage. Section 2, II shall take effect July 1, 2006 at which time Section 2, I shall be repealed.

Amended copy as spoken

HB 810-FN-A - AS INTRODUCED
2003 SESSION
03-0852
06/10
HOUSE BILL ***810-FN-A***
AN ACT relative to processing excavating and dredging and terrain alteration permits, changing the fees for permits, establishing 2 new positions, and making an appropriation therefor.
SPONSORS: Rep. Dickinson, Carr 4; Rep. Babson, Carr 6; Rep. Spang, Straf 72; Rep. Phinizy, Sull 23; Rep. R. Cooney, Rock 76; Sen. Gallus, Dist 1; Sen. Kenney, Dist 3
COMMITTEE: Resources, Recreation and Development

ANALYSIS
This bill:
I. Establishes time limits for the department of environmental to process excavating and dredging permits.
II. Increases fees for certain permits.
III. Requires a report to the wetlands council.
IV. Establishes 2 new civil engineer positions.
V. Makes an appropriation for the new positions.
This bill a request of the department of environmental services.

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.
03-0852
06/10
STATE OF NEW HAMPSHIRE
In the Year of Our Lord Two Thousand Three
AN ACT relative to processing excavating and dredging and terrain alteration permits, changing the fees for permits, establishing 2 new positions, and making an appropriation therefor.

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

1 New Paragraph; Excavating and Dredging; Certain Exemptions. Amend RSA 482-A:3 by inserting after paragraph XIII the following new paragraph:
XIV. In processing an application for permits under this chapter, except for a permit by notification, the department shall:

(a) Within 14 days of receipt, issue a notice of administrative completeness or ~~examine the application.~~ send notice to the applicant at the address provided on the application ~~of~~ identifying any additional information required to deem the application administratively complete ~~apparent error or omission with regard to the administrative completeness of the application~~ and ~~notify~~ provide the applicant with of the name, ~~official title, address,~~ and telephone number of a the department ~~official or~~ employee who may be contacted regarding the application.

The receipt of additional information in response to any notice shall re-commence a 14-day period until the Department issues a notice of administrative completeness.

(b) Within ~~90~~ 75 days of the issuance of the notice of administrative completeness for projects where the applicant proposes under one acre of jurisdictional impact and 105 days for all other projects, ~~receipt, or within 120 days if the applicant proposes more than one acre of jurisdictional impact, issue written technical comments on the application, and~~ request any additional information that the department is permitted by law to require to complete its evaluation the application, together with any written technical comments the Department deems necessary. Any request for additional information shall specify that the applicant submit such information ~~no later than 30 days from the date of the request~~ as soon as practicable and shall notify the applicant that if the requested information is not received within 120 days of the request, the Department shall deny the application.

(c) Where the department requests additional information pursuant to subparagraph (b), the department shall, within ~~60~~ 30 days of the department's ~~issuance~~ receipt of the ~~request for~~ information; ~~receipt of the applicant's response to said request for information~~:

(1) Approve or deny the application, in whole or in part; or

(2) Commence an non-adjudicative proceeding in accordance with this chapter rules adopted by the commissioner; or

(3) Extend the time for response for good cause and with the written agreement of the applicant. ~~In any case in which time has been extended, the department shall issue a notice of final completeness to the applicant within 7 days of receiving the required additional information and shall undertake an action under (c)(1) or (c)(2) within 30 days of the date of the notice of final completeness~~.

(d) Where no request for additional information is made pursuant to subparagraph (b), the department shall, within 75 days from the issuance of the notice of administrative completeness; ~~a reasonable time not to exceed 90 days,~~ or 105 days if the application proposes more than one acre of juridictional impact:

(1) Approve or deny the application, in whole or in part; or

(2) Commence a non-adjudicatory proceeding in accordance with this chapter and rules adopted by the commissioner.

(e) Where the department has commenced a non-adjudicatory hearing on an application filed under this chapter, the department shall, within 60 days

following the ~~conclusion of such~~ closure of the hearing record., approve or deny the application, either in whole or in part.

(f) The time limits prescribed by this paragraph shall supercede any time limits provided in any other provision of law. If the department fails to issue a notice of administrative completeness or render any other decision within the time frames provided in this paragraph. the application shall be deemed to be approved by the department.

(g) The time limits prescribed by this paragraph shall not apply to an application where ~~a violation of this chapter exists on the same property~~the applicant has been adjudicated after final appeal, or otherwise does not contest the Department's designation as, a chronic violator in accordance with Env-C 209.

~~(h) For purposes of RSA 482-A:3, XIV (a) through (f), the date of receipt is the date on which an application or other document is received and date stamped by the department as received.~~

2 Excavating and Dredging Permits; Fee Changes. Amend RSA 482-A:3, I to read as follows:
I. No person shall excavate, remove, fill, dredge or construct any structures in or on any bank, flat, marsh, or swamp in and adjacent to any waters of the state without a permit from the department. The permit application together with a detailed plan and a map showing the exact location of the proposed project, along with 4 copies of the permit application, plan and map, shall be submitted to the town or city clerk, accompanied by a filing fee in the form of a check made out by the applicant to the state of New Hampshire. The permit application fee shall be [~~$50~~] ***$100.00*** for minimum impact projects ***under this chapter***. The permit application fee ~~***Fees***~~ for minor and major ***shoreline structure*** projects shall be ***$100.00 plus an impact fee*** ~~***assessed***~~ based on the area of dredge, fill, ***and/***or ***dock surface area proposed.*** ~~***construction proposed***~~ [~~and the number of boat slips requested~~]. The ***shoreline structure impact fee*** ~~***rates***~~ shall be [~~$100 per boat slip~~] ~~***$2.00***~~ ***$1.00 per square foot for*** ~~***docking facilities.***~~ ***permanent dock surface area.*** ~~***and***~~ ***$0.50 per square foot for seasonal dock surface area and*** [~~$0.01~~] ***$0.10*** per square foot ***for dredge and/or fill surface area.*** ~~***all other proposed projects under this chapter***~~. ***The permit application fees for minor or major projects shall be $0.10*** per square foot ***of proposed impact*** for all ***other*** ~~***proposed***~~ projects under this chapter. ~~***Where the repair, reconstruction, or reconfiguration of an existing permanent docking facility subject to the provisions of this section results in no greater square footage of docking structure over public water and represents an equal or greater protection of public water or the environment than the existing structure, the application fee shall be $100.***~~ ***For projects involving the repair, reconstruction, or reconfiguration of an existing docking structure, the application fee shall be $100.00.*** At the time the permit application is submitted to the city or town clerk, the applicant shall provide postal receipts or copies, verifying that abutters, as defined in the rules of the department, and except as further provided in said rules, have been notified by certified mail. The postal receipts or copies shall be retained by the municipality. The town or city clerk shall immediately sign the application and forward by certified mail, the application, plan, map and filing fee to the department. The town or city clerk shall then immediately send a copy of the permit application.

plan and map to the local governing body, the municipal planning board, if any, and the municipal conservation commission, if any, and may require an administrative fee not to exceed $10 plus the cost of postage by certified mail. One copy shall remain with the city or town clerk, and shall be made reasonably accessible to the public. The foregoing procedure notwithstanding, applications and fees for projects by agencies of the state may be filed directly with the department, with 4 copies of the application, plan and map filed at the same time with the town or city clerk to be distributed as set forth above.

3 New Section; Wetlands Program Annual Report. Amend RSA 482-A by inserting after section 482-A:15 the following new section:

482-A:15-a Wetlands Program Annual Report. The department shall report annually to the wetlands council on the wetlands program. The report shall include, but not be limited to, the status of the wetlands program including program performance, rules, and funding and the status of the Clean Water Act section 404 program in New Hampshire.

4 Terrain Alteration; Fee Increase. Amend RSA 485-A:17, II to read as follows:

II. The department shall charge a fee for each review of plans, including project inspections, required under this section. The fee shall be based on the extent of contiguous area to be disturbed. Except for RSA 483-B:9, the fee for plans encompassing an area of at least 100,000 square feet but less than 200,000 square feet shall be [~~$100~~] ***$500***. For the purposes of RSA 483-B:9, the fee for plans encompassing an area of at least 50,000 square feet but less than 200,000 square feet shall be [~~$100~~] ***$500***. An additional fee of [~~$100~~] ***$200*** shall be assessed for each additional area of up to 100,000 square feet to be disturbed. No permit shall be issued by the department until the fee required by this paragraph is paid. All fees required under this paragraph shall be paid when plans are submitted for review and shall be deposited in the treasury as unrestricted funds.

5 Positions Established; Civil Engineer V and Civil Engineer IV. There are created within the department of environmental services the classified, full-time positions of civil engineer V, at labor grade 30, and civil engineer IV at labor grade 27 which shall be under the direction of the commissioner under RSA 485-A:30, I-a. The employees in these positions shall be responsible for duties relative to RSA 485-A:17 and for multi-program permitting.

6 Appropriation. The sum of $131,000 is hereby appropriated to the department of environmental services for the fiscal year ending June 30, 2004, and the sum of $131,000 is hereby appropriated to the department of environmental services for the fiscal year ending June 30, 2005, for the purposes of funding salary, benefits, current expenses, and equipment for the civil engineer V and civil engineer IV positions established in section 5 of this act. These sums are in addition to any other funds appropriated to the department of environmental services. The governor is authorized to draw a warrant for said sums out of any money in the treasury not otherwise appropriated.

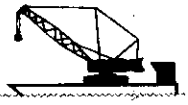
7 Sunset Provision; The permit application fee of .10 per square foot for all projects other than construction of docks established under Section 2 herein shall automatically be decreased to .08 per square foot as of July 1, 2006 unless extended or otherwise modified by the General Court prior to that date.

~~7~~ 8 Effective Date. This act shall take effect July 1, 2003.

LBAO
03-0852
Revised 2/4/03

Testimony

WATERMARK



Marine Construction

DESIGN • PERMIT • CONSTRUCT

Paul W. Goodwin

Watermark Navigation Systems, LLC
29 Gilford East Drive
Gilford, New Hampshire 03249

(603) 293-4000
Fax (603) 524-8100
Toll-Free (888) 628-2869

Comment on HB810 proposed fee increases:

Remove the following excerpt:

"...Where the repair, reconstruction or reconfiguration of an existing permanent docking facility subject to the provisions of this section results in no greater square footage of docking structure over public water and represents equal or greater protection of public water or the environment than the existing structure, the application fee shall be $100...."

For some reason, this is limited to "permanent" structures although the modification could be considered a "minor" or "major" project and involve a seasonal structure. Also, this could be interpreted to change the meaning of present rules and is not clear on the issue of balancing public water protection OR environmental protection. These issues are clearly defined in terms of modification of existing structures under present Wetlands Rule Wt 402.22...therefore, reword as follows:

"For projects involving the repair, reconstruction, or reconfiguration of an existing structure, the application fee shall be $100.00."

This clearly allows for a $100.00 fee for any existing waterfront structure modifications (permanent, seasonal, etc...).

Also,

Change the terms "docking facility" to "dock surface area" and revise fee structure as discussed...

REVISED PROPOSED FEES:

Fees Description:

SHORELINE STRUCTURES FEES:

Application Fee: **$ 100.00**

This fee is to be included with all applications and is due upon filing the application package. This is the total fee for minimum impact projects such as rock removal, boatlifts, canopies, etc...

Additional Fees:

These fees are calculated based on APPROVED impact(s) and are due prior to receipt of formal permit. These fees are in addition to application fee.

Dock Surface Area Impact (permanent structure)	**$**	**1.00**	**sq ft**
Dock Surface Area Impact (seasonal structure)	**$**	**0.50**	**sq ft**
Dredge/Fill in Bank or Surface Waters	**$**	**0.08**	**sq ft**

DREDGE/FILL IN WETLANDS OR SURFACE WATERS:

Dredge/Fill in Wetland or Surface Waters	**$**	**0.08**	**sq ft**

FEES ANALYSIS:

Proj. Description	*Present Fees Based on PROPOSED Impact(s)* Number Slips	Slip Fee	Sq Ft Impact	Impact Fee	Total Fee	*Revised Proposed Fees Based on APPROVED Impact(s)* Std Appl Fee	Dock Surf Area	Dock Area Fee	Sq Ft Impact	Impact Fee	Total Fee
SHORELINE STRUCTURES:											
Repair/Maint/Mods Application					**$ 50.00**						**$ 100.00**
6x30 Dock (permanent)	2	$ 100.00			**$ 200.00**	$ 100.00	180	$ 1.00			**$ 280.00**
6x40 Dock (seasonal)***	2	$ 100.00			**$ 200.00**	$ 100.00	240	$ 0.50			**$ 220.00**
"U" Dock (2-6x30 permanent)	3	$ 100.00			**$ 300.00**	$ 100.00	432	$ 1.00			**$ 532.00**
"U" Dock (2-6x40 seasonal)	3	$ 100.00			**$ 300.00**	$ 100.00	552	$ 0.50			**$ 376.00**
Breakwater (typ. w/docks) 900 sq ft Rock Fill 540 sq ft Dock Surface Area	2	$ 100.00	900	$ 0.04	**$ 236.00**	$ 100.00	540	$ 1.00	900	$ 0.08	**$ 712.00**
Boathouse (typ. w/docks) 1080 sq ft Excav. Bank Area 793 sq ft Dock Surface Area 600 sq ft Dredge Access	2	$ 100.00	1680	$ 0.04	**$ 267.20**	$ 100.00	793	$ 1.00	1680	$ 0.08	**$ 1,027.40**

NHDES

DEPARTMENT OF ENVIRONMENTAL SERVICES
6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095
(603) 271-3503 FAX (603) 271-2982

November 9, 1999

Dick Wentzell

Representative David Kibbey
Unity Road
PO Box 426
Newport, New Hampshire 03773

Subject: Wetlands Issues

Dear Representative Kibbey:

During a recent meeting on the wetlands program, you provided a "List of Wetlands Issues" (enclosed) of concern that included 11 issues. In response, for each of the eleven issues, enclosed is a point by point discussion of each issue. In addition, a summary of the progress that we have recently made and the future direction for several key areas is provided below.

The Department of Environmental Services (DES) wetlands program continues to improve in both responsiveness and clarity of program requirements. DES continues to implement long-term improvements that include in part the following activities:

Making the rules easier to understand, particularly by consolidating rules on specific structures or activities in one location for improved clarity. For example, the rules on breakwaters have just been simplified and improved seasonal dock rules are expected to be adopted in January 2000. Also, the maintenance and crossings of roadside ditches will be addressed in the near future. We encourage your comments as we move forward with these rules changes.

Development of a "user friendly" manual on wetlands permitting in 2000. This manual will contain sections focused on specific activity or permit types to foster understanding of how to submit a quality, approvable, application package. Application quality improvement is key to the long-term success of the wetlands program.

Completion of a policy on wetlands mitigation in 2000 to establish a consistent level of understanding on how wetlands mitigation, which includes activities like wetlands creation and conservation easements, can be accomplished by applicants.

Improving and maintaining timely review cycles for applications. Around 52% (about 1,100 applications) of the over 2,100 applications received annually qualify for "expedited" review or permit by notice and are processed within 30 days of receipt by DES. The average turnaround time is about 60 days for "minimum" projects and 90 days for most major projects. This compares with up to 6 months several years ago. We continue to focus on ways to improve the review times for these applications with our immediate goal to have turnaround times of 60 days for major projects and 30 days for all other projects. Although we are not satisfied and continue to focus on making improvements, it is worth noting that, based on recent discussions with applicants who work nationally, the level of responsiveness of New Hampshire's wetlands program is quite high compared with most other states.

In conclusion, we expect that steady long-term improvements will continue to ensure that applicants are provided with timely decisions and the environment is protected in accordance with state and federal law.

I hope that your questions have been fully addressed in the attached discussion. If you have any further questions, please contact me at 271-3308.

Sincerely yours,

Harry T. Stewart, P.E.
Director
Water Division

HTS/hts/bdt/mjw
Enclosures (2)
cc: Executive Councilor Raymond Burton
Representative David Young
Representative Leighton Pratt
Representative James Phinizy
Carole Hall, Chairperson, Wetlands Council
Commissioner Robert Varney, DES
Asst. Commissioner Dana Bisbee , DES
Rene Pelletier, DES
Kenneth Kettenring, DES

3-27-2002

Gerard N. Salinardi, 53

Managed Blooming Acres

NEWPORT — Gerard N. Salinardi, 53, of Coon Brook Road, died Sunday, March 24, 2002, at Valley Regional Hospital in Claremont.

Born in Waterbury, Conn., the son of Nicholas and Josephine (D'Laurenzio) Salinardi, he had resided in Newport for the past 13 years.

Gerald was raised and attended school in Naugatuck, Conn. He was a graduate of Naugatuck High School. He also attended and graduated from the University of Connecticut, then went on to receive his master's degree in education. He started and managed Blooming Acres Nursery on Route 10 South in Newport.

Members of his family include his wife of 17 years, Pauline (Drgan) Salinardi of Newport; three sons, Joseph, Michael and Mathew Salinardi, all of Newport; a stepson, Jeffrey Salinardi of Connecticut; a daughter, Melissa Salinardi of Newport; a stepdaughter, Brenda Salinardi of Illinois; a sister, Marie Kilbride of Vermont; his parents, Nicholas and Josephine Salinardi of Naugatuck, Conn., and Florida; one grandchild; several cousins, nieces, nephews and several great-nieces and nephews.

A memorial service will be conducted at the Episcopal Church of the Epiphany in Newport Thursday, March 28, at 11 a.m., the Rev. Daniel Ferry officiating.

There will be no visiting hours.

Memorial donations may be made to the Episcopal Church Memorial Fund, 65 Park St., Newport, N.H. 03773.

The Newton-Bartlett Funeral Home is in charge of arrangements.

Jerry Salinardi

Memorial funds established

NEWPORT — Two funds have been established to provide immediate benefit to the Jerry Salinardi family. Donations to the "Episcopal Church of Epiphany — Rector's Discretionary Fund," Cheney Street, Newport, N.H. 03773, will hopefully cover funeral costs, with any excess contributions going to the family.

The other fund, the "Jerry Salinardi Memorial Fund," Lake Sunapee Bank, 9 Main St., Newport, N.H. 03773 will remain open through the year to directly help with the family's ongoing expenses.

State of New Hampshire

HOUSE OF REPRESENTATIVES

CONCORD

MEMORANDUM of UNDERSTANDING

To: **Peter Walker, Senior Permit Officer**
Department of Environmental Services
6 Hazen Drive, PO Box 95, Concord NH 03302-0095

Peter
Give me a call
cell 454 7074

From: **Rep. David D. Kibbey** DK
PO Box 426, Newport NH 03773-0426
603/863-2904

RECEIVED
MAY 17 2000
ENVIRONMENTAL SERVICES
"BY NH DES WETLANDS BUREAU"

Date: **May 17, 2000**

Re: **Hydrology Procedures**

Sullivan County Humane Society vs. State of New Hampshire

As agreed by David D. Kibbey, New Hampshire State Representative, Peter Walker of the New Hampshire Department of Environmental Services, Jennifer Patterson of the New Hampshire Attorney General's Office; and Alden Beauchemin of Keyland Enterprises.

Procedures for Doing Hydrology

Under New Hampshire Law Use the Federal 87 Wetland Delineation Manual only, no memorandum of understanding or other versions of the 87 Manual shall be used.

Growing season shall be estimated by using the approximate number of frost-free days. (Using Appendix A "Growing Season" on page 5, and using the Sullivan County Soil Survey on page 115) The growing season for Sullivan County shall begin on May 20. For hydrology to be present, soil must have inundation and saturation (water to surface) two weeks after the start of the growing season.

DDK/jal

Cc: Executive Councilor Raymond S. Burton
Jennifer Patterson
Alden Beauchemin
Dick Winsell

2) The meeting was a *workshop* with the *Department of Environmental Services* (DES) and area legislators, in an attempt to undo the damage done to many people by an unqualified "rogue" DES enforcement officer.

3) No mention or suggestion was made to change or diminish the intent of the wetlands or other environmental rules.

4) The DES is in a very unusual position, as the legislature granted it extraordinary powers which may, in fact, be unconstitutional if challenged in the proper U.S. court. The DES is charged with writing the rules, enacting the rules, implementing the rules, being the "cops" that enforce the rules, are judge and jury, impose its own fines and punishment, as well as being the appeals court, all in one. I am sure that if our criminal system was run that way, all of us would be up in arms and would do more than petition. In an effort to give oversight to such broad authority, members of the area legislatures are considering proposals for better citizens' oversight and appeal.

5) The DES was questioned as to why a certain person from Charlestown had insight into the actions of the department prior to violators or applicants being notified by the DES. The DES representatives made it clear that this activity was a violation of DES policy.

6) The meeting was not a *Charlestown only* matter. This meeting was for persons or corporations affected by the rogue enforcement officer to voice their frustrations, in group form, to the intelligent management people of the DES, as well as a broad range of area legislators. It was a meeting to resolve many simple issues that, for political reasons, got blown out of proportion. There were 33 people in attendance from eight towns and two counties, *hardly a Charlestown meeting.*

7) A tough question was posed to the DES by qualified, certified environmental technicians as to why it does not follow the federal definition of "wetland", considering that most funding for the DES comes from the federal government. DES officials said they would research this query, and area legislators suggested that legislation may be necessary to require the DES to follow the proper federal definitions. It was brought out that by following federal definition it would simplify wetlands issues for the state of New Hampshire.

8) Suggestions were made to help the DES work better with people to solve simple problems at reasonable cost and within a reasonable time frame and, in so doing, achieve a better level of compliance and support for solving environmental issues.

9) Discussion were held on concerns about seasonal streams and simple driveway crossings.

10) DES said that it has many problems including severe problems with public relations. The department does not at this time have any certified wetlands scientists (a private consultant who works on wetlands issues must be certified like a professional engineer starting Jan. 1, 2000.) DES admitted that it needs to improve training courses for municipal officials and private individuals to help prepare them for better quality, applications, or enforcement of wetland rules and issues.

11) Serious discussion took place as to the length of time the DES takes to resolve applications or enforcement of wetland rules and issues.

12) The legislators present agreed to help change laws where necessary and encourage the possibility of localizing some of the simple applications, perhaps using the county soil conservation services (already experts in these matters) to bring simple applications closer to the people.,

I firmly believe that you do not criticize unless you have a *better* answer or solution than is already available.

John Olson
Charlestown

Tamchar, Inc.

156 Eaton Hill Road
PO Box 266
Auburn, NH 03032

Phone (603)-483-2400
Fax (603)-483-5616

February 26, 2003

Ray Weiczorek
Governor's Executive Council
State House
Concord, NH 03301

RE: Wetland/Site specific fines involving Home Depot Site in Tilton & Tamchar, Inc. of Auburn, Inc.

Dear Weiczorek:

As a follow-up to our previous letter dated July 31, 2002, we are very disappointed in the management of DES & the Attorney General's office and the effect it has on small businesses. We unsuccessfully tried to get a sensible resolution to the Home Depot violation we were involved with in Tilton. It appears as though the Attorney General's office rubber stamped DES' decisions without conducting a formal investigation. The checks and balances to protect the public and businesses appear to be lacking. These matters should be approved by the DES Water Council, before they get to this point.

Instead, Home Depot was slammed with a huge $70,000 fine which ultimately came from money owed to Tamchar, Inc for site construction. We can not afford to operate in this manner and have been forced to layoff 50 of our 75 employees. This is not because of seasonal reductions in workload.

We hope you can look into this matter. We would appreciate any of your help.

Sincerely

Charles Therriault Jr

C. Therriault
Tamchar, Inc.

Union Leader

Friday, June 25, 1999 64 Pages ☆☆☆☆ 50¢ – Newsstand

SPORTS

Mistrial ordered in Reggie Lewis malpractice lawsuit D1

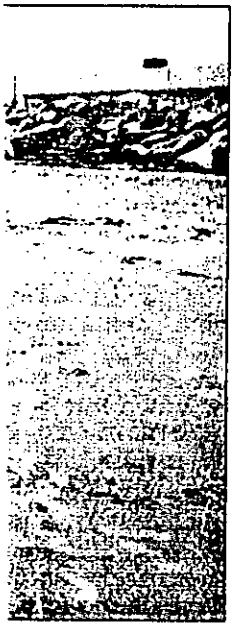
Family fun at Water Country

Get Out!, B1



- **NH gets fisheries seat** C3
- **Folklife Festival** C3

STATE EDITION



ck Morin/Union Leader

Oceanfront homeowners get access law overturned

By JODY RECORD
Union Leader Correspondent

RYE — Oceanfront homeowners got their property back yesterday when the state Supreme Court ruled that an access law passed by the Legislature in 1995 illegally declared the beaches in front of their homes public property.

The 4-year-old dispute began when a group of about 40 property owners in the Wallis Sands and Jenness Beach State Park area challenged RSA 483-C, which said the public boundary line was marked by the highest "syzygy tide," or the tide that occurs every 19 years when the moon, earth and sun are all aligned.

Yesterday's Supreme Court decision supported a lower court ruling that decreed the law unconstitutional because, in essence, it was taking the oceanfront land without compensating the property owners.

The state disagreed with the Superior Court's decision, which led to the Supreme Court battle that was settled yesterday.

"It's over. We got our property back," said Bill Purdie, who owns a home on Wallis Sands beach. "Four years ago they took it away and we lost our rights to it. We didn't own it during that time.

"But this doesn't really change anything. People used it during that period and people used it before. We never wanted to change that."

What the homeowners did want reversed was where the line in the sand separating private property from public was drawn. The mean high-water mark, used in New Hampshire common law to define the boundary, falls about 70 to 90 feet from

BEACHES, Page A22

ed From Page A1)

's seawall.

ng the syzygy mark, it's at our sea- the Portsmouth businessman said. me people, it's in their basements."

tly where the private beaches become was not defined in the Supreme Court

higher court has sent the case back to or Court to determine where the aver- h-water mark is.

Supreme Court's decision just reaf- that we knew to be true all along, that what our deeds have said we own for generations before us — to the mean ter line," said Victor Azzi, also a propner at Wallis Sands.

you can't just by legislation take e's property away without compensa-

Purdie. Azzi said he has never asked to leave his property and does not an-

"We just want people to respect our property as they'd want us to respect theirs," Azzi said of the public use of his front yard.

Evelyn Southworth echoed Azzi's sentiments.

The Jenness Beach resident lives in a house built on land bought by her great-grandfather in 1866. For as long as she can remember, she said, there has never been any objection to the public using the beach in front of her house, or of the houses owned by her brother and her sister next door.

"We don't have any problem with people on the beach. It's when they use the steps (leading to our house), get on the seawall or leave their rubbish that we get upset," Southworth said.

The seawall, built at her family's expense, was put in to help fight erosion. Jim Brown, Southworth's brother, said he had wondered during the four-year dispute who would pay

"We've put many, many thousands of dollars into the seawall," Brown said. "It is an has been a private matter — our own investment. When it's required repairs, we've done it."

Brown joined his sister in saying he didn think the Supreme Court decision would change anything.

"We're not rubbing our hands with gre glee thinking we can now kick people off th beach," Brown said. "We've never felt thi way. I think the only thing that will change it gives the property owners a little more re spect."

In its decision yesterday, the high cou said the Legislature could change the bound ary line if they compensated property owner for their loss — a move Purdie said h couldn't see the state making.

"There are a lot of properties involved; would be very, very expensive. For all pract

HIGH COURT RULINGS

Government can be required to compensate owners for environmental regulation 'takings'

By ERIC PIANIN
The Washington Post

WASHINGTON — The Supreme Court yesterday granted new protections to landowners who claim that environmental regulations diminish the value of their property, ruling that government can be required to compensate them for interfering with their ability to develop the land.

The ruling concerned cases in which property owners buy land knowing that it's subject to environmental or zoning limits — such as restrictions on developing wetlands or fragile beaches. In a splintered decision that involved shifting majorities on different aspects of the case, five justices said that even when such limits are already in place, they can amount to a "taking" from the new owner and require compensation by the government.

Writing the majority opinion, Justice Anthony Kennedy said the government may not be relieved "of its obligation to defend any action restricting land use, no matter how extreme or unreasonable."

The ruling wasn't a clear-cut victory for property owners, because the court concluded that the Rhode Island property owner who brought the case hadn't succeeded in demonstrating that he'd been deprived of all economic use of his waterfront property.

Property rights groups hailed the decision, however, as a breakthrough in their efforts to curtail government encroachment on environmentally sensitive privately held land. Some environmental groups and legal experts warned that the ruling could embolden developers to flood the courts with litigation challenging environmental and zoning rules and seeking millions in compensation.

"This increases opportunities for developers and other landowners to sue state and local government over land use and environmental regulations and it will inevitably impose a further chill on environmental protection efforts at all levels of government," said John Echeverria, director of the environmental policy project at the Georgetown University Law Center.

Gary Garczynski, first vice president of the National Association of Home Builders, said the ruling reaffirms the constitutional rights of property owners. "I think the court made it clear that government has an obligation to treat property owners fairly and pay for land when there's a taking and regulations pile up and spin out of control." The decision is part of a line of cases in which property rights advocates have pressed the high court to adopt a broad view of the constitution's "takings" clause, which requires that government pay "just compensation" to property owners for any "taking" of their land.

Property rights advocates have argued, largely unsuccessfully, that restrictions on land use can amount to takings and therefore require payments — a result that would make it difficult for state and local governments to enact such limits. Pacific Legal Foundation lawyers intervened in the case to challenge the notion — widely adopted in lower-court decisions — that property owners cannot win regulatory takings claims if they purchased their land after regulations became effective.

After months of speculation, no court retirements this term

WASHINGTON (AP) — Months of speculation that one or more of the nine Supreme Court justices would retire fizzled yesterday, when the court closed its term without any personnel changes.

Speculation of a coming retirement focused most heavily on Chief Justice William H. Rehnquist and Justice Sandra Day O'Connor, both Republicans who have served on the high court for at least 20 years.

It has become court custom for justices to announce their retirements at or before the end of the term in June, in order to give the White House and the Senate time to choose and confirm a replacement.

Last month, O'Connor said she has no immediate retirement plans. Rehnquist offered no public comment on the subject.

Environmentalists say wetlands restoration plan

chapter of the Surfrider F... contends it will need to

The Union Leader, Manchester, N.H.

goes too far

...be small... duce a final environmental report

EAGLE TIMES, Sunday,

The Readers' Forum

D.E.S. ruling is bizarre

To the editor:

This letter today is in response to your front page article, "D.E.S. orders partial restoration of wetlands," Sunday, Nov. 28.

This decision/ruling by the N.H.D.E.S. is totally amazing, as the same N.H.D.E.S. continues to allow the ashfill just down the road from this site to accept highly polluting materials for storage in the middle of a wetlands and less than 1,000 feet from a stream, the Sugar River, that provides drinking water for the city of Claremont.

It is totally amazing how our appointed officials support business with lobbyists and do not work with small business that has no connection to our political system! Perhaps it is time to revamp our N.H.D.E.S. into a workable system for everyone. I have had a first-hand experience also with the N.H.D.E.S., and as an individual, I got nowhere.

Something is definitely wrong with our N.H.D.E.S.

Frank Delorier
Charlestown

Let Derry drive

Web of regs consigns region to traffic congestion

Wetlands. That's the big reason why the widening of Interstate 93 has been pushed back another two years, from 2002 to 2004. How many accidents must occur between now and the new completion date of 2008 until the government realizes its regulations are killing people?

Route 101 to the Seacoast was morbidly known as "Suicide Alley" until it was widened last year — over the objections of wetland fanatics. Similarly, the narrow two-lane interstate is woefully insufficient for the amount of traffic southern New Hampshire sees on a daily basis, and as growth in Boston and its suburbs continues, it will only get more dangerous.

But in anticipation of state and federal regulators' complaints about disturbing wetlands and other minutiae in the landscape, the state Department of Transportation has slowed down the works.

The Environmental Protection Agency, the Federal Highway Administration and the Army Corps of Engineers want to cook up reasons why the interstate should only be widened to three lanes each way instead of four, and identify new kinds of amoebae that might be on the endangered species list and prevent construction.

Eight years is a long time to wait for a usable highway, and who can guarantee it won't take even longer than that? Roberta Robie of Derry expressed herself well when she told the House Public Works and Highway Committee, "I strongly urge this committee to consider how many lives will be lost between now and 2008 or beyond on this section of I-93."

The local economy will also be stunted by this delay. Derry Town Council Chairman Craig Bulkley reminded participants at the hearing of how crowded the highway gets during the summer months, which hurts tourism in the state. During an economic period when people from other states have pocket money to spend in this one, New Hampshire is now confronted with at least eight more summers of jam-packed highways.

With the looming bulwark of federal (and some state) regulations looming down the road, progress is slowing to a grinding halt at the expense of commuter safety. Would these regulators prefer Granite Staters to rollerblade to work instead? Wait, don't let them answer that . . .

—Bernadette Malone Connolly

State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES
6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095
(603) 271-3503 FAX (603) 271-2982

March 3, 2003

The Honorable H. Charles Royce, Chairman
Resources, Recreation and Development Committee
Room 305, Legislative Office Building
Concord, NH 03301

Subject: HB 810, relative to processing excavating and dredging and alteration of terrain permits, changing the fee for permits, establishing two new positions, and making an appropriation therefor.

Dear Chairman Royce:

Thank you for the opportunity to comment on HB 810, which proposes mandatory time frames and a new fee structure for the review of wetlands applications. It also establishes a new fee structure to support two new positions for review of terrain alteration applications. The Department of Environmental Services (DES) supports this bill. Statutory time frames for application processing ensure the predictability that the regulated community needs. The proposed application fee increases provide the long-term financial support necessary to stabilize DES staff funding. These funding levels will ensure that we can consistently deliver quality reviews and decisions, while developing continued improvements in the delivery of services to the regulated community.

We have been actively working on the bill language with members of the New Hampshire Marine Trades Association (MTA), Granite State Designers and Installers Association (GSDI), New Hampshire Association of General Contractors (AGC), New Hampshire Association of Natural Resource Scientists (NHANRS) and New Hampshire Association of Conservation Commissions (NHACC). We believe that there is fundamental agreement on the merits of the approach proposed in HB 810, therefore, these discussions have focused on the precise language of certain sections of the bill to build a consensus on final language. We look forward to completing these discussions in the near future in concert with this committee's deliberations.

Timeliness has been a chronic concern with wetlands program application reviews and permitting. DES recognizes this concern and, over the last few years, has made significant program process and organization improvements to address this issue while maintaining the appropriate level of environmental protection. Some significant program improvements are summarized in Attachment 1. For example, we have begun the rulemaking process that would greatly expand the permit by notification procedure to many more projects such as the installation of culverts and utility lines for single-family residential lots, installation of dry hydrants, and maintenance of existing culverts, swales, and ditches, and maintenance of existing structures such as docks, beaches, walls, riprap slopes and bridges. Permit by notification both streamlines small project permitting and allows DES staff to focus on the larger, more significant projects. We also are actively engaged in the process of completing compensatory mitigation rules which will serve to facilitate wetlands permit application processing by establishing a common understanding of the criteria for this program. DES will continue to develop other new approaches to promote a more efficient and effective wetlands program such as working towards

integrated electronic permitting ("e-permitting") in the Land Resources Management Program. However, in the long term, improvements will only continue if we can stabilize funding to support the current full staffing level while we invest in other improvements.

Organization changes have also had a direct positive impact on Wetlands Bureau operations. In 2002, Collis Adams became Wetlands Bureau Administrator and has had an immediate positive impact. Previously, we had placed the programs that regulate development projects under a common manager, Rene Pelletier, in the Land Resources Management Program to improve coordination of development permitting activities. In addition, four senior level technical staff positions were added using funding from the wetlands fee account, although one has been left vacant this fiscal year due to inadequate funding.

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Very truly yours,

Robert Monaco

Robert Monaco
Acting Commissioner

cc: Reps. Dickinson, Babson, Spang, Phinizy, R. Cooney
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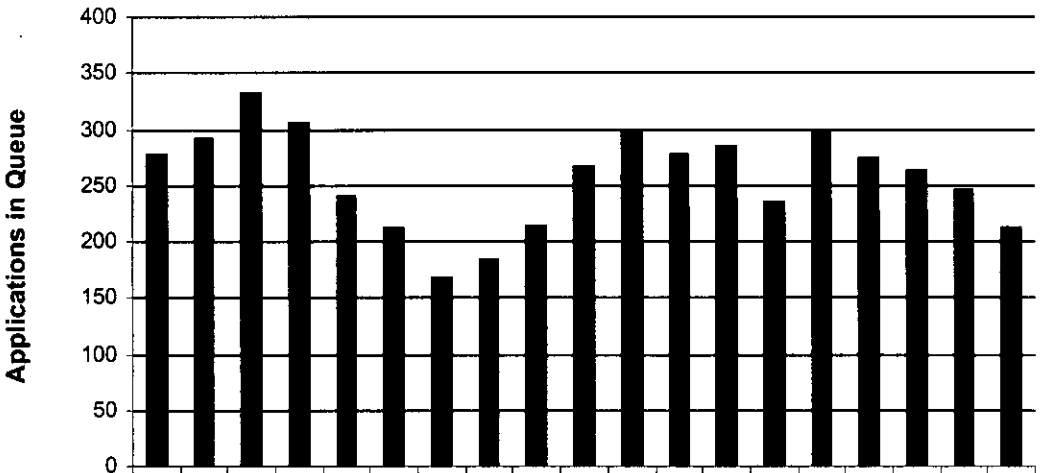
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ATTACHMENT 2

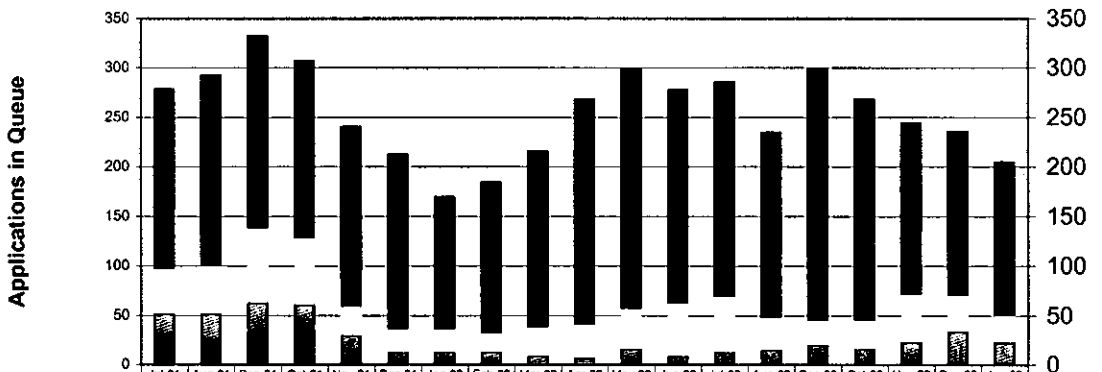
Wetlands Bureau, Permitting Section
Total Review Queue, by Month



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Second Reviews	34	46	70	65	54	60	50	39	39	47	39	42	46	41	43	49	38	30	39
New Applications	244	246	262	242	186	152	119	145	176	221	259	235	239	195	257	226	226	216	174

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Wetlands Bureau, Permitting Section
Review Queue Age, by Month

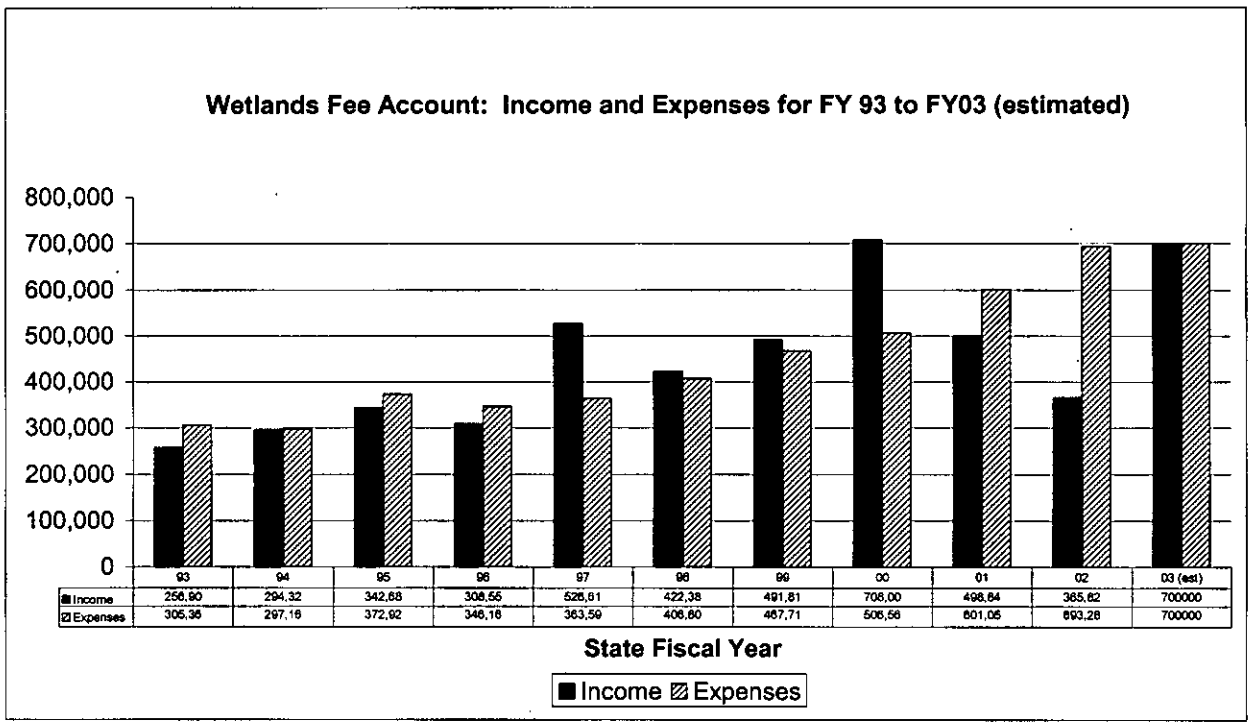


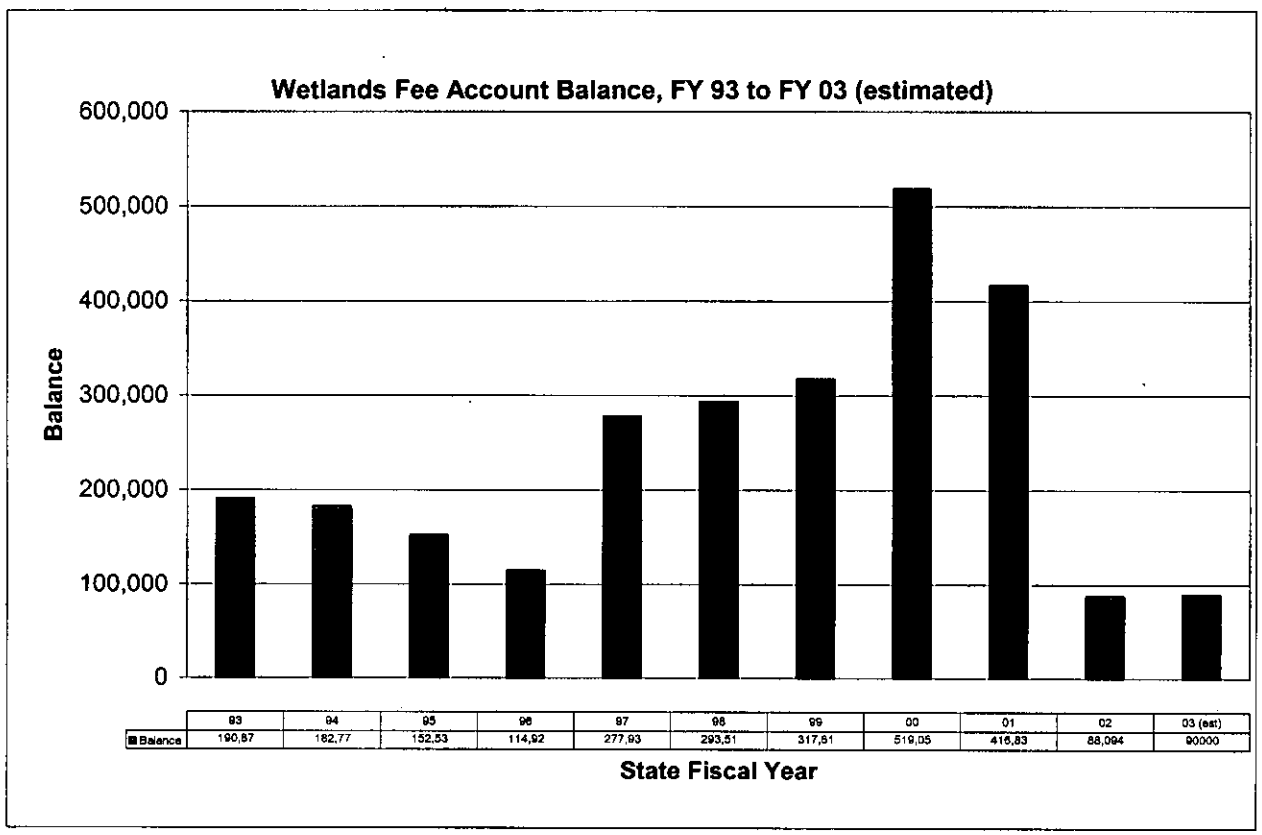
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31 - 60 days	80	74	62	80	37	50	40	48	44	56	77	77	90	65	91	80	64	53	58
61 - 90 days	45	48	75	67	29	23	23	19	29	34	41	53	58	33	25	29	48	36	27
91 - -120 days	22	28	31	27	27	10	9	11	10	8	14	10	14	16	21	17	24	35	24
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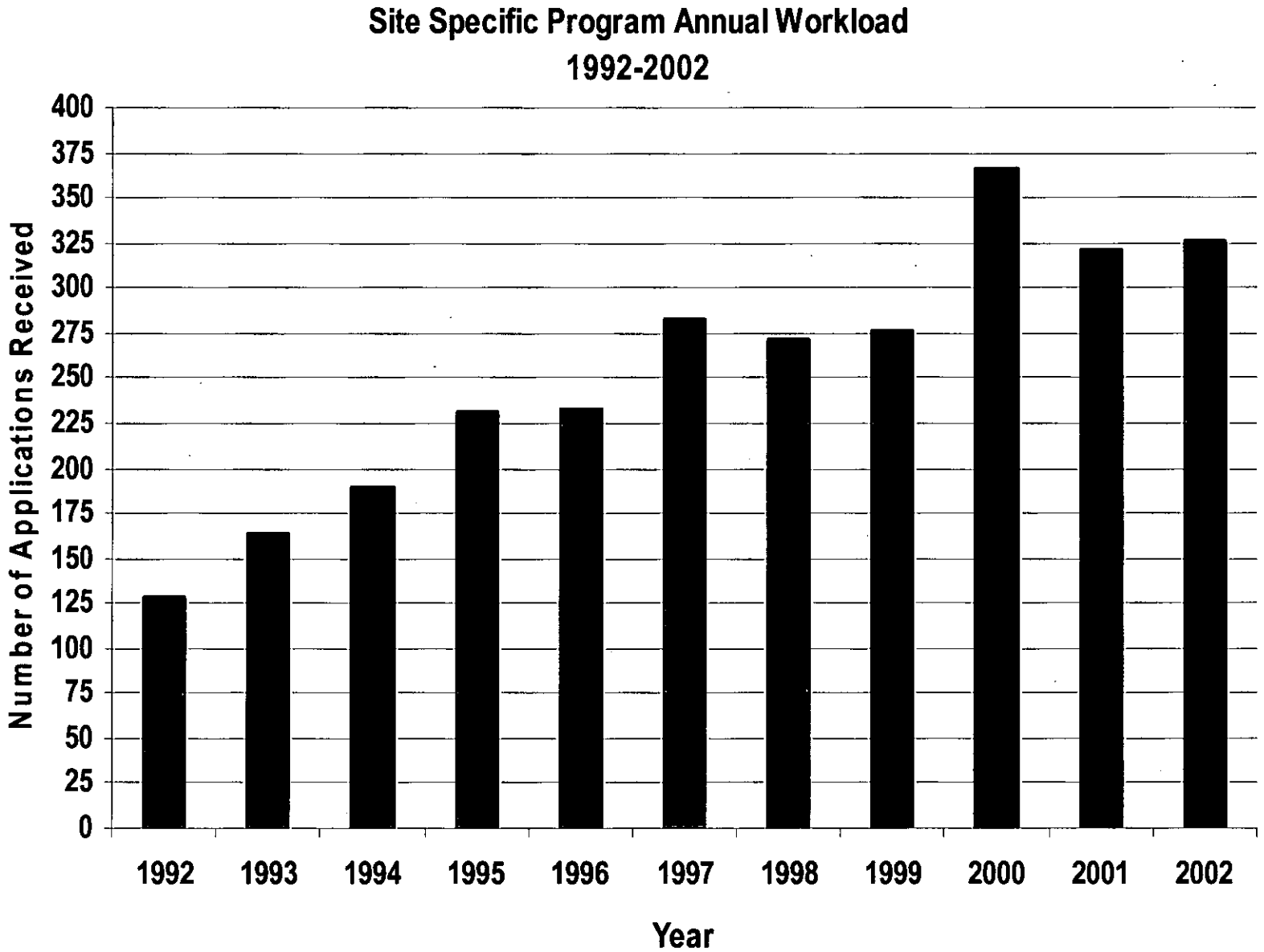
ATTACHMENT 3

WETLANDS FEE ACCOUNT INCOME, EXPENSES AND BALANCE: STATE FY 1993 TO 2003 (Estimated)





ATTACHMENT 4



FILE COPY

State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES
6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095
(603) 271-3503 FAX (603) 271-2982

March 18, 2003

The Honorable Norman L. Major, Chairman
Ways and Means Committee
Room 202, Legislative Office Building
Concord, NH 03301

Subject: HB 810, relative to processing excavating and dredging and alteration of terrain permits, changing the fee for permits, establishing two new positions, and making an appropriation therefor.

Dear Chairman Major:

Thank you for the opportunity to comment on HB 810, which proposes mandatory time frames and a new fee structure for the review of wetlands applications. It also establishes a new fee structure to support two new positions for review of terrain alteration applications. The Department of Environmental Services (DES) supports this bill. Statutory time frames for application processing ensure the predictability that the regulated community needs. The proposed application fee increases provide the long-term financial support necessary to stabilize DES staff funding. These funding levels will ensure that we can consistently deliver quality reviews and decisions, while developing continued improvements in the delivery of services to the regulated community.

DES worked on the bill language with members of the New Hampshire Marine Trades Association (MTA), Granite State Designers and Installers Association (GSDI), New Hampshire Association of General Contractors (AGC), New Hampshire Association of Natural Resource Scientists (NHANRS) and New Hampshire Association of Conservation Commissions (NHACC). We believe that the current language represents a consensus among these organizations and DES as the most effective way to maintain and continue to improve the wetlands program as well as the terrain alteration program.

Timeliness has been a chronic concern with wetlands program application reviews and permitting. DES recognizes this concern and, over the last few years, has made significant program process and organization improvements to address this issue while maintaining the appropriate level of environmental protection. Some significant program improvements are summarized in Attachment 1. For example, we have begun the rulemaking process that would greatly expand the permit by notification procedure to many more projects such as the installation of culverts and utility lines for single-family residential lots, installation of dry hydrants, and maintenance of existing culverts, swales, and ditches, and maintenance of existing structures such as docks, beaches, walls, riprap slopes and bridges. Permit by notification both streamlines small project permitting and allows DES staff to focus on the larger, more significant projects. We also are actively engaged in the process of completing compensatory mitigation rules, which will serve to facilitate wetlands permit application processing by establishing a common understanding of the criteria for this program. DES will continue to develop other new

approaches to promote a more efficient and effective wetlands program such as working towards integrated electronic permitting ("e-permitting") in the Land Resources Management Program. However, in the long term, improvements will only continue if we can stabilize funding to support the current full staffing level while we invest in other improvements.

Organization changes have also had a direct positive impact on Wetlands Bureau operations. In 2002, Collis Adams became Wetlands Bureau Administrator and has had an immediate positive impact. Previously, we had placed the programs that regulate development projects under a common manager, Rene Pelletier, in the Land Resources Management Program to improve coordination of development permitting activities. In addition, four senior level technical staff positions were added using funding from the wetlands fee account, although one has been left vacant this fiscal year due to inadequate funding.

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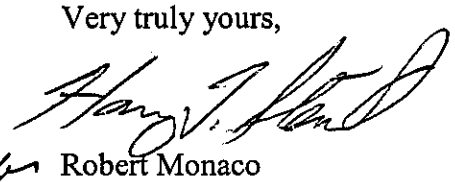
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improvements from ongoing streamlining measures. Nonetheless, under either scenario, the proposed annual reports to, and evaluation by, the Wetlands Council will ultimately result in recommendations for the legislature to consider on the long term funding of the wetlands program.

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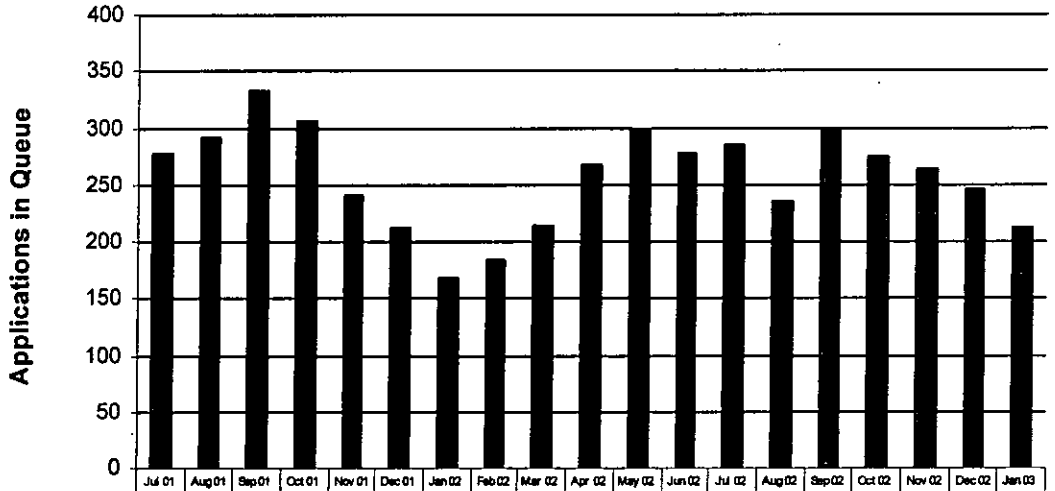
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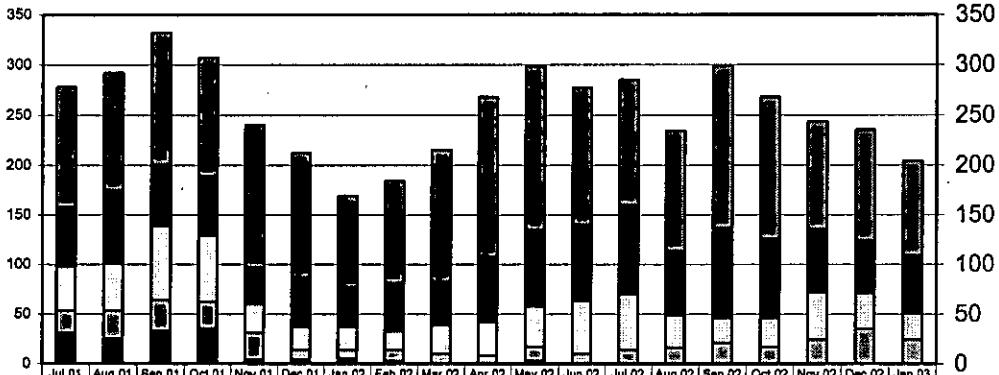
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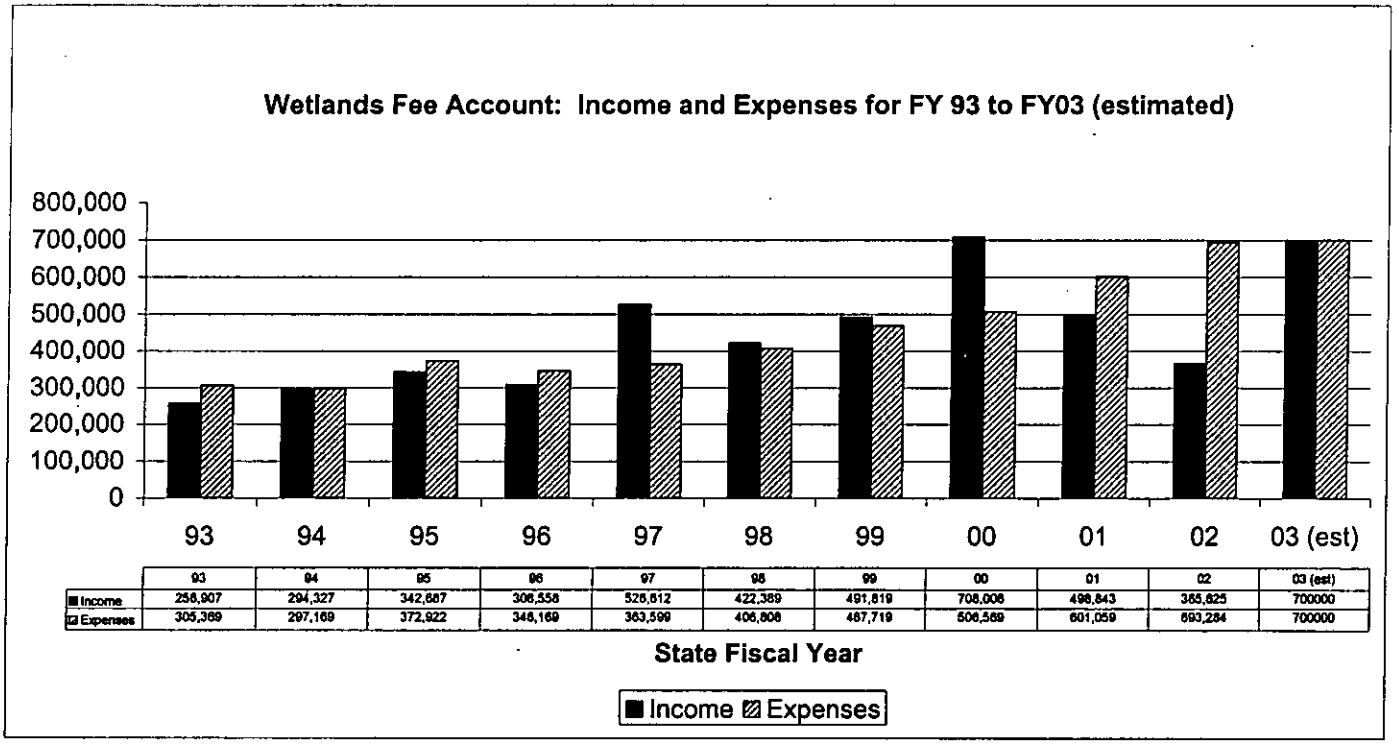


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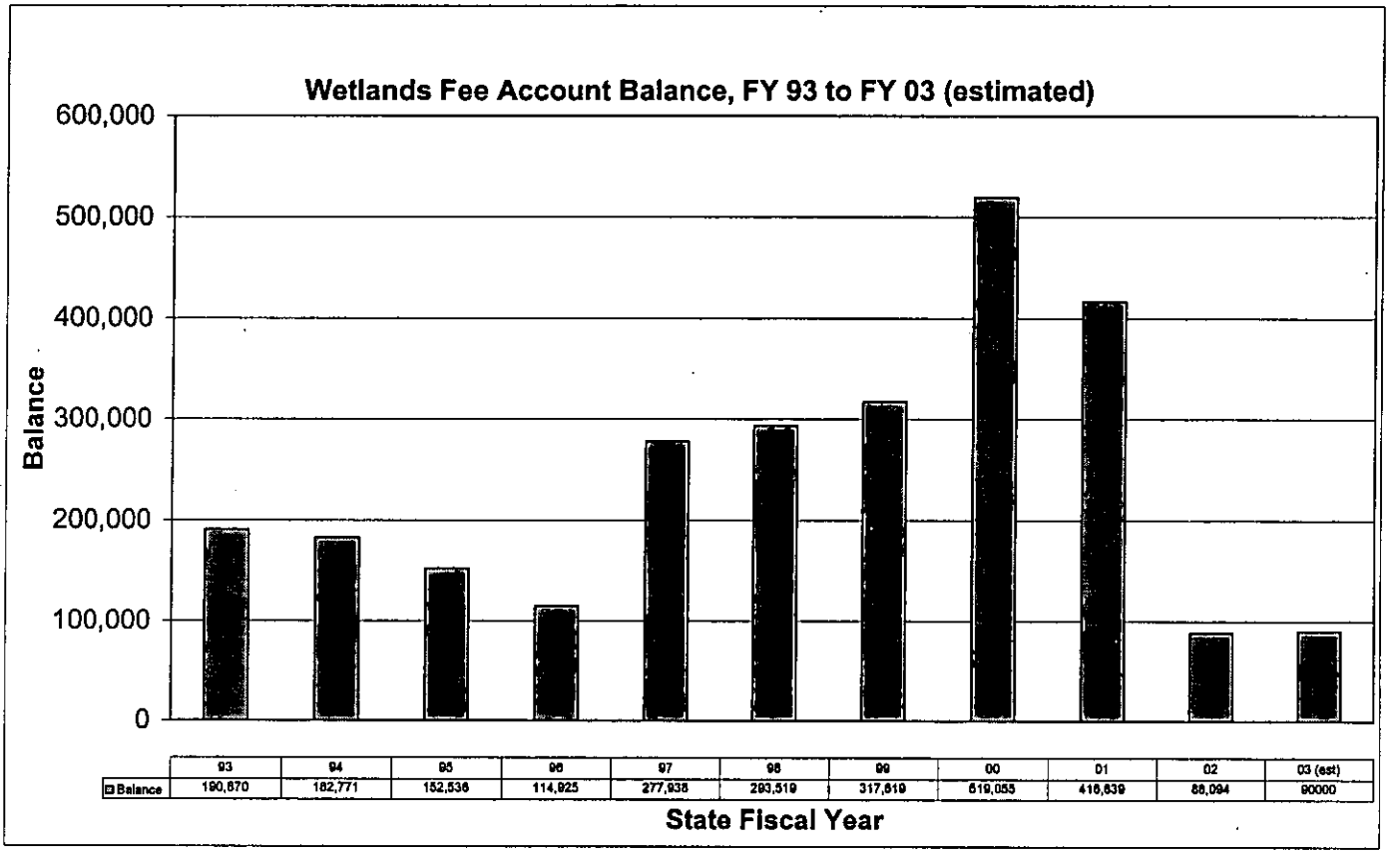
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ATTACHMENT 3

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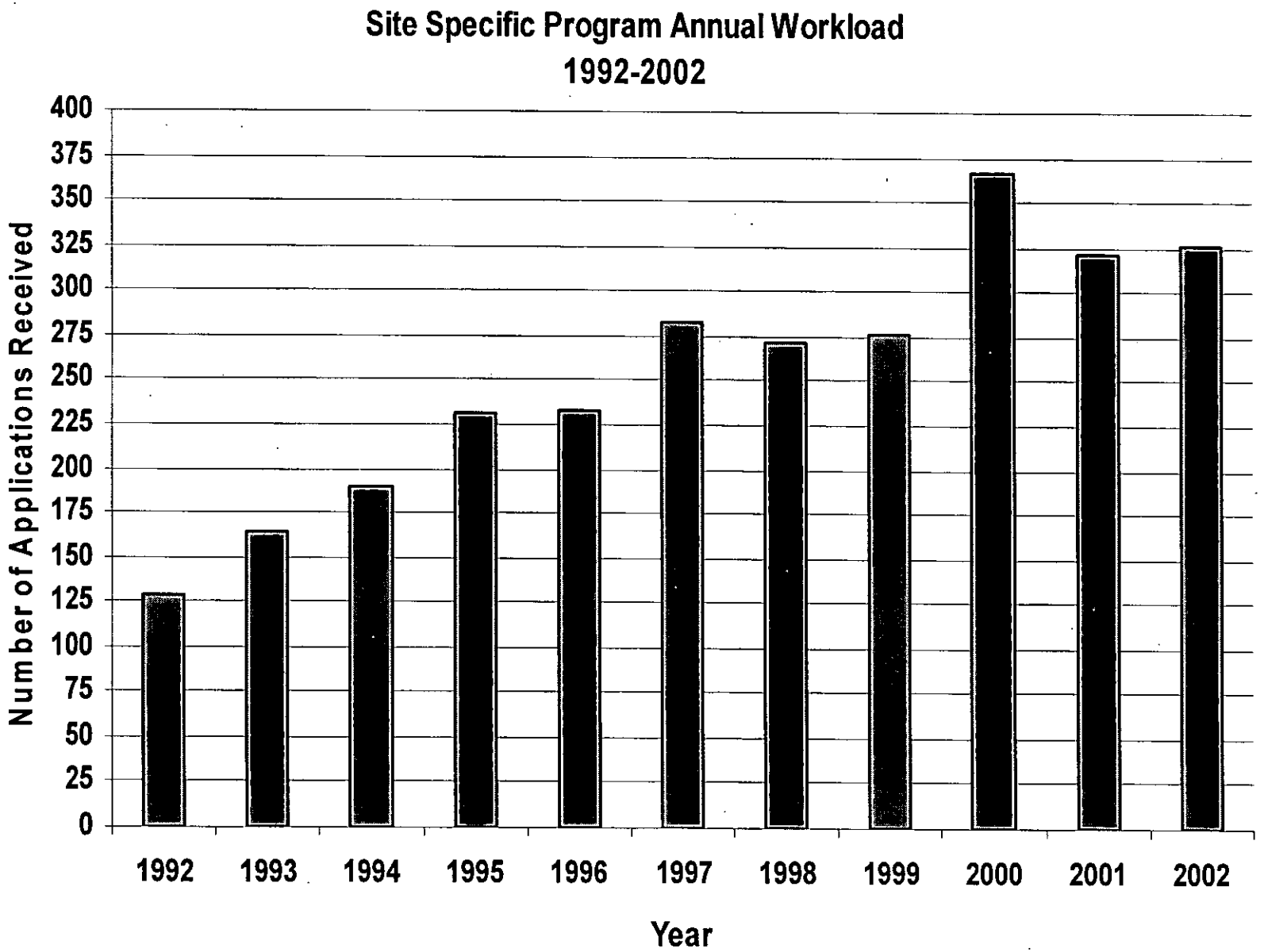


	93	94	95	96	97	98	99	00	01	02	03 (est)
Income	256,907	294,327	342,687	306,558	526,612	422,389	491,819	708,006	498,843	365,825	700000
Expenses	305,369	297,169	372,922	346,169	363,599	406,808	467,719	506,569	601,059	693,284	700000



	93	94	95	96	97	98	99	00	01	02	03 (est)
Balance	190,670	182,771	152,536	114,925	277,938	293,519	317,619	519,055	416,839	88,094	90000

ATTACHMENT 4



State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES
6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095
(603) 271-3503 FAX (603) 271-2982

FILE COPY

November 9, 1999

Representative David Kibbey
Unity Road
PO Box 426
Newport, New Hampshire 03773

Subject: Wetlands Issues

Dear Representative Kibbey:

During a recent meeting on the wetlands program, you provided a "List of Wetlands Issues" (enclosed) of concern that included 11 issues. In response, for each of the eleven issues, enclosed is a point by point discussion of each issue. In addition, a summary of the progress that we have recently made and the future direction for several key areas is provided below.

The Department of Environmental Services (DES) wetlands program continues to improve in both responsiveness and clarity of program requirements. DES continues to implement long-term improvements that include in part the following activities:

Making the rules easier to understand, particularly by consolidating rules on specific structures or activities in one location for improved clarity. For example, the rules on breakwaters have just been simplified and improved seasonal dock rules are expected to be adopted in January 2000. Also, the maintenance and crossings of roadside ditches will be addressed in the near future. We encourage your comments as we move forward with these rules changes.

Development of a "user friendly" manual on wetlands permitting in 2000. This manual will contain sections focused on specific activity or permit types to foster understanding of how to submit a quality, approvable, application package. Application quality improvement is key to the long-term success of the wetlands program.

Completion of a policy on wetlands mitigation in 2000 to establish a consistent level of understanding on how wetlands mitigation, which includes activities like wetlands creation and conservation easements, can be accomplished by applicants.

Improving and maintaining timely review cycles for applications. Around 52% (about 1,100 applications) of the over 2,100 applications received annually qualify for "expedited" review or permit by notice and are processed within 30 days of receipt by DES. The average turnaround time is about 60 days for "minimum" projects and 90 days for most major projects. This compares with up to 6 months several years ago. We continue to focus on ways to improve the review times for these applications with our immediate goal to have turnaround times of 60 days for major projects and 30 days for all other projects. Although we are not satisfied and continue to focus on making improvements, it is worth noting that, based on recent discussions with applicants who work nationally, the level of responsiveness of New Hampshire's wetlands program is quite high compared with most other states.

In conclusion, we expect that steady long-term improvements will continue to ensure that applicants are provided with timely decisions and the environment is protected in accordance with state and federal law.

I hope that your questions have been fully addressed in the attached discussion. If you have any further questions, please contact me at 271-3308.

Sincerely yours,

Harry T. Stewart, P.E.
Director
Water Division

HTS/hts/bdt/mjw
Enclosures (2)
cc: Executive Councilor Raymond Burton
Representative David Young
Representative Leighton Pratt
Representative James Phinizy
Carole Hall, Chairperson, Wetlands Council
Commissioner Robert Varney, DES
Asst. Commissioner Dana Bisbee , DES
Rene Pelletier, DES
Kenneth Kettenring, DES

3-27-2002

Gerard N. Salinardi, 53

Managed Blooming Acres

NEWPORT — Gerard N. Salinardi, 53, of Coon Brook Road, died Sunday, March 24, 2002, at Valley Regional Hospital in Claremont.

Born in Waterbury, Conn., the son of Nicholas and Josephine (D'Laurenzio) Salinardi, he had resided in Newport for the past 13 years.

Gerald was raised and attended school in Naugatuck, Conn. He was a graduate of Naugatuck High School. He also attended and graduated from the University of Connecticut, then went on to receive his master's degree in education. He started and managed Blooming Acres Nursery on Route 10 South in Newport.

Members of his family include his wife of 17 years, Pauline (Drgan) Salinardi of Newport; three sons, Joseph, Michael and Mathew Salinardi, all of Newport; a stepson, Jeffrey Salinardi of Connecticut; a daughter, Melissa Salinardi of Newport; a stepdaughter, Brenda Salinardi of Illinois; a sister, Marie Kilbride of Vermont; his parents, Nicholas and Josephine Salinardi of Naugatuck, Conn., and Florida; one grandchild; several cousins, nieces, nephews and several great-nieces and nephews.

A memorial service will be conducted at the Episcopal Church of the Epiphany in Newport Thursday, March 28, at 11 a.m., the Rev. Daniel Ferry officiating.

There will be no visiting hours.

Memorial donations may be made to the Episcopal Church Memorial Fund, 65 Park St., Newport, N.H. 03773.

The Newton-Bartlett Funeral Home is in charge of arrangements.

Jerry Salinardi

Memorial funds established

NEWPORT — Two funds have been established to provide immediate benefit to the Jerry Salinardi family. Donations to the "Episcopal Church of Epiphany — Rector's Discretionary Fund," Cheney Street, Newport, N.H. 03773, will hopefully cover funeral costs, with any excess contributions going to the family.

The other fund, the "Jerry Salinardi Memorial Fund," Lake Sunapee Bank, 9 Main St., Newport, N.H. 03773 will remain open through the year to directly help with the family's ongoing expenses.

[Limitation of Power.] "Government cannot do indirectly what it cannot do directly; therefor, if the constitution prohibits any taking of private property by what ever means without compensation requirement applies whenever exercise of so-called police power of State results in a "taking of property". N.H. Const. Parts 2 and 12. Burrows v. Keene 121 NH 590-602 (1981)

"Where rights secured by the constitution are involved, there can be no rulemaking or legislation which abrogate them." Miranda v. Arizona 384 U.S. 436, 491; and "the claim and exercise of a Constitutional right cannot be converted to a crime." Miller v. U.S. 230 F2d 486, 489.

"[Constitutionally Law Generally] No branch of state government can lawfully perform an act which violates the State Constitution." State v. LaFrance 124 NH 171-183, (1983)

HIGH COURT RULINGS

Government can be required to compensate owners for environmental regulation 'takings'

By ERIC PIANIN
The Washington Post

WASHINGTON — The Supreme Court yesterday granted new protections to landowners who claim that environmental regulations diminish the value of their property, ruling that government can be required to compensate them for interfering with their ability to develop the land.

The ruling concerned cases in which property owners buy land knowing that it's subject to environmental or zoning limits — such as restrictions on developing wetlands or fragile beaches. In a splintered decision that involved shifting majorities on different aspects of the case, five justices said that even when such limits are already in place, they can amount to a "taking" from the new owner and require compensation by the government.

Writing the majority opinion, Justice Anthony Kennedy said the government may not be relieved "of its obligation to defend any action restricting land use, no matter how extreme or unreasonable."

The ruling wasn't a clear-cut victory for property owners, because the court concluded that the Rhode Island property owner who brought the case hadn't succeeded in demonstrating that he'd been deprived of all economic use of his waterfront property.

Property rights groups hailed the decision, however, as a breakthrough in their efforts to curtail government encroachment on environmentally sensitive privately held land. Some environmental groups and legal experts warned that the ruling could embolden developers to flood the courts with litigation challenging environmental and zoning rules and seeking millions in compensation.

"This increases opportunities for developers and other landowners to sue state and local government over land use and environmental regulations and it will inevitably impose a further chill on environmental protection efforts at all levels of government," said John Echeverria, director of the environmental policy project at the Georgetown University Law Center.

Gary Garczynski, first vice president of the National Association of Home Builders, said the ruling reaffirms the constitutional rights of property owners. "I think the court made it clear that government has an obligation to treat property owners fairly and pay for land when there's a taking and regulations pile up and spin out of control." The decision is part of a line of cases in which property rights advocates have pressed the high court to adopt a broad view of the constitution's "takings" clause, which requires that government pay "just compensation" to property owners for any "taking" of their land.

Property rights advocates have argued, largely unsuccessfully, that restrictions on land use can amount to takings and therefore require payments — a result that would make it difficult for state and local governments to enact such limits. Pacific Legal Foundation lawyers intervened in the case to challenge the notion — widely adopted in lower-court decisions — that property owners cannot win regulatory takings claims if they purchased their land after regulations became effective.

After months of speculation, no court retirements this term

WASHINGTON (AP) — Months of speculation that one or more of the nine Supreme Court justices would retire fizzled yesterday, when the court closed its term without any personnel changes.

Speculation of a coming retirement focused most heavily on Chief Justice William H. Rehnquist and Justice Sandra Day O'Connor, both Republicans who have served on the high court for at least 20 years.

It has become court custom for justices to announce their retirements at or before the end of the term in June, in order to give the White House and the Senate time to choose and confirm a replacement.

Last month, O'Connor said she has no immediate retirement plans. Rehnquist offered no public comment on the subject.

Tamchar, Inc.

156 Eaton Hill Road
PO Box 266
Auburn, NH 03032

Phone (603)-483-2400
Fax (603)-483-5616

February 26, 2003

Ray Weiczorek
Governor's Executive Council
State House
Concord, NH 03301

RE: Wetland/Site specific fines involving Home Depot Site in Tilton & Tamchar, Inc. of Auburn, Inc.

Dear Weiczorek:

As a follow-up to our previous letter dated July 31, 2002, we are very disappointed in the management of DES & the Attorney General's office and the effect it has on small businesses. We unsuccessfully tried to get a sensible resolution to the Home Depot violation we were involved with in Tilton. It appears as though the Attorney General's office rubber stamped DES' decisions without conducting a formal investigation. The checks and balances to protect the public and businesses appear to be lacking. These matters should be approved by the DES Water Council, before they get to this point.

Instead, Home Depot was slammed with a huge $70,000 fine which ultimately came from money owed to Tamchar, Inc for site construction. We can not afford to operate in this manner and have been forced to layoff 50 of our 75 employees. This is not because of seasonal reductions in workload.

We hope you can look into this matter. We would appreciate any of your help.

Sincerely

Charles Therriault

C. Therriault
Tamchar, Inc.

FILE COPY

Town of Lyndeborough
Office of the Selectmen
Citizens' Hall Road, Post Office Box 6
Lyndeborough, New Hampshire 03082

Tel. (603) 654-5955 *Fax (603) 654-5777*

March 18, 2003

The Honorable Norman L. Major, Chairman
Ways and Means Committee
Room 202, Legislative Office Building
Concord, NH 03301

Re: House Bill 810 Concerning the Department of Environmental Services Wetlands and Alteration of Terrain Programs.

Dear Chairman Major:

The Town of Lyndeborough strongly supports the passage of House Bill 810, which provides additional resources to support the Wetlands and Alteration of Terrain Programs of the Department of Environmental Services.

Timely reviews of permit applications and compliance issues by these programs are very important to both New Hampshire's economy and environment, especially for small communities. In the Town of Lyndeborough, we have found the staff in these programs to be very responsive to our needs, and increasingly so in recent years. However, it is apparent that there is a need for additional funding to ensure that these programs can continue to be and improve on their responsiveness and provide the service required by small towns such as Lyndeborough.

New Hampshire's small towns rely on the expertise and technical support of professionals from DES, such as those in the Wetlands and Alteration of Terrain Programs, when we have complex problems especially with local development because our local "expertise" is frequently solely from local volunteers, not environmental professionals. We support this legislation as a good investment for New Hampshire's small rural municipalities.

Thank you for your consideration. Please call me at 654-5955 if you have any questions.

Sincerely,

Lorraine Struble

Dwight Sowerby

Frank Holden

Voting Sheets

HOUSE COMMITTEE ON RESOURCES, RECREATION AND DEVELOPMENT

EXECUTIVE SESSION on HB 810-FN-A

BILL TITLE: **relative to processing excavating and dredging and terrain alteration permits, changing the fees for permits, establishing 2 new positions, and making an appropriation therefor.**

DATE: March 6, 2003

LOB ROOM: 305

Amendments:

Sponsor: Rep. C. Christensen — OLS Document #: 2003 0560h

Sponsor: Rep. — OLS Document #:

Sponsor: Rep. — OLS Document #:

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

Moved by Rep. Merrow

Seconded by Rep. Bruno

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

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

Moved by Rep. Merrow

Seconded by Rep. Bruno

Vote: 15-2 (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. David H. Russell, Clerk

HOUSE COMMITTEE ON RESOURCES, RECREATION AND DEVELOPMENT

EXECUTIVE SESSION on HB 810-FN-A

BILL TITLE: **relative to processing excavating and dredging and terrain alteration permits, changing the fees for permits, establishing 2 new positions, and making an appropriation therefor.**

DATE: 3/6/03

LOB ROOM: 305

Amendments:

Sponsor: Rep. C. Christensen OLS Document #: 2003 0560h

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

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

Moved by Rep. Merrow

Seconded by Rep. Bruno

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

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

Moved by Rep. Merrow

Seconded by Rep. Bruno

Vote: 15-2 (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. David H. Russell, Clerk

OFFICE OF THE HOUSE CLERK 2003 SESSION

RESOURCES, RECREATION AND DEVELOPMENT

Bill #: 810 FN-A Title: Processing Terrain Alteration permits changing fees

PH Date: 3/3/03 Exec Session Date: 3/6/03

Motion: OTP-A Amendment #: 2003-0660h

MEMBER	YEAS	NAYS
Rovce. H Charles. Chairman	✓	
Lawton. David M. V Chairman	✓	
Cooney. Richard T	✓	
Fields. Dennis H		
Russell. David H	✓	
Bruno. Pierre W	✓	
Christensen. D L Chris		
Akins. Ralph L		
Camm. Kevin L		
Ruffner. Walter D	✓	
Cail. Kenneth B	✓	
Campbell. W Packy	✓	
Laflamme. Charles F	✓	
Merrow. Harry C	✓	
Wiley. Robert W	✓	
Spang. Judith T		✓
Donovan. Thomas E	✓	
McEachern. Paul	✓	
Blevler. Ruth Z		✓
Brueggemann. Donald A	✓	
Parkhurst. Henry A L	✓	
TOTAL VOTE:	15	2

Printed: 1/6/2003

OFFICE OF THE HOUSE CLERK 2003 SESSION

RESOURCES, RECREATION AND DEVELOPMENT

Bill #: SB10FN-A **Title:** Processing Terrain alteration permits & changing fees

PH Date: 3/3/03 **Exec Session Date:** 3/6/03

Motion: Amendment **Amendment #:** 2003-0560h

MEMBER	YEAS	NAYS
Royce. H Charles. Chairman	✓	
Lawton. David M. V Chairman	✓	
Cooney. Richard T	✓	
Fields. Dennis H		
Russell. David H	✓	
Bruno. Pierre W	✓	
Christensen. D L Chris		
Akins. Ralph L		
Camm. Kevin L		
Ruffner. Walter D	✓	
Cail. Kenneth B	✓	
Campbell. W Packy	✓	
Laflamme. Charles F	✓	
Merrow. Harry C	✓	
Wiley. Robert W	✓	
Spang. Judith T		✓
Donovan. Thomas E	✓	
McEachern. Paul	✓	
Blevler. Ruth Z		✓
Brueggemann. Donald A	✓	
Parkhurst. Henry A L	✓	
TOTAL VOTE:	15	2

Printed: 1/6/2003

HOUSE COMMITTEE ON WAYS AND MEANS

EXECUTIVE SESSION on HB 810

BILL TITLE: relative to processing excavating and dredging and terrain alteration permits, changing the fees for permits, establishing 2 new positions, and making an appropriation therefor.

DATE: 3/20/03

LOB ROOM: 202

Amendments:

Sponsor: Rep. _____ OLS Document #: _____ Adopted/Failed

Sponsor: Rep. _____ OLS Document #: _____ Adopted/Failed

Sponsor: Rep. _____ OLS Document #: _____ Adopted/Failed

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

Moved by Rep. Camm

Seconded by Rep. Guida

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: yes 20-0

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

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep. Vivian R. Clark, Clerk

OFFICE OF THE HOUSE CLERK

2003 SESSION

WAYS AND MEANS

Bill #: HB 810 Title: _____

PH Date: ____/____/____ Exec Session Date: 3/20/03

Motion: OTP Amendment #: _____

MEMBER	YEAS	NAYS
Major, Norman L, Chairman	20	
Gilbert, Jeffrey D, V Chairman	A	
Clark, Vivian R, Clerk	1	
Hess, David W	2	
Langone, John S	3	
Giuda, Robert J	4	
Camm, Kevin L	5	
Griffin, Mary E	6	
Gibson, John M	7	
Jasper, Shawn N	8	
Hinkle, Peyton B	9	
Hughes, Daniel M	10	
Ingram, Russell F	11	
McCormick, Tom F	12	
Roessner, Kurt J	13	
Almy, Susan W	14	
Davis, Frank W	15	
Espiefs, Peter S	16	
Hamm, Christine C	17	
Hammond, Lee M	18	
Pappas, Christopher C	19	
	20-0	
TOTAL VOTE:		

Printed: 2/13/2003

Committee Report

COMMITTEE REPORT

COMMITTEE: **Resources, Recreation and Development**

BILL NUMBER: **HB 810-FN-A**

TITLE: relative to processing excavating and dredging and terrain alteration permits, changing the fees for permits, establishing 2 new positions, and making an appropriation therefor.

DATE: March 6, 2003 CONSENT CALENDAR YES ☐ NO ☒

☐ OUGHT TO PASS

☒ OUGHT TO PASS WITH AMENDMENT

☐ INEXPEDIENT TO LEGISLATE

☐ REFER TO COMMITTEE FOR INTERIM STUDY
(Available only in second year of biennium.)

STATEMENT OF INTENT
(Include Committee Vote)

This bill would raise application fees for excavating, dredging and terrain alteration permits, and establish time frames for the completion of the Department of Environmental Services (DES) review. It also establishes two new positions and makes appropriations for them. After the initial appropriation the permit fees would make these positions self-funding. Applicants for these permits want predicable time frames for return of applications from the state. In order to achieve this DES has requested fee increases and additional funding to support adequate personnel to achieve these standards. Testimony from industry indicated that they supported the necessary fee increases. HB 810-FN as amended provides the above as well as a sunset provision to take affect in 2006 which will reduce them without further legislation.

Vote 15-2.

Rep. Harry C. Merrow
FOR THE COMMITTEE

Original: House Clerk
cc: Committee Bill file

USE ANOTHER REPORT FOR MINORITY REPORT

Resources, Recreation and Development

HB 810-FN-A, relative to processing excavating and dredging and terrain alteration permits, changing the fees for permits, establishing 2 new positions, and making an appropriation therefor. **a** Rep. Harry C. Merrow for Resources, Recreation and Development: This bill would raise application fees for excavating, dredging and terrain alteration permits, and establish time frames for the completion of the Department of Environmental Services (DES) review. It also establishes two new positions and makes appropriations for them. After the initial appropriation the permit fees would make these positions self-funding. Applicants for these permits want predicable time frames for return of applications from the state. In order to achieve this DES has requested fee increases and additional funding to support adequate personnel to achieve these standards. Testimony from industry indicated that they supported the necessary fee increases. HB 810-FN as amended provides the above as well as a sunset provision to take affect in 2006 which will reduce them without further legislation. **Vote 15-2.**

3/6/04

This bill would raise application fees for excavating, dredging and terrain alteration permits, and establish time frames for the completion of DES review. It also establishes two new positions and makes appropriations for them. After the initial appropriation the permit fees would make these positions self-funding.

Applicants for these permits want predicable time frames for return of applications from the state. In order to achieve this DES has requested fee increases and additional funding to support adequate personnel to achieve these standards. Testimony from industry indicated that they supported the necessary fee increases.

HB810-FN as amended provides the above as well as a sunset provision to take affect in 2006 which will reduce them without further legislation.

COMMITTEE REPORT

COMMITTEE: **Ways and Means**

BILL NUMBER: **HB 810-FN-A**

TITLE: relative to processing excavating and dredging and terrain alteration permits, changing the fees for permits, establishing 2 new positions, and making an appropriation therefor.

DATE: March 19, 2003 CONSENT CALENDAR YES ☒ NO ☐

☒ OUGHT TO PASS

☐ OUGHT TO PASS WITH AMENDMENT

☐ INEXPEDIENT TO LEGISLATE

☐ REFER TO COMMITTEE FOR INTERIM STUDY
(Available only in second year of biennium.)

STATEMENT OF INTENT
(Include Committee Vote)

This bill significantly raises fees on dredge and fill and terrain alteration applications. It also established timeframes for the Dept. of Environmental Services to act on dredge & fill applications. This increase will fully staff the wetlands bureau to their desired levels and add two positions to the terrain alteration staff. The committee still has some concerns regarding assumptions made by the department to warrant this very high increase in fees. The chairman has appointed an ad-hoc committee to substantiate the methodology used by the department. The results of which can be forwarded to the Finance Committee should adjustments need to be made.

Vote 20-0.

Rep. Kevin L. Camm
FOR THE COMMITTEE

Original: House Clerk
cc: Committee Bill file

USE ANOTHER REPORT FOR MINORITY REPORT

CONSENT CALENDAR

Ways and Means

HB 810-FN-A, relative to processing excavating and dredging and terrain alteration permits, changing the fees for permits, establishing 2 new positions, and making an appropriation therefor. **OUGHT TO PASS**

Rep. Kevin L. Camm for Ways and Means: This bill significantly raises fees on dredge and fill and terrain alteration applications. It also established timeframes for the Dept. of Environmental Services to act on dredge & fill applications. This increase will fully staff the wetlands bureau to their desired levels and add two positions to the terrain alteration staff. The committee still has some concerns regarding assumptions made by the department to warrant this very high increase in fees. The chairman has appointed an ad-hoc committee to substantiate the methodology used by the department. The results of which can be forwarded to the Finance Committee should adjustments need to be made. **Vote 20-0.**

Kevin L. Cann #3 810

This bill significantly raises fees on dredge & fill and terrain alteration applications. It also established timeframes for the department to act on dredge & fill applications. This increase will fully staff the wetlands bureau to their desired levels and add two positions to the terrain alteration staff. The committee still has some concerns regarding assumptions made by the department to warrant this very high increase in fees. The Chairman has appointed an Ad-Hoc committee to substantiate the methodology used by the department. The results of which can be forwarded to the Finance Committee should adjustments need to be made.

nlm

COMMITTEE REPORT

COMMITTEE: Finance

BILL NUMBER: **HB 810-FN-A**

TITLE: relative to processing excavating and dredging and terrain alteration permits, changing the fees for permits, establishing 2 new positions, and making an appropriation therefor.

DATE: March 31, 2003 CONSENT CALENDAR YES ☐ NO ☒

☐ OUGHT TO PASS

☒ OUGHT TO PASS WITH AMENDMENT

☐ INEXPEDIENT TO LEGISLATE

☐ RE-REFER

☐ REFER TO COMMITTEE FOR INTERIM STUDY
(Available only in second year of biennium.)

STATEMENT OF INTENT
(Include Committee Vote)

This bill has passed both the RR&D Committee and the Ways and Means Committee. It increases fees in order to fund 2 new positions and ensure more timely processing of applications for excavating, dredging and alteration of terrain. The additional fees, which are estimated to be $150,000 in FY '04, are sufficient to cover the additional expenses, which are estimated to be $131,000 in FY '04. A broad consensus of many interests, such as the New Hampshire Marine Traders, the Granite State Designers and Installers Association, the NH Association of General Contractors and the NH Association of Conservation Commissioners, support this bill. The amendment changes the effective date to July 1, 2003 in order to allow fees to accumulate before expenses are incurred.

Vote 21-1.

Rep. MaryAnn N. Blanchard
FOR THE COMMITTEE

Original: House Clerk
cc: Committee Bill file

USE ANOTHER REPORT FOR MINORITY REPORT

Finance

HB 810-FN-A, relative to processing excavating and dredging and terrain alteration permits, changing the fees for permits, establishing 2 new positions, and making an appropriation therefor. **OUGHT TO PASS WITH AMENDMENT**

Rep. MaryAnn N. Blanchard for Finance: This bill has passed both the RR&D Committee and the Ways and Means Committee. It increases fees in order to fund 2 new positions and ensure more timely processing of applications for excavating, dredging and alteration of terrain. The additional fees, which are estimated to be $150,000 in FY '04, are sufficient to cover the additional expenses, which are estimated to be $131,000 in FY '04. A broad consensus of many interests, such as the New Hampshire Marine Traders, the Granite State Designers and Installers Association, the NH Association of General Contractors and the NH Association of Conservation Commissioners, support this bill. The amendment changes the effective date to July 1, 2003 in order to allow fees to accumulate before expenses are incurred. **Vote 21-1.**

COMMITTEE REPORT

COMMITTEE: Finance

BILL NUMBER: **HB 810-FN-A**

TITLE: relative to processing excavating and dredging and terrain alteration permits, changing the fees for permits, establishing 2 new positions, and making an appropriation therefor.

DATE: March 31, 2003 CONSENT CALENDAR YES ☐ NO ☒

☐ OUGHT TO PASS

☒ OUGHT TO PASS WITH AMENDMENT

☐ INEXPEDIENT TO LEGISLATE

☐ RE-REFER

☐ REFER TO COMMITTEE FOR INTERIM STUDY
(Available only in second year of biennium.)

STATEMENT OF INTENT
(Include Committee Vote)

This bill has passed both the RR&D Committee and the Ways and Means Committee. It increases fees in order to fund 2 new positions and ensure more timely processing of applications for excavating, dredging and alteration of terrain. The additional fees, which are estimated to be $150,000 in FY '04, are sufficient to cover the additional expenses, which are estimated to be $131,000 in FY '04. A broad consensus of many interests, such as the New Hampshire Marine Traders, the Granite State Designers and Installers Association, the NH Association of General Contractors and the NH Association of Conservation Commissioners, support this bill. The amendment changes the effective date to July 1, 2003 in order to allow fees to accumulate before expenses are incurred.

Dealers

Vote 21-1.

called Karen changed to 8/1/03. KP 4/2

Rep. MaryAnn N. Blanchard
FOR THE COMMITTEE

Original: House Clerk
cc: Committee Bill file

USE ANOTHER REPORT FOR MINORITY REPORT

COMMITTEE REPORT

COMMITTEE: Finance

BILL NUMBER: **HB 810-FN-A**

TITLE: relative to processing excavating and dredging and terrain alteration permits, changing the fees for permits, establishing 2 new positions, and making an appropriation therefor.

DATE: March 31, 2003 CONSENT CALENDAR YES ☐ NO ☒

☐ OUGHT TO PASS

☒ OUGHT TO PASS WITH AMENDMENT

☐ INEXPEDIENT TO LEGISLATE

☐ RE-REFER

☐ REFER TO COMMITTEE FOR INTERIM STUDY
(Available only in second year of biennium.)

STATEMENT OF INTENT
(Include Committee Vote)

This bill has passed both the RR&D Committee and the Ways and Means Committee. It ~~increases~~ fees in order to fund 2 new positions and ensure more timely processing of applications for excavating, drudging and alteration of terrain. The fees are sufficient to cover expenses. A broad consensus ~~by~~ many ~~entrusts~~ such as the New Hampshire Marine Traders, the Granite State Designers and Installers Association, the NH Association of General Contractors, the NH Association of Conservation Commissioners, support this bill. The amendment ~~merely~~ changes the effective date from ~~"On passage"~~ to July 1, 2003 in order to allow fees to accumulate before ~~incurred~~ expenses are incurred.

Vote {Type VOTE}.

Rep. {Type NAME}
FOR THE COMMITTEE

Original: House Clerk
cc: Committee Bill file

USE ANOTHER REPORT FOR MINORITY REPORT

HB 810 FNA as amended

This bill has passed ~~both~~ both the RR+D Committee and the Ways and Means Committee. It increases fees in order to fund 2 new positions and ensure more timely processing of applications for excavating, dredging and alteration of terrain. The fees are sufficient to fund expenses. (A) A broad coalition of many interests such as the N.H. Marine Trades, the Granite State Designers and Installers Association, the N.H. Association of General Contractors, the N.H. Assn. of Natural Resource Scientists and the N.H. Assn. of Conservation Commissions support this Bill. The amendment merely changes the the effective date from "on passage" to July 1, 03 in order to allow fees to accumulate to cover expenses ~~as~~ incurred.

(A) '04 - fees @ $150,000 '04 - expenses @ 130767
'05 - fees @ 150,000 '05 - expenses @ 136,133
'06 fees @ 150,000 '06 - expenses 141,653
'07 fees @ 150,000 '07 expenses 147,784

Mary Ann M. Blundard