Bill as Introduced

HB 810-FN-A – AS AMENDED BY THE HOUSE

12mar03... 0560h
10apr03... 1052h

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

HB 810-FN-A – AS AMENDED BY THE HOUSE

12mar03... 0560h
10apr03... 1052h

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 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 July 1, 2003.

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

Sen. Odell, Dist. 8
May 13, 2003
2003-1588s
06/09

Amendment to HB 810-FN-A

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

AN ACT relative to processing excavating and dredging and terrain alteration permits, and changing the fees for permits.

Amend the bill by replacing sections 2 and 3 with the following:

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 $.08 per square foot for dredge or fill surface area or both. The permit application fees for minor or major projects shall be $.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. 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 $.08 per square foot for dredge or fill surface area or both. The permit application fees for minor or major projects shall be [~~$.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 deleting sections 6 and 7 and renumbering the original section 8 to read as 6.

2003-1588s

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.

Committee Minutes

Date: April 29, 2003
Time: 3:50 PM
Room: 102, LOB

The Senate Committee on Energy and Economic Development held a hearing on the following:

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.

Members of Committee present:
Senator Bob Odell
Senator Clifton Below
Senator John Gallus
Senator Theodore L. Gatsas
Senator Russell E. Prescott

The Chair, Senator Bob Odell, opened the hearing.

Senator Bob Odell, D. 8: I will open this public hearing on HB 810 and call on Representative Howard Dickinson.

Representative Howard Dickinson, District 4: Thank you Mister Chairman, members of the committee, my name is Howard Dickinson, I am Carroll County, District 4 which comprises a great amount of that county.

I am here to give strong support for House Bill 810, which I filed as a request of the Department. So in order to not waste any time, I would like to yield to Harry Stewart who will explain all of the details.

Senator Bob Odell, D. 8: I appreciate that. Will the Representatives who are also here be in support of that? I would like to give a courtesy to Representative Phinizy and Representative Blanchard if they would like to speak first.

Representative James Phinizy, District 23: I would be delighted to yield if you don't mind a comment from me. This is an offshoot of a bill I filed before, and (inaudible)

Senator Bob Odell, D. 8: Representative Blanchard did you care to speak?

Representative Mary Ann Blanchard, District 86: Yes, I think it is very important that we are to allow Harry Stewart to make his presentation, but I to participated in one of the study committees back 3 or 4 years ago. Resources have a number of these bills, and we bundled them together and these were recommendations which I am very happy to see.

Senator Bob Odell, D. 8: Truth in legislating as I recall is Sub Committee chair for Resources on this same legislation and reads very familiar (inaudible).

Representative Dickinson thank you very much for your testimony.

Representative Dickinson: Thank you Mister Chairman, and Harry you are in hospitable atmosphere.

Harry Stewart, New Hampshire Department of Environmental Services: Thank you Representative.

Thank you Mister Chairman, for the record my name is Harry Stewart. I am Water Division Director of the Department of Environmental Services. I have Collis Adams with me who is the Wetlands Bureau...

Senator Bob Odell, D. 8: who?

Harry Stewart: Collis, C-o-l-l-i-s, Collis Adams who is the Wetlands Bureau Administrator. Collis has been the administrator of the Wetlands Bureau since about last spring... June.

See written testimony and report attached hereto and referenced as Attachment #1).

Thank you for the opportunity to comment on House Bill 810, this bill in essences provides turnaround time for the Wetlands program mandatory turnaround times. I think when we last left you last spring, we were working, there were issues with the details in terms of what those turnaround times would be and how those would be spelled out in the law and I believe we have worked that out. And have a significant consensus with many parties relative the turnaround times and the fee increase.

The fee increase for example for the dredge and fill program is from 4 cents to 10 cents. So it is a significant fee increase. What it does is it stabilizes the funding for the Wetlands Program at a level to support the existing staff at

full staffing. And I can go through the history of that if you would like, but in essence we have a turnaround time in statute and the fee increased to support the staff to make sure we can deliver on those turnaround times, relative to Wetlands Program.

There is also another section relative to the alteration of terrain program. The Sites Specifics Program as it is known, where there is a fee increase that is proposed to support two new positions in that program so that we can deliver permit decisions in a timely fashion.

As I noted, we work with Marine Trade Association, the Association of General Contractors, the Wetland Scientists, Association of Conservation Commissions, also, the BIA. And all those entities are in support of this bill, as is Governor Benson, who Rene Pelletier and Acting Commissioner Monaco, spoke to specifically about this bill and he is in support of it.

As many of you know timeliness is a concern with the Wetlands Program. We have made significant improvements over the last 4 years or so, in kind of a step-wise logical manner to get the program to a point where it is now. And we are poised, I think what I might characterize, as a last breakthrough in terms of a getting turnaround times down a level where business and environmental engineering community will find acceptable for long term.

We have had permit notification initiatives to streamline permitting, basically for small permits and permit applications. There is a proposed permit by notification process for culverts, and of these things, swales and ditches. For example, the wait for a single family home is going to streamline that process for which is just proposed. Compensatory mitigation rules have not been proposed yet. That is the rule that deal with the federal requirement in terms of when you have significant impacts. There is a need to have some form of compensation for the impact. We have a rule that has been in concept agreed to by AGC and DES, something I never thought I would see in a AGC newsletter.

AGC and DES agree on wetland rules, which was for me a remarkable event, but we do have consensus on that and Gary will support that. Organization changes have happen with Collis Adams, the Wetland Bureau's Administrator, Rene Pelletier as Land Resources Management Program Manager of all the development programs to bring a more complete and comprehensive scheme as to how we manage and ultimately integration of permitting of these programs.

I guess I will go to some charts and graphs to give you a perspective. The very last chart, which does not have a number, is one I added at 3:00 and it is

actually an update of attachment #2. Basically, it shows what the current review queue of backlog is for wetland permitting.

What I would call your attention to, in terms of the long-term performance of the program, is what I call stop light graphs. Red is bad, green is good and red is over 120 days. The next is 90 to 120, and then yellow is 60 to 90.

We basically have shaken all the graded 120 days out of the system. At this point, we are now turning everything around in less than 90 days for the last three months. So, that is pretty much a stable situation right now relative to wetland permitting.

The money is explained in attachment 3, this will look familiar to Senator Odell, I think. Basically, in attachment 3 we saw, we show the wetlands fee account income and expenses going back 10 years. And in the lower graph is the balance in the Wetlands fee account. Basically, what happened in this fee account, looking at the lower graph, is that the last fee increase was in 1997, I believe, so there was a bump in revenues then.

Pipeline construction, we had some anomalous fees, some windfall fees and some fines that increased the revenues. On... back up on the top left you can see the increase, back in 2000, there was a revenue increase in '97. So basically, we had a balance accrual and decided that the backlogs were so bad back in '99 or so, that we reorganized the Bureau. We added four staff at senior levels and basically, started to spend the money that was in the saving account. We have drawn that money down to the point where by the end of FY '02 we had less than a $100,000 balance in the account. Which is what we predicted about January or February of last year.

The only thing that kept the program solvent this year is we reduced by attrition four staff, and we had some windfalls from some large fines. For example, to be honest, the Marriott Boathouse was $200,000. If we hadn't gotten that... the Town of Derry had the Humphrey Road fields, which was...went way beyond what the permit was for and wound up being fined for that. We had a number of fines, which came and kept the program solvent. Without that, we would have had to reduce staff further.

So basically, what this fee increase does in the Wetlands Program is it stabilizes the funding at a level, assuming about $150,000 in fines where we can get back up to full staffing and bring the backlogs down and keeping that.

That concludes my testimony.

Senator Bob Odell, D. 8: Thank you for you testimony, also can we go back to your comment about permit by notification for... was this minor sites? Is that the category that you classified?

Collis Adams, Wetlands Bureau Administrator: That is policy specific on that. What we are attempting to do here, what we would like to do here is take out those projects that do impact jurisdiction wetlands according to the statutes where there is such insignificant environmental impact that they can be handled through a fairly simple and straightforward notification process.

Senator Bob Odell, D. 8: Didn't we do that?

Harry Stewart: We did it with a couple of project categories, we are expanding that now greatly, to take in many more projects.

Senator Bob Odell, D. 8: What is the scale of that, how many projects are we talking about for applications a year?

Collis Adams: We are talking only about 6, between 6 or 7 hundred.

Senator Bob Odell, D. 8: At a total of?

Collis Adams: Of a total of 22, 23, 24 hundred. About a fourth.

Senator Bob Odell, D. 8: Where is that process?

Collis Adams: Right now those have begun formal rulemaking. We are going to be holding a public hearing on May 23rd ,

Senator Bob Odell, D. 8: We don't need legislation?

Collis Adams: We do not. This is rulemakings only.

Senator Bob Odell, D. 8: It that an expansion of what we did in legislation last year?

Harry Stewart: Yes, it's ... the legislation enabled what we are doing right now.

Senator Bob Odell, D. 8: Alright. So this legislation deals with now a sense of ...

Harry Stewart: All minor and major impact projects.

Senator Bob Odell, D. 8: All minor and all major impact projects?

Harry Stewart: I should note Senator, that the fee as it is written, sunsets in three years to six cents, from ten cents to six cents. It is currently at four. And we have agreed to that. And I think that you'll be in support of that.

And the idea is two fold. Number one, the department need to performs and number two, and we expect to obviously, and number two, if this productivity gains, due to things like permit by notification, streamlining measures, then maybe the staff will reduce overtime.

Senator Bob Odell, D. 8: Right now what is the cost per... what is the average cost... you take all you applications, and divide it by cost, what is the cost per unit?

Harry Stewart: Collis?

Collis Adams: An application fee cost?

Senator Bob Odell, D. 8: To you.

Collis Adams: It is about a 1.6 million dollar a year budget to run the Wetlands Program.

Senator Bob Odell, D. 8: That is not my question. My question is what is per unit the cost? In other words, you've got these expenses in here and you know how many permits you have, what is the cost per unit? I guess I should have done that math.

Collis Adams: I would have to do the math as well, I am sorry I am not quick enough to do the math right here in my head. But, I can provide that information for you. I would be happy to.

Senator Bob Odell, D. 8: I think that is important because they were talking about raising... asking people to pay more money and if the cost is going up that is one, but if it is going down because you are more efficient then the fees should actually be dropping. And you add these others things that is taking a quarter of all the applications out of the process basically. Or most of them from the application process. So I would be interested in knowing what the per unit price is, given that some weren't extensive.

Collis Adams: Sure I can get those for you.

Senator Bob Odell, D. 8: On the revenue side, you have the fines and fees, what is the breakdown in fees verses fines.

Harry Stewart: At the proposed fee, ...

Senator Bob Odell, D. 8: Lets start with where it is now.

Harry Stewart: It varies from year to year, this year it was roughly 50/50, as I recall. There is a blurb. We had a large amount of fines, that's an anomalous year, so you know out of roughly $700,000 budget in terms of actual expenses with the staff reductions, maybe 300,000.

Senator Bob Odell, D. 8: 300,000 in this year,

Harry Stewart: 300,000 to 350,000 in fines.

Senator Bob Odell, D. 8: For '03

Harry Stewart: For this year. No that is a very unusual year.

Senator Bob Odell, D. 8: Going forward. What I am trying to find out is where are you expecting to get your money? So I am just saying fines are x number of dollars, what is the average, what is the likelihood of fines being 50% over the next five years?

Collis Adams: See that's one of the problems with trying to operate this program. The fines are such an unknown. Unlike the fees, we can look at historic numbers of either applications or square foot of impact over the years, and they remain fairly constant surprisingly. With fines, we have no idea. I mean that is so variable from one year to the next that it makes it very difficult to run the program with any degree of certainty or predictability. And that is what we seek to do is to solidify that revenue stream, that income revenue stream so that we can maintain a staffing level at an appropriate level to meet those turnaround times.

Harry Stewart: And what we hate this idea of relying on fines, you know. This is the first year where we really had reliance.

Senator Bob Odell, D. 8: You should search for other avenues of fines.

Harry Stewart: To give you in round numbers the Governor's budget for FY'04 for the fee account, the wetland fee account was 900 ... is $978,010. And we are raising roughly 850,000 in gross numbers and again that is in

round numbers from the fees. So it is 800 to 850 in that range. The fiscal note is more precise than that.

So it is roughly 120 to 150 thousand dollars in fines, to 800...

Senator Bob Odell, D. 8: Something like 20% is budgeted to be fines.

Harry Stewart: Yes.

Senator Bob Odell, D. 8: This fee income at the increased rate came in the Governor's budget? Is that what you are saying?

Harry Stewart: Yes, because what the Governor's budget includes is four vacant positions. So in the fee accounts...So of 13 positions in the fee account, four are vacant right now, but they are included in the Governor's budget.

Senator Bob Odell, D. 8: On the expense side?

Harry Stewart: On the expense side.

Senator Bob Odell, D. 8: And $850,000, $978,000 is budgeted on the income side?

Harry Stewart: Yes, in essence. Right,

Senator Bob Odell, D. 8: Or is it this?

Harry Stewart: Yes it is.

Senator Bob Odell, D. 8: So

Harry Stewart: The revenues are not there at that one. I mean without this bill going forward we simply don't hire those staff back up to the 13 and ultimately we wind up reducing staff down below the 9 that we already have in the fee account. Because it is like a savings account if you recall.

Senator Bob Odell, D. 8: The other budget does include the income and the expenses as projected by the fee increases and the positions in the field.

Harry Stewart: In the sense that the Governor's budget includes the expenses for the 13 positions that already exist.

Senator Bob Odell, D. 8: Tell me about... Senator Below is somewhat an expert in this. Where does the 125% rule come into this?

Harry Stewart: I have no idea what that is.

Senator Bob Odell, D. 8: Several lawsuits, I gather, have come up in the past that deals with 125%.

Senator Clifton Below, D. 5: That is for licensing boards? This doesn't apply to this.

Senator Bob Odell, D. 8: Okay. That's my questions for now. Any other questions? Senator Below.

Senator Clifton Below, D. 5: Thank you Mister Chairman, well you know on two, I noticed your income through the fee account was only 366,000 according to the chart on attachment #3.

Harry Stewart: That's right.

Senator Clifton Below, D. 5: Presumably, this fall in fees was maybe a slow year because the economy slowed down some but presumably, there is relatively little in fines there if '03 is double that and is about half the fines in '03 is projected. Is that right?

Harry Stewart: Yes, the fines in '03 were very large relative to ... I have another table that shows the breakout of the two, but I didn't bring it unfortunately.

The fines range from around 100,000 to 200,000 a year upon average typically. In '02 that was a low number, I think it was something like 75 or 80 thousand. Don't quote me on that, but it was in that order.

Senator Clifton Below, D. 5: Just to be clear, the Governor's budget includes a higher income which you might achieve if this bill passes and as the entire fees.

Harry Stewart: Yes, what drives the budget is the positions. So the class 10 and... there are class 59 positions that were transferred to class 10, but what ultimately drives the budget is the positions. The positions exist even though four of them are vacant.

Senator Clifton Below, D. 5: Right. But this bill also creates the authority for two more positions above and beyond the 13, is that correct?

Harry Stewart: That is for the Sites Specific Program, I am sorry I did not get into that in detail. But the Sites Specific Program proposal is to increase the fees, it is at the very end of the bill, increase the fees, it's in paragraph 2. Roman numeral 2, it's the very last...I have one that I got off the inter... yes sections 5 and 6.

The fee increase is in section 5, roman numeral 2, and the base fee for 100,000 to 200,000 square feet is suppose to go from 100 to 500 dollars and then doubling the increment for fee impacts over 200,000 square feet... two hundred.

Now that money goes into the general fund, so those revenues are the general fund and the proposal is to place that money in the general fund and extract 2 positions to help with the reviews of site-specific plans, which are erosion control and stone water management plants.

I should note that they're site specific. I went faster in my testimony. But last year when the backlog gets over 90 days, around about now, and we are pushing the envelope now. We are in the 75 to 80 range right now. We pulled staff in, for example a full time engineer from the Dam Bureau came into the program for about three months, so I can have the two staff that are full time doing plan reviews in the program to get those backlogs worked on. That has an impact obviously on the Dam Bureau because this is a person that is out the State's dams. So we get behind in that program while we are addressing the development sector issue.

Senator Bob Odell, D. 8: Senator Prescott.

Senator Russell E. Prescott, D. 23: You are streamlining 600 applications, what is the revenue for those 600 applications that are streamlined and what do you think you will be saving on them?

Collis Adams: Those minimum impact permits are a $50 fee, so you are talking $30,000. Can I have a second? I have a question I want ....(inaudible)

Senator Russell E. Prescott, D. 23: Would it be on the savings of the $30,000?

Senator Prescott and Collis Adams talking simultaneously.

Collis Adams: Does that answer your question?

Senator Russell E. Prescott, D. 23: Yes, thank you.

Senator Clifton Below, D. 5: That is not all savings because you still have a price.

Collis Adams: Well certainly, yah, there is still some staff effort and we have to log them, and then track them, and get them into the database and provide reports, but you know it is support staff effort as opposed to technical staff effort.

Senator Bob Odell, D. 8: Do you have another question?

Senator Russell E. Prescott, D. 23: You are suggesting a five fold increase in the permit fee from 100 to $500.

Harry Stewart: For site specific projects, right. Plus for the initial hundred to two hundred foot impact.

Senator Russell E. Prescott, D. 23: Maybe the fiscal note shows that will raise approximately $200,000. I know that more of what we talked about adding employees, (inaudible)

It raises more money than what you propose for new staff.

Harry Stewart: Yeh, there is a projected site surplus, I guess, is the way I would describe it, to the general fund. When it is all said and done in terms of the revenues verses the expense picture, we post two staff added and the fee increase.

Senator Russell E. Prescott, D. 23: And you are already in (inaudible). And you are already keeping things under 90 days, maybe with a little bit of help from the Dam people, ... I don't understand the need for increases in fees.

Senator Prescott and Harry Stewart talking simultaneously.

Collis Adams: I can speak from a little direct knowledge. I worked on that program for about 8 years. And that is a high pressure program. That is a program that is dealing with large construction projects in New Hampshire.

And when those projects get online they are fast tracked as you probably know and they are looking for quick turnaround time, because they have a lot of money tied up in those projects. And a delay of 30 days, 60 days, is big money to those people to those types of projects. So as soon as we get into the 45, 50, 60 day range, people are getting antsy. People want those things.

This is highly technical work, these are engineering positions, this is highly technical work that requires some time to go through the calculations and the analysis and the reports that come along with it. And for two people, this is the program that only has two people in it right now for the whole state. It is just overwhelming. And like Harry says, its starting to get up around 90 days, it's seasonal, plus it is the backlog building up. So that gives you a little bit of flavor with how that program is and how it functions on a day to day basis.

Harry Stewart: The cost savings is in the order of 20 to $50,000 a month, in terms of these projects if you can get the permits out the door quickly. Jim Gove and others can speak to that more eloquently, but that is what we do.

Senator Bob Odell, D. 8: My last question, I think, is without reading the bill, the basic goal... that I recall asking this, seems to be in terms of turnaround, completely, absolutely in 180 days in that ...

Harry Stewart: We actually tightened that, but the policy... you can speak to that.

Collis Adams: See if I can...

Harry Stewart: One of the issues was the exact language on the turnaround times. Collis, and Gary Abbott, and Rene Pelletier worked on that.

Collis Adams: We went through a number of meetings and discussions. We sort of fine tuned these timeframes that the people who are involved, and you will hear some of the other people testify later, that we came to some comfort level with these.

Let me see if I can break it down simply for you. Once the application comes in to DES it gives us 14 days to do an administrative completeness of the application, and make sure all the information is there that we need there to make a decision on the application. Within that 14 days, it is not like you ask and get complete, once it is complete then it starts a clock. And the clock that starts will give us 75 days to do a thorough review, a site inspection, whatever else we need to do to fully evaluate the information that comes into the application. Gives us 75 days to perform that review and at the end of that time, either identify, you know, a one shot deal if you will, the short comings of the application, so that the applicant or the arranger can address those short comings, or if it is complete at 75 days it's our decision.

So it sets those specific deadlines. It is important to note that within that timeframe is built in, per statute for local conservation commissions, to have

input. I don't know how familiar you are with that, but basically, once the town clerk gets the wetland application in the town office, the conservation office has 14 days to make comment to us on the information contained in the application or intervene on that, which stretches that timeframe out to 40 days. I can tell you that it is fairly routine and a number, many communities in New Hampshire for conservation commissions to routinely intervene. So when we look at that 75 day number you need to think 40 days is outside of our control because it is being worked at and handled at the local level and tied up because of local input. So I think it is important when you envision these timeframes to keep that in mind.

Senator Russell E. Prescott, D. 23: Plus 14 days to start the process.

Collis Adams: Plus 14 days to start. I am sorry I have to take out one step. Actually up to an acre of disturbance. Above an acre goes up to 105, yeah, 105 days.

Senator Bob Odell, D. 8: And it goes on **(Begins reading from Page 1, Line 15 of bill 'As Amended by the House')** "Any request for addition information shall specify that the applicant submit such information as soon as practicable and shall notify the applicant that if the requested information in not ..."

Okay so the applicant gets another 120 days to...

Collis Adams: We don't mind sharing responsibility. We just want to make sure that when the ball is in their court there is some share of responsibility for the transfer of information in a timely fashion.

Senator Bob Odell, D. 8: **(Begins reading from Page 1, Line 19 of bill 'As Amended by the House')** "Where the department requests additional information pursuant to subparagraph (b), the department shall, within 30 days of the department's receipt of the information...

Collis Adams: Make the decision. That's right.

Senator Bob Odell, D. 8: So 75 days, you go 14, 75, and then you request information so now it is on the applicant's desk, once they get back to you, then you have 30 days.

Collis Adams: 30 days.

Senator Bob Odell, D. 8: Thank you very much for your testimony.

Senator Kenney, signed in as in favor, but did not ask to speak. Gary Abbott.

Gary Abbott, Exec. VP of the Associated General Contractors of NH: **See written testimony and report attached hereto and referenced as Attachment #2).**
Thank you Senator, senators, for the record my name is Gary Abbott, I am Executive Vice President of the Associated General Contractors of New Hampshire.

Last year before the Senate, we opposed House Bill 1343, this year we are in support of the bill, House Bill 810.

But, I think some of the questions that you are raising are some of the questions we raised last year. And I guess, I do have a bar chart that I will give you. I didn't bring extra copies but what I used last year was to show that the fines, and I did '98 through 2001 last year. The fines ranged from 86,000 to almost 300,000 in those years.

The applicant fees have ranged from 322,000 to 409. So it gives you an idea. So what I did is when I looked at this last year. Also this is a fund, a fee fined account, so if there is extra money in the account that is not expended it stays in the account. So there was a reserve. So it is not a fund which rolls over into the general fund. So with that also comes some comfort that if we end up paying too much it goes into an account that could be adjusted later. If it, if the expenses aren't drawn out of the account, we, the Department becomes efficient. Also with that was a consistency in the number of applications, running from about 2200 to 2400 in that ballpark. So, we looked at that.

One of the things I also did was a chart, and I will give you this too, was the history of the fund. And if you recognize it, it goes from 300 to 400,000. You recognize 4 cents to 10 cents is 150% increase. So what I did is a snap shot, that said if the square footage of all the permits was pretty close to the same, you are going to raise $806,000. That was in the past, 300, and something thousand dollars.

That pretty much is the both fee and fines in it, and I recognize to that, and the Association recognizes that reliance on fines is going to be sporadic in that kind of account. But you will get fines from people who have violated those statutes. And I think the history show that up.

Now whether some point down the road the legislature ends up developing a policy like the fines are not included as a cost of the operation, but I think there are staff people who dedicate time to this.

Now the other part is to recognize the significant cost of the fee. We are not talking 2 or 3 hundred dollars. If you are talking about project 81 acre, currently the permit application pays about $1700 for that. Under the 10 cent per square foot, the new price becomes $4300. So we are not talking... it is something we were very concerned about last year of taking the hit of so many dollars. When in fact, not having any control over the efficiency of the process of the permit.

Now you just went over what we think is the critical part. This is the part was the time. Last year's bill was very vague, of all the others, most critical of just saying the turnaround in 120. And that would be a report to the legislature either it made it or it didn't.

This year working with the department and the other groups, I think we came up with language with those timeframes you just went over. One of the critical parts for us is that in the language, if the state doesn't meet it you get to operate and you get your permit. So there is something out there that wasn't out there before. Before there was this, they could take as much time as they wanted.

Also, if an applicant thinks this is the best application that he can do and he can't make any adjustments, he gets a decision. The process doesn't go on forever. If you add up the days in a very fast process, under one acre would be 89 days, but if it is over one acre it could be over 119 days, how it is timed out.

The other timing was to address those issues of Commissioner Varney when he was there, always told me the it was in the applicants hands, not in his hands, so he wasn't counting the days. I think that at how long before they close the file. And if you... if they need additional information, they have 30 days, so there is an incentive to do the right thing. Look over the entire permit and ask for all the information at once, not to let this process continue.

The other major piece that I think why we are in support is the sunset provision. Show us that you are going to perform. And that not only means turnaround and handling everything as it currently is, it's taking into account these rules and regulations that you talked about. The rules, permit by notification is just one. The hope is that those smaller permits that staff can handle them faster. I don't think 30,000 is the right number. That is the cost of doing, I think it is really about staff time. Taking those 13 people and efficiency, if you can get them off little stuff because... and get them on the bigger projects there should be an efficiency there that the department needs to handle.

The other part, I think Harry mentioned, was the mitigation ratio rules. That's one that's really as an organization, and that is the one that he held up the newsletter. We seem to come to some consensus on how that would be handled. That would help the big permits. It basically puts in place in the rules, kind of the standards, that if you fill in one acre of wetland, you compensate with ten acres or more. That would meet the no net loss of the goal of what we are after. Applicants would know what the parameters are and how to meet it. If you do that, you save a lot of time. It would probably save that extra $3000 that applicants would have to pay in the savings of time, knowing what you have got in there.

So the sunset provision is very critical because in our sense that the department has to have some incentive to get... move these rules, move the internal process to be an efficient process. And, it gauges that three years. By having that Section 3, which is a repeat of Section 2, except for that one change of going from 10 cents back to 6. July 1 of 2006, that will allow that 2006 session to completely analyze whether it has been efficient. And I think it gives me, one of those people who have not always been a fan of the Department of Environmental Services, an opportunity to then with the legislature to come in and comment, as to whether this has worked or not. I think those are the ingredients. So just because today, you know, we are supporting this, I think the Department has got to be looking at that that is a major item in this bill that if you give them the money, it's enough dedicated funds we can analyze it better. It is not just about expending the money, it's about how efficient, have you kept up, have you performed, and how has it gone.

So with that also I would like to tell you the New Hampshire Marine Trades have worked very closely with us. Paul Goodwin called me this afternoon and said I can't be there because I guess its ice out on the lake. Therefore he has some work, but he wanted to make sure I also reported that this organization is in support of this bill, as well that we have worked closely with.

So I would hope that this committee would report this out and I will give you a set of these. It kind of puts together the charts and stuff that I had last year. But I think, I wasn't able to update it with 2002 and 2003 but I am sure going through the financial everybody will have an opportunity to go look at that.

But as an organization, we are willing to take a bigger fee increase with a timing mechanisms and probably the good faith that a number of these other rules are going to get through the process that will help applicants in a very timely fashion.

So I will answer any questions that you may have.

Senator Bob Odell, D. 8: Thank you for your testimony. Any questions? Senator Prescott.

Senator Russell E. Prescott, D. 23: How is a permit denied? What are the procedures for that happening?

Gary Abbott: I guess what I would like to do is there any way I can ask Jeff Myers, who... Jeff Myers was a member of the AGC Environmental Committee.

Jeff Myers: Senator I can actually approach at the first opportunity to answer as to how a permit is denied in the extent that giving you that information in doing so.

Gary Abbott: Just for the record, Jeff Myers is a member of the AGC Environment Committee who has also helped with the language that is in here. I know that it is addressed in adjudicatory hearings and everything else that is in here. But I would like to leave it to those who really understood all of that.

Collis Adams: The process is made to make every effort with each applicant to try and develop projects that are improvable. So that we can issue a permit in some form or another. I think it is important to point out that out of around 2400 applications that we deal with in the year, only 2% of them actually result in denial. And that is only after extensive efforts by staff to try to work with the applicants to work through the issues that may bring rise to a potential denial. So that is that process.

It comes in, you get your reviewed, the staff is a technical review. We identify the issues that are of concern that either don't comply to statute or don't conform to rules. We try to work with the applicant or their agents as to how we can change their plan to make it conform to the rules, so that we can give them a permit to do what is they are looking to do.

If it ultimately ends in denial, or course we have recourse. We have the ability to request for reconsideration. If they are not happy with that then we have the ability to appeal it the Wetlands Council, above that then from there it goes to Superior Court.

Senator Russell E. Prescott, D. 23: What's to stop the applicant from taking another 180 days? After a 180 days it does not show they are not

protecting the environment to give them a permit, and just say we deny it because we don't what you are doing yet. What is to stop that from happening? And having the applicant continue the... to appeal it? What is to stop that in this legislation?

Collis Adams: Stop the applicant from doing what? What is the action...

Senator Russell E. Prescott, D. 23: Stop the Department of Environmental Services from saying I have had a 180 days to do this. I still don't have enough staff, I haven't got enough money, and I am not ready to issue a permit, and I am not going to issue a permit, I am going to deny it. In here it says, if I do nothing they will start the bulldozers and go on with the project. But if I say no permit, final says that, then they can continue to say that it is not enough money, not enough staff, and I am not ready to give out a permit because I want to protect the environment. What is to stop you from doing that over and over again?

Collis Adams: We have to make finding with each decision that we make, especially with denials. We have to make very specific findings as to why we are denying an applicant's request for a permit. Other than the last report (inaudible) that you have to make specific findings, and I think that is the mechanism that prevents that from happening. More and again we request reconsideration and appeals from the EPA and Wetlands Council.

This Council as you know, is a separate entity and they review these thing independently to determine whether or not the bureau is acting legally and reasonably in arriving to their decision. And that certainly will rise to the surface quickly if that is the situation that we are dealing with.

Senator Russell E. Prescott, D. 23: Therefore we could implement this today and see if we can do it without any new staff and without any new money? Or would you rely on the fact that you don't have enough staff, don't have enough money and you'll deny preference to people's permits after 180 days?

Collis Adams: Well, the theme, go ahead.

Harry Stewart: We don't have enough revenue coming in, it is projecting out to support the existing staff, so you know some time next year we are, by attrition or by laying off to get to the level the revenue will support that staff and expenses. Ultimately, if we had this scenario where there was rampage default in approval situation going on, we are also learning in essence to the second (inaudible) program from the Army Corp of Engineers, and they would

jump in and basically take the program back. I think. To be straight, (inaudible) and follow the path.

Senator Russell E. Prescott, D. 23: And what is wrong with the Feds taking the program back?

Collis Adams: If you think it is hard getting a decision out of the State of New Hampshire, getting one out of the Army Corp of Engineers is considerable process. We have this very good working relationship with them through the State program (inaudible) management permit which basically they are the pulse of the stuff we do and when they step in they simply go on a string of their rules and regulations. If we were to jeopardize that relationship, that process, there would be significant delays at the Federal level.

Senator Bob Odell, D. 8: Any questions from the committee?

Gary Abbott: I am just making you aware that I asked a very similar question to Rene Pelletier regarding staffing. One of the things that he reminded me of, even though there is only 9 people currently staffed, he was utilizing people out of some other bureaus to maintain the current workload. Because I had that question. If you are able certain things that are in the annual report, why can't you continue? But, he said "I could go on and continue to borrow 2 or 3 people from other divisions for so long and you are going to feel in now."

I was at that point of just, you know, trying to... I guess I was getting into my efficiency mode of trying to clarify just how high does this really have to go to cover. I eventually abandoned that mission in the sense, that I kind of came to the grips that if I... they got the fee that they are requesting even though... and I think that is where the sunset provision is, you really need to see the efficiencies in that. I think that is what this bill really does. It says you will get the money to have a fully funded that the administration says they need and we will hold you accountable that the whole process goes. There is no doubt, there was a question in my mind what happens if they start denying everything because they can't fulfill it. Then that becomes a catch 22, because if I cut the staff, then that is more likely to happen than not. And I find myself, and I made this similar testimony for the Ways and Means, I am not in the Department to see really how efficient can you be, or not be, and it is going to take leadership within that department to make sure that these things happen. And I am optimistic, but 2006, won't be too far along, and I am hoping that it's a pleasant report as the fee is intended to go back at that point. I am sure that is going to be a real interesting session if this bill passes.

Senator Bob Odell, D. 8: Any more questions? Thank you very much.

Gary Abbott: Thank you.

Senator Bob Odell, D. 8: I will call on Marjory Swope is signed in but does wish... signed in in favor... does not wish to speak. Jim Gove.

Jim Gove: My name is Jim Gove and I am at Gove and (inaudible) Services. I am here representing myself. As a private consultant, public consultant, and I also representing a number of developers who I have talked to about this bill and they wanted me to put forth their view on it.

When I say developers, I am essentially talking about the big box developers. We have done a lot of Shaws, we have done over 10 Home Depots in New Hampshire, they are in the process of working with some locals right now.

And in essence, what their view is that the time frames are critical for them. They have a situation, that I am sure you are aware of, that they develop a P&S, a purchase and sale, on a particular parcel with the owner, and then as certain intervals in that process they have what's called the option that comes due. And that has become what they call the hard one. So it could be every 40 days to every 90 days they may have to put down between 30 and 50 thousand dollars and that continues on through the process.

And so for them, if they in fact can begin a process which they can see an end to, and they can see an end point where they can say "Okay, we know that we either have a project or we can stop this whole process and we don't have another option coming due in another 90 days, we have another 50 thousand dollars in bills tied.

Then in essence their very much in favor of these particular time frames. We have had situations in the past where on large projects and I mean they are large, I mean there is no question. They are an acre, or two, maybe three, seven acres of wetland impact, so yes, we have a lot of involvement of both federal agencies and the department. But you know, if you push this thing out for 9 months to a year, there is an awful lot of options that have come due, during that time frame. So, they are very much in favor of the time frames.

In terms of the actual cost associated with them, one of the folks told me from, in fact, it was from O'Connell's development that just did a Shaws in Hillsborough, and they said the cost is so... that particular cost the actual cost of the fee is so minor, they don't even have it in the line item budget.

In essence even with going it going to ten cents, she said I wouldn't even bother it in as a line item budget. Essentially, that is just an operating fee that she didn't even see as being particularly bothersome. So I guess from the standpoint from the big box developer that I am talking about here, who in fact, will be spending an awful lot of this money. In essence, they are very much in favor of this. They want to see it, they would like to see it go through, they would like... the time frames are fine, and they are okay with the fees.

So I would be happy to answer any questions.

Senator Bob Odell, D. 8: Thank you for your testimony. Any questions for Mister Gove?

Senator Russell E. Prescott, D. 23: I have a question. We they be.... I don't know if the fee structure is equitable across the whole way, would they be willing to pay even more than the $500 permit at 10 cents per...?

Jim Gove: They... back at one time, if I my memory is correct, I believe it was up to 12 cents at one time. And even at 12 cents it just wasn't a factor. It just simply wasn't a factor for them. So I mean, if it was 4 cents, 6 cents, 12 cents, 20 cents, it didn't make any difference. They were looking and saying "okay, if you can guarantee this, I will pay what it takes to get this through." Because this is peanuts compared to that option that is going to come due in 90 days.

Senator Russell E. Prescott, D. 23: Was there any talk of how to rate that considering the project size? What the fee would be?

Jim Gove: I think we did have some discussions of that, but at this point in time, it is right across the board.

Senator Russell E. Prescott, D. 23: Thank you.

Senator Bob Odell, D. 8: Are there any other questions? If not thank you very much.

That is the last of the speaker that have signed in. Is there anyone here that hasn't spoke that would like to? Dick Wentzell.

Dick Wentzell: My name is Dick Wentzell and I am from Newport, New Hampshire and I oppose the bill very strongly. Myself and many others.

See written testimony and report attached hereto and referenced as Attachment #3).

I will start off, this is very simple, if you look at the first page, it say November 9th, 1999. You look down where it is highlighted, this is in writing, it has been guaranteed and said the turn around time is 60 and 30 days. It is on stationary of the Department of Environmental Services. If you turn the page over It say signed by and all the people that this went to.

Basically, what this says is back in 1999, they had 30 and 60 days. That was 4 years ago. It says it. I didn't write it. It is in black and white. 30, 60 days will be approved one way or the other.

If you look at the third page in there, which is a memo, and it is written by Representative Dave Kibbey, sent to Peter Walker, this particular session I was sitting there with them, Attorney General's office and the rest. They discussed to try to make it a little bit easier for everybody to get a permit. Peter Walker agreed we need to simplize this a little bit so that everybody can understand what the rules are. They agreed to it, Attorney General, everybody agreed to it. Went back and the power to be said 'nope we don't want it.'

So I asked why they don't want to make it easier. Here is what somebody said off the record 'The more complication you can make something, the more chaos and the more people and the more money the department can get because they can try to justify it.' Which makes a lot of sense.

Now if you look at the last one in there. This poor gentleman right here, you ...probably nobody knows, but if you look at it, the gentleman was 53 year old, passed away and left three kids. So I am here in part of these three kids.

This gentleman signed for a wetland permit in 1991. He didn't belong to the Gary Abbott's, and all the other people that are speaking for this bill. He was just a poor guy that wanted to do his nursery. So he went, he came in my office, ten years later, and said I still don't have a permit. All my money is gone, all the lawyers have taken my money, he says 'Dick I don't know what to do.' I said "Well, you know they are out of control, which everybody understands that."

'But Dick, I have been 10 years and I still can't get a permit.'

So I went to Councilman Ray Burton, and I went to Rene Pelletier, and I went to the people down here and I said there is nobody in this state that

should go 10 years without a permit. And then the poor gentleman passes away.

And that is a sad story. And down at the bottom (page 3 of attachment #3) they ask for donations to help. The legal bills were so much, he didn't bond anybody, he just struggled for 10 years to get a permit. And if you look at the end result of the permit. He got fined by the State, he actually had to pay a fine. But in 1991, and I have the records and I will show anyone of you people here, the Conservation Commission wrote him a letter on the Town of Newport paper, and said as long as you use loose fill, you can go ahead and do it. And then she turned him into the state and the state went 10 years and then they fined the poor guy. I have a big problem with that. The operation... now you can give these people all that extra money you want, but it isn't going do any good until they come down to reality, and realize that the environment needs to people, but there is a limit to all this stuff.

Not just too long ago, that Department had 45 employees. How many employees do you suppose they have today, does anybody know? How many employees does the Department of Environmental Services have today? Do you know the answer?

Harry Stewart: It is over 500 but I don't know what the total...

Dick Wentzell: Well records will speak for itself, if you Senators and people want to check it out, they have a lot more than 500. It is a matter of record.

Then I heard about these fines. This gentleman right here, he was putting in a Home Depot, up in Tilton, New Hampshire, just working right away. The Department was running out of money so he got fined $120,000 and he didn't want to pay it, his special people said you didn't violate, but Home Depot said we have to do a public relationship, so he sent in $70,000 with some more money to go in it.

Now two quick items, they talk about efficient. I had asked Governor Craig Benson, Bob Monaco, Rene Pelletier, three Governor's Councils, we are paying a man, or the taxpayers are, with bennies, $90,000 for quite a few months, works for the Department of Environmental Services, nobody know what he does. And I asked Mister Craig Benson, right down the line, what does this man do. 'Well we don't know'.

So I asked Bob Monaco, I realize it is only $90,000, you people want all this money, to create new positions, but you can't even tell what this man does. Now if he worked in the private sector, you wouldn't be in business, because

CC

it is a waste of money and a waste of time. And I still don't have an answer what the man does.

But last but not least, Mister Senator, Mister Chairman, Bob Odell, I heard earlier that chapter 332G 125% was not affected with this. I have a serious problem with that. So, I would request on record, that I and many other people before you people make a decision, I would like to see it in writing, that anything over 125% does not effect this. Because I have spent myself and a lot of other people have spent a lot of money and time, there are court cases and it needs to be defined. Hopefully, before you vote, because your oath to office says you have to uphold the law, and apparently, I respect for this gentlemen over here an two other ones that agreed with you, but there are seven people that are lawyers and stuff that don't agree with you. I am no lawyer, but I would request, I would like it in writing that this 125% does not effect all these big fee that they want. 500% increase, now they go from 4 cents and I am sorry I forgot your name, but I respect what you said, if these big developers say money is no problem then they can split it, they can pay these astronomical fees, it's the poor little guy that gets tucked into all this thing.

I have been 5 ½ years for a permit, and I got black mailed. I will use the word blackmailed, because it is documented. I have a gentleman for the DES wetland, and God as my judge, he said, his first statement was 'you give me some other land'. I just looked at him and him and said "excuse me". He said "No you give the department some other land, you sign it over, where we will leave it." I said "I don't even understand what you are talking about."

He said 'We call that a switch' 'We'll let this little fill stay but you got to give me all these extra acres.' I said "We don't have any more extra acres". He said 'that is what we do.' So I asked the gentleman right on the spot, I said "When Uncle Sam called to go in the service, did you go". He said 'no'

Senator Bob Odell, D. 8: Can you just stop for a second so we can switch the tape.

Dick Wentzell: So I asked the gentleman if he had gone in the service, he said no. And in wall in my office, I had it hand done, I have the Constitution, nobody especially from the state should blackmail me.

I talked the Gary Bare, "I said why did you go the Governor Shaheen and at that time Bob Varney, and give them all this land so that you could do this. It's the fastest, easiest thing out. I have a big problem with that. To me that is blackmail, extortion, what ever word you want. And if this committee or

anybody gives this department any money whatsoever, I would hope they would appreciate and look. These people they need a lot of help.

Apparently, they have never been in a private business, they don't know how to run a private business, because the state has an attitude with a lot of people right across the street. We are the only game in town, you come to us or that is it. If you want to buy gas for your car you can go pick where you want, if you want a Department of Environmental Services or Wetland permit you go singlely to them.

I am not a fully religious man, but I believe that there is only one God here. And those people there are not God. And so I am going to end with they do not need no money, they were already promised that 1999, and it is documented. But my last thing is I would like to have it in writing because I have all kinds of people sitting home.

Any questions?

Senator Bob Odell, D. 8: Thank you Mister Wentzell. Any questions from the committee. Seeing none, thank you for your testimony.

Is there anyone else that has not signed up that would like to speak. Seeing none, I will close this public hearing on House Bill 810.

(See written testimony submitted by Richard H. Clough, CAE, Executive Director of Granite State Designers and Installers Association attached hereto and referenced as Attachment #4.)

(See written testimony submitted by Steven B. Keach, PE, President of Keach-Nordstrom Associates, Inc. attached hereto and referenced as Attachment #5).

Hearing concluded at 5:20 PM

Respectfully submitted,

Carlene C. Cayes
June 30, 2003

ATTACHMENT #1

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

April 29, 2003

The Honorable Bob Odell, Chairman
Energy & Economic Development Committee
Room 102, 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 Odell:

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), 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.

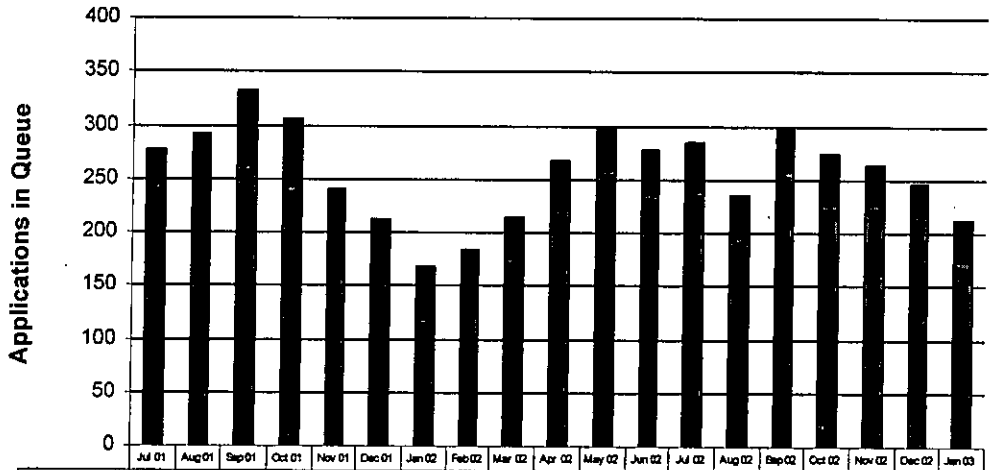
Wetlands Mitigation Banking Study and Draft Compensatory Rules: DES has funded a study by the North Country Council on the feasibility of wetlands mitigation banking and will encourage this approach on a statewide level. Over the long term, these initiatives are expected to both streamline permitting 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.

ATTACHMENT 2

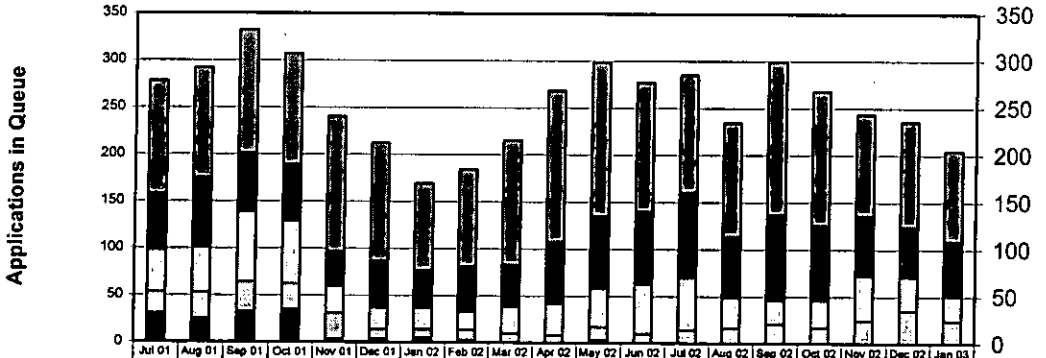
Wetlands Bureau, Permitting Section
Total Review Queue, by Month



	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	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

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

Wetlands Bureau, Permitting Section
Review Queue Age, by Month

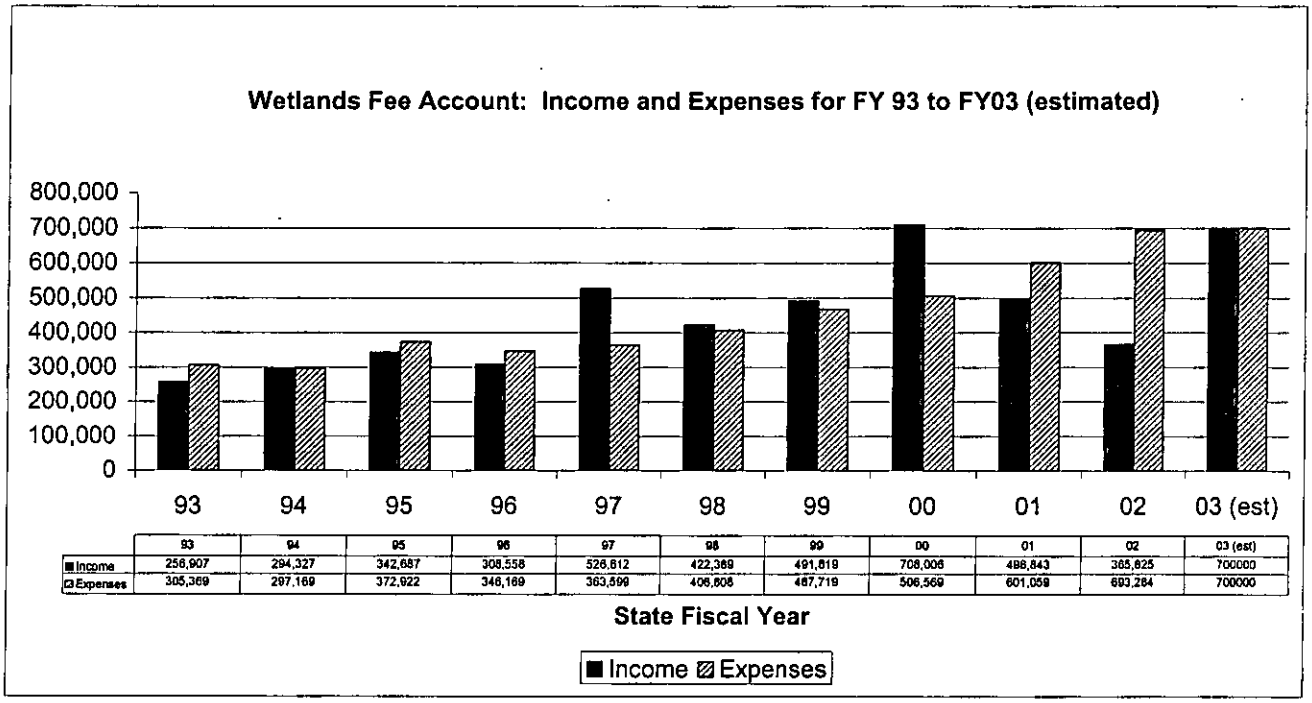


	Jul 01	Aug 01	Sep 01	Oct 01	Nov 01	Dec 01	Jan 02	Feb 02	Mar 02	Apr 02	May 02	Jun 02	Jul 02	Aug 02	Sep 02	Oct 02	Nov 02	Dec 02	Jan 03
0 - 30 days	120	117	131	118	143	125	92	103	132	160	163	137	125	120	162	142	107	111	95
31 - 60 days	60	74	62	60	37	50	40	48	44	66	77	77	90	65	91	80	64	53	58
61 - 90 days	46	48	75	67	29	23	23	19	29	34	41	63	58	33	25	29	48	36	27
91 - -120 days	22	28	31	27	27	10	9	11	10	8	14	10	14	18	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	169	184	215	268	298	277	285	234	299	268	243	235	204

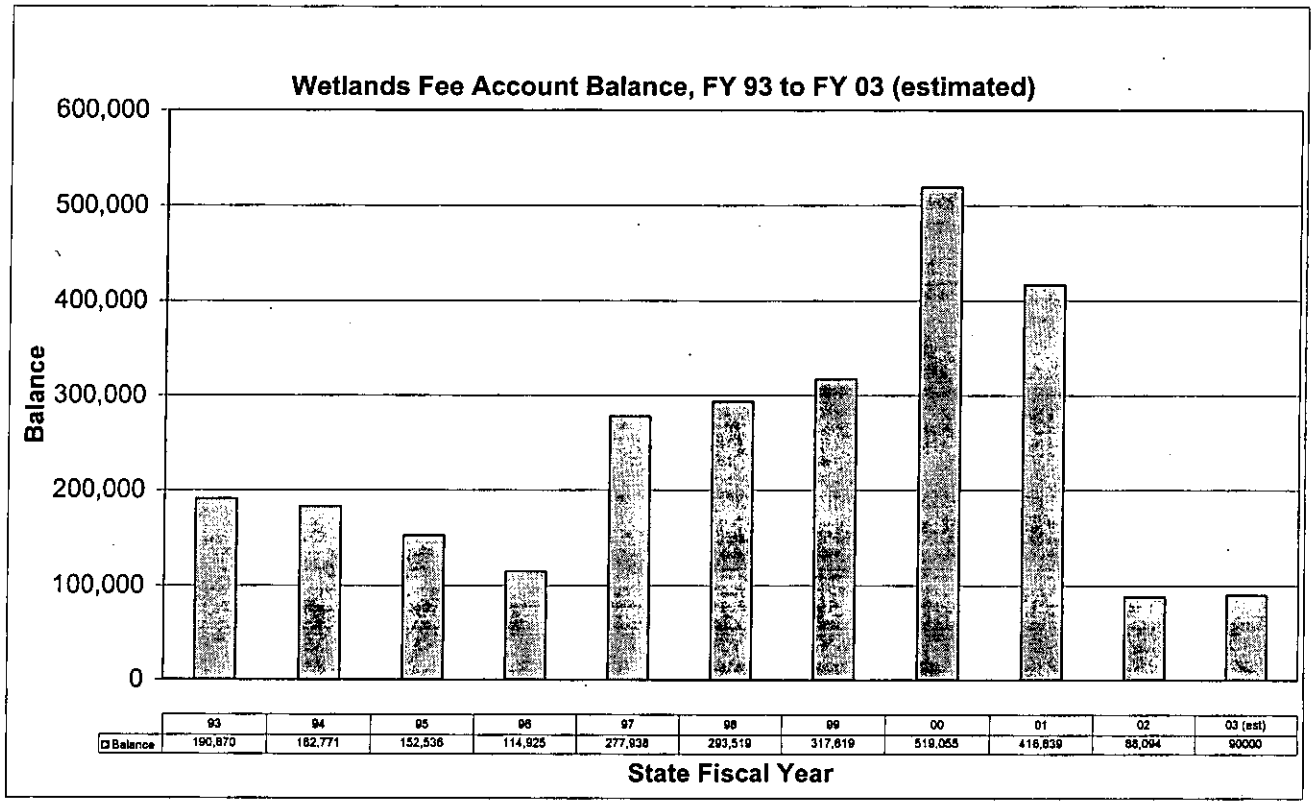
DATA SHOWN INDICATES REVIEW QUEUE AGE STATUS ON THE FIRST FIRDAY OF EACH MONTH

ATTACHMENT 3

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



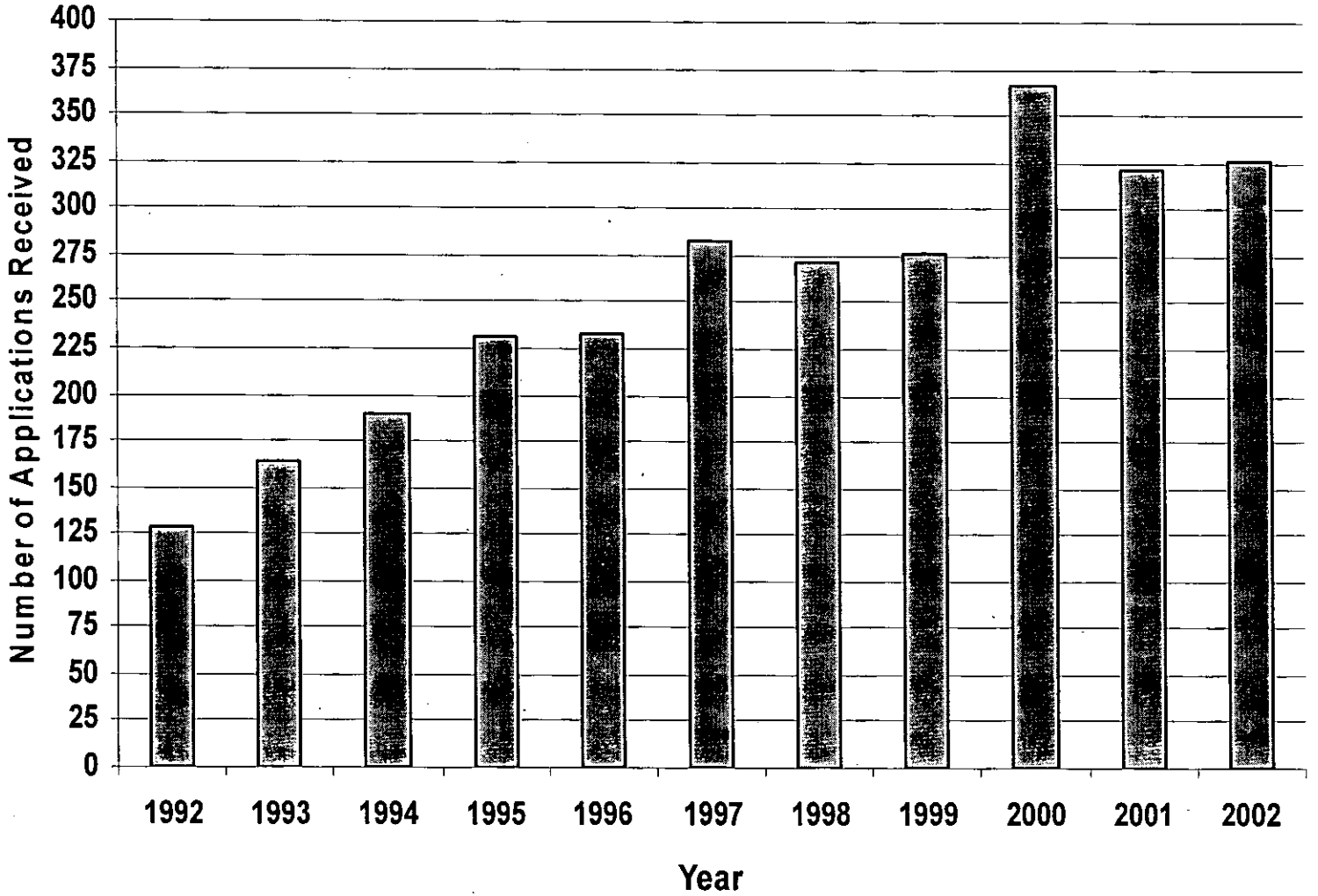
	93	94	95	96	97	98	99	00	01	02	03 (est)
Income	256,907	294,327	342,687	308,558	526,812	422,389	491,819	708,006	498,843	365,825	700000
Expenses	305,369	297,169	372,922	346,169	363,599	406,808	467,719	506,569	601,059	693,284	700000



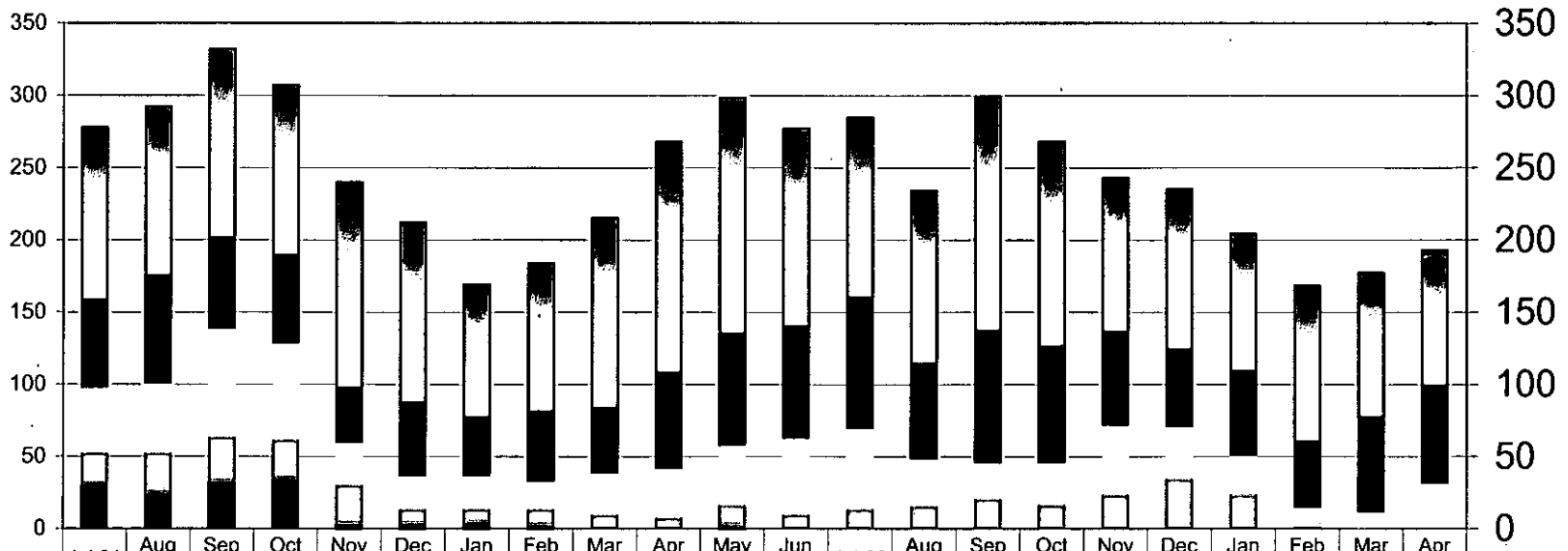
	93	94	95	96	97	98	99	00	01	02	03 (est)
Balance	190,870	182,771	152,536	114,925	277,938	293,519	317,619	519,055	416,839	88,094	90000

ATTACHMENT 4

Site Specific Program Annual Workload
1992-2002



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	Feb 03	Mar 03	Apr 03
Min Exps.							0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	3
0 - 30 days	120	117	131	118	143	125	92	103	132	160	163	137	125	120	162	142	107	111	95	108	100	91
31 - 60 days	60	74	62	60	37	50	40	48	44	66	77	77	90	65	91	80	64	53	58	45	65	67
61 - 90 days	45	48	75	67	29	23	23	19	29	34	41	53	56	33	25	29	48	36	27	13	12	31
91 - -120 days	22	28	31	27	27	10	9	11	10	8	14	10	14	16	21	17	24	35	24	2	0	1
> 120 days	31	25	33	35	4	4	5	3	0	0	3	0	0	0	0	0	0	0	0	0	0	0
Total Files	278	292	332	307	240	212	169	184	215	268	298	277	285	234	299	268	243	235	204	168	177	193

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

ATTACHMENT #2

The Associated General Contractors of New Hampshire, Inc.

48 Grandview Road ▼ Bow, New Hampshire 03304
603/225-2701 ▼ Fax 603/226-3859

May 21, 2003

The Honorable Robert Odell, Chairman
Energy & Economic Development Committee
Room 102, Legislative Office Building
Concord, NH 03301

Dear Chairman Odell:

On behalf of the Associated General Contractors (AGC) of New Hampshire Board of Directors, I would like to express our support for House Bill 810 which would impose time limits for the Department of Environmental Services to process wetland permit applications, and adequately fund the Department in the form of increased fees. The association believes that House Bill 810 will improve the application process for the applicant.

The AGC has also worked extensively with staff members from the Department of Environmental Services to draft clearer rules for the processing of wetland permit applications. The wetland mitigation rules were finalized by the Department this week and passed on to JLCAR for review (see attached). We believe once these rules are adopted through JLCAR, it will improve the applicants ability to meet the state's requirement and further increase the effectiveness of the Department.

If you have any questions, please do not hesitate to contact me.

Sincerely,

Gary A. Abbott
Executive Vice President

Attachment

cc: Senate Majority Leader, Robert Clegg
Senate Energy & Economic Development Committee
Robert Monaco, NHDES Commissioner
Brian Fowler, Wetlands Council

GAA/kr

C:\Superdisk Backup\Politics-Legislative\DES\hb 810 letter to senate.doc

Added language in bold italics, underlining

Adopt Wt 101.03 to read as follows and renumber successive sections so that, for example Wt 101.03 "Applicant" becomes Wt 101.04:

Wt 101.03 "Accessory docking structure" means a structure supplementary to a dock or wharf that assists in securing watercraft or protecting the dock or watercraft such as, for example, an ice cluster, piling, boat lift, or canopy.

Adopt Wt 101.15 through Wt 101.17 to read as follows and renumber successive sections so that, for example Wt 101.15 "Conservation Commission" becomes Wt 101.18:

Wt 101.15 "Compensatory mitigation" means creation of a new wetland, restoration of a wetland, or preservation of land to offset the impact of a project by replacing or partially replacing wetlands functions and values lost due to the project, or by substituting the value added to a wetland or wetland system for the functions or values lost.

Wt 101.16 "Composite Functional Value Index" (CFVI) means a numerical evaluation of wetland functions used for evaluating mitigation proposals.

Wt 101.17 "Conservation area" means an area of land protected by a conservation easement or deed restriction that restricts the future use of the property in perpetuity.

Adopt Wt 101.39 to read as follows and renumber successive sections so that, for example Wt 101.39 "Grandfathered status" becomes Wt 101.40:

Wt 101.39 "Functional assessment" means an evaluation of a wetland to determine the functions and values it performs for the purpose of establishing compensatory mitigation under Chapter Wt 800.

Adopt Wt 101.46 to read as follows and renumber successive sections so that, for example, Wt 101.46 "Maintenance of structures" becomes Wt 101.47:

Wt 101.46 "Jurisdictional area" means an area as defined in RSA 482-A.

Adopt Wt 101.63 and Wt 101.64 to read as follows and renumber successive sections so that, for example, Wt 101.63 "Public Hearing" becomes Wt 101.65:

Wt 101.63 "Practicable" means capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purposes.

Wt 101.64 "Preservation" means the permanent protection using legal and physical mechanisms so that the resource remains in a natural or undeveloped condition.

Adopt Wt 101.87 and Wt 101.88 to read as follows and renumber successive sections so that, for example, Wt 101.87 "Weephole" becomes Wt 101.89:

Wt 101.87 "Upland buffer" means an area of land, including land within the tidal buffer zone, that is contiguous to a jurisdictional area.

Wt 101.88 "Watershed" means a geographical area in which all water drains to a given stream, lake, wetland, estuary, or ocean.

Adopt Wt 101.90 and 101.91 to read as follows and renumber successive sections so that, for example, Wt 101.90 "Wharf" becomes Wt 101.92:

Wt 101.90 "Wetland creation" means the transformation of upland to wetland at a site where the upland was not created by human activity such as by filling or water diversion.

Wt 101.91 "Wetland restoration" means the re-establishment of a filled, dredged, or drained wetland based on a functional assessment or composite functional value index, by removal of fill, restoration of hydrology to the area, or by such other or additional means as are necessary.

Added language in *bold italics*, deleted language ~~struck through~~

Readopt with amendments Wt 302.03, effective 4-23-97 (Document 6498-B), to read as follows:

Wt 302.03 Avoidance, ~~and~~ Minimization, ***and Mitigation***.

(a) The applicant shall submit a statement describing the impact of the proposed project design and provide evidence which demonstrates that ~~his proposal~~ ***the project design*** is ~~the alternative with the least adverse impact to areas and environments under the department's~~ ***practicable after consideration of avoidance and minimization of impacts to*** jurisdictional ***areas.***

(b) For all impacts that will remain after avoidance and minimization measures have been implemented, the applicant shall submit a compensatory mitigation proposal in accordance with Chapter Wt 800, unless exempted by (c) below;.

(c) An applicant shall not be required to submit a compensatory mitigation proposal only if:

(1) There is no impact, within a jurisdictional area, to:

a. An exemplary natural community as defined or identified by the natural heritage inventory; or

b. A state or federally listed endangered or threatened species or its habitat or reproduction areas; and

(2) The total project meets one or more of the following qualifying criteria:

a. The project qualifies as minimum impact in accordance with Wt 303.04;

b. The project impacts less than 10,000 sq. ft. of wetlands but otherwise qualifies as minor impact in accordance with Wt 303.03;

c. The project involves only riprap or other bank stabilization to protect existing infrastructure such as highways, bridges, dams, or buildings, or includes such work in combination with other qualifying criteria;

d. The project involves only bank stabilization by exclusively incorporating bio-engineering methods, or includes such work in combination with other qualifying criteria;

e. The project involves only minor or minimum impacts to streams identified in Wt 303.03 and Wt 303.04, respectively, or includes such work in combination with other qualifying criteria;

f. The project involves only the installation of accessory docking structures or the construction of new shoreline structures and breakwaters, or includes such work in combination with other qualifying criteria, provided the resulting

dock surface area of all new shoreline structures on the frontage is less than 2,000 square feet; or

g. The project involves only construction of a pond classified as a minor or minimum impact identified in Wt 303.03 or Wt 303.04, respectively, or includes such work in combination with other qualifying criteria.

(d) Mitigation shall not be required for impacts that are not intended to remain after the project is completed, provided the areas are restored in accordance with provisions shown in the approved project plans.

(e) Other state agencies may request the department to enter into memorandums of agreement to adopt alternative mitigation strategies, including alternative schedules for submittal of information. The department shall agree to such memorandums of agreement provided the proposed alternative is in the public interest and reflects the ratios identified in Table 800-1.

Amend Wt 501.02(a), effective 4-23-97 (Document # 6498-B), by inserting new subparagraph (4), cited and to read as follows:

Wt 501.02 Additional Data.

(a) Along with the completed application submitted to the department, the applicant shall supply at least the following information:

(4) Where preservation of an upland buffer is being proposed as compensatory mitigation:

a. A report that documents current property conditions; and

b. A copy of the proposed conservation language, including a surveyed plan showing the location of the proposed conservation area boundaries.

Adopt CHAPTER Wt 800 to read as follows:

CHAPTER Wt 800 COMPENSATORY MITIGATION

PART Wt 801 PURPOSE AND APPLICABILITY

Wt 801.01 Purpose. The purpose of this chapter is to establish the criteria and procedures for submittal and review of compensatory mitigation proposals.

Wt 801.02 Applicability. This chapter shall apply to all compensatory mitigation proposals required by Wt 302.03.

Added language in bold italics, deleted language struck through

PART Wt 802 COMPENSATORY MITIGATION REQUIREMENTS

Wt 802.01 Assessments.

(a) Prior to submitting a compensatory mitigation proposal, the applicant shall:

(1) Conduct a functional assessment or compute a composite functional value index (CFVI) of the impacted wetland site and proposed mitigation site; and

(2) Identify the location of the proposed mitigation parcel relative to other protected lands.

(b) A functional assessment shall be completed using:

(1) The relevant components of the U.S. army corps of engineers new england district highway methodology or other comparable published methodologies; and

(2) A review of surrounding land use, soils, habitat, endangered species, and similar data as appropriate.

(c) A CFVI shall consist of an assigned number for each applicable criteria of a wetlands function appearing in the "Method for the Comparative Evaluation of Nontidal Wetlands in New Hampshire", March 1991 ("NH Method"), computed as follows:

(1) The primary functional values of ecological integrity, wildlife habitat, and noteworthiness shall be evaluated within the proximity of the wetland to be impacted using the NH Method by a person with experience or training in the NH Method;

(2) Functional value 1 (ecological integrity), functional value 2 (wetland wildlife habitat), and functional value 14 (noteworthiness) identified in the NH Method shall be assessed independently and then combined, provided that for a project located within an urban setting, the functional value 12 (urban quality of life) shall also be evaluated; and

(3) Any CFVI in the evaluation criteria that is dependent upon a functional value other than functional values 1, 2, 12, or 14 shall be calculated as 0 to allow the primary functional values to be calculated on an independent basis.

Wt 802.02 Compensatory Mitigation Site Location. Preference shall be given to compensatory mitigation sites located in the same watershed as the impacted wetlands, as defined by Wt 101.95, when available and practicable.

Wt 802.03 Compensation Amount.

(a) Unless Wt 802.04 is used, the functional assessment or composite functional value index of the proposed mitigation site shall be equal to or greater than the functional assessment or composite functional value index of the impacted wetland site.

(b) The applicant may propose a combination of compensatory mitigation strategies, with the resulting mitigation ratio amounts reflecting this combination.

(c) The ratios as listed in Table 800-1 shall be the maximum mitigation ratios required for approval of any project under this chapter whenever the applicant satisfies the CFVI method.

Wt 802.04 Alternative Mitigation Plans.

(a) Compensatory mitigation shall be in an amount no less than the ratios listed in Table 800-1, unless the applicant proposes an alternative that will have greater benefit to functions and values of wetlands and surface waters identified in RSA 482-A:1 or to one or more of the following:

(1) Exemplary natural communities as identified by the natural heritage inventory;

(2) Habitat that supports rare, threatened, or endangered species, or species of concern, as identified by the natural heritage inventory or the department of fish and game nongame species program; or

(3) Ecologically important lands as noted by the new hampshire living legacy project or its successor for protection of biodiversity values of selected sites around the state.

(b) An alternative compensatory mitigation plan may include proposals such as the restoration of functions within a degraded wetland.

(c) An alternative compensatory mitigation plan shall meet all other requirements of Chapter Wt 800.

(d) As part of an alternative compensatory mitigation plan, the applicant shall submit a functional assessment of the impacted wetlands and proposed mitigation site(s).

Wt 802.05 Compensatory Mitigation Ratios. For purposes of determining the amount of compensatory mitigation that must be provided, the ratio of surface area of the compensatory mitigation to surface area of the wetland impacted by the project shall be determined based on the type of area impacted, as specified in Table 800-1:

Added language in *bold italics*; deleted language [illegible]

TABLE 800-1 Compensatory Mitigation Ratios

\ Mitigation Activity Resource Impacts \	Creation In-kind	Restoration In-kind	Preservation of Upland Buffer
Bog	N/A	2:1	15:1
Tidal Wetlands	3:1	2:1	15:1
Forested	1.5:1	1.5:1	10:1
Undeveloped Tidal Buffer Zone	N/A	2:1	3:1
All Other Jurisdictional Areas	1.5:1	1:1	10:1

PART Wt 803 UPLAND BUFFER PRESERVATION

Wt 803.01 Location and Value. An upland buffer preservation area offered for compensatory mitigation shall:

(a) Be adjacent to a jurisdictional area; and

(b) Meet or exceed the functional assessment or CFVI of the wetland to be impacted by the project.

Wt 803.02 Dimensions. The buffer shape and location shall provide benefit to the resource(s) being protected.

Wt 803.03 Incorporated Jurisdictional Areas. An area subject to preservation may incorporate a jurisdictional area provided:

(a) The upland buffer entirely surrounds the jurisdictional area or at least abuts those undeveloped portions under sole ownership; and

(b) The incorporated jurisdictional area is equal to or less than 50% of the total conservation area.

PART Wt 804 CRITERIA FOR EVALUATION

Wt 804.01 In-kind Creation or In-kind Restoration. To propose compensatory mitigation based on in-kind creation or in-kind restoration, the applicant shall:

(a) Submit a functional assessment or CFVI of the impacted wetlands and the proposed mitigation site;

(b) Have the wetland delineation prepared by a certified wetland scientist, unless exempted by RSA 310-A:79, IV;

Added language in *bold italics;* deleted language ~~struck through~~

(c) Identify the source of wetland hydrology in the proposed mitigation area, and assumptions or basis of the proposed mitigation design;

(d) Identify the relationship of the proposed mitigation site to any jurisdictional area(s);

(e) For restoration proposals, explain the history of the filled or disturbed area to the extent known;

(f) Include plans that identify:

(1) Existing and proposed grades, critical or typical cross sections showing existing and proposed grades, predicted water fluctuations, proposed depth of soil horizons, and proposed wetland cover types for the mitigation area;

(2) Construction procedures and timing, the name of the qualified professional responsible for oversight of the mitigation work, and proposed contingency measures for unexpected issues;

(3) Plant species, quantities, source of planting materials or whether plan relies on natural re-vegetation, stock size, zones of predicted plant occurrence, survival goals, the proposed locations of native plant stock and the rate and type of seeding, and when and where seeding or planting will take place;

(4) Existing soils on the proposed mitigation site and assessment of the source of soils to be placed on the site, likely seed bank composition of soils, and the depth of proposed growing medium;

(5) Erosion control notes and details to control sediment entering adjacent, undisturbed wetlands or surface waters;

(6) Invasive species in the vicinity;

(7) If applicable, an invasive species control plan; and

(8) Activities permitted and not permitted within the creation or restoration area;

(g) Describe how monitoring will be conducted following construction of the mitigation site(s), identifying the name of the person(s) responsible for monitoring, proposed measures of success, and the remedial measures to be taken if necessary during construction and after completion of the project to promote success of the mitigation area; and

(h) Demonstrate that the mitigation site(s) have a 75% success rate after 2 full growing seasons following completion of the mitigation work.

Wt 804.02 <u>Upland Buffer Preservation</u>. To propose compensatory mitigation based on upland buffer preservation, the applicant shall:

Added language in bold italics, deleted language ~~struck through~~

(a) Submit a functional assessment or CFVI of the jurisdictional area(s) to be impacted;

(b) Describe how the property proposed for preservation will be legally protected;

(c) Delineate all wetlands within the proposed conservation area and all contiguous wetlands and surface waters as follows:

(1) For conservation areas comprising 20 acres or more, delineation shall be completed:

a. By a certified wetland scientist in accordance with Wt 301.01; or

b. By interpretation of aerial photography, published soil surveys, U.S. fish and wildlife national wetland inventory maps, or other available information; and

(2) For conservation areas comprising less than 20 acres, delineation shall be completed by a certified wetland scientist in accordance with Wt 301.01;

(d) Identify the property or portion of property on a tax map or USGS quad map;

(e) Submit a statement that the boundaries of the preservation area have been surveyed by a licensed surveyor and will be marked by permanent monuments and signs indicating the location of the area;

(f) Submit a legal description and survey plan of the property with metes and bounds noted;

(g) Submit draft language that identifies the provisions for protection of the land;

(h) Submit a report pursuant to Wt 501.02(a)(4)a.;

(i) Submit photographs to illustrate important site features with location(s) noted on property map including location of significant ecological features, existing buildings, structures, trails, wells, power lines, pipelines, historic resources, or other improvements that will be in place at the establishment of the conservation area; and

(j) Submit a management plan for the stewardship of the property which identifies:

(1) Activities permitted and not permitted within the conservation area; and

(2) The responsible party or parties who will ensure that the management plan is followed.

PART Wt 805 REQUIREMENTS UPON PERMITTING

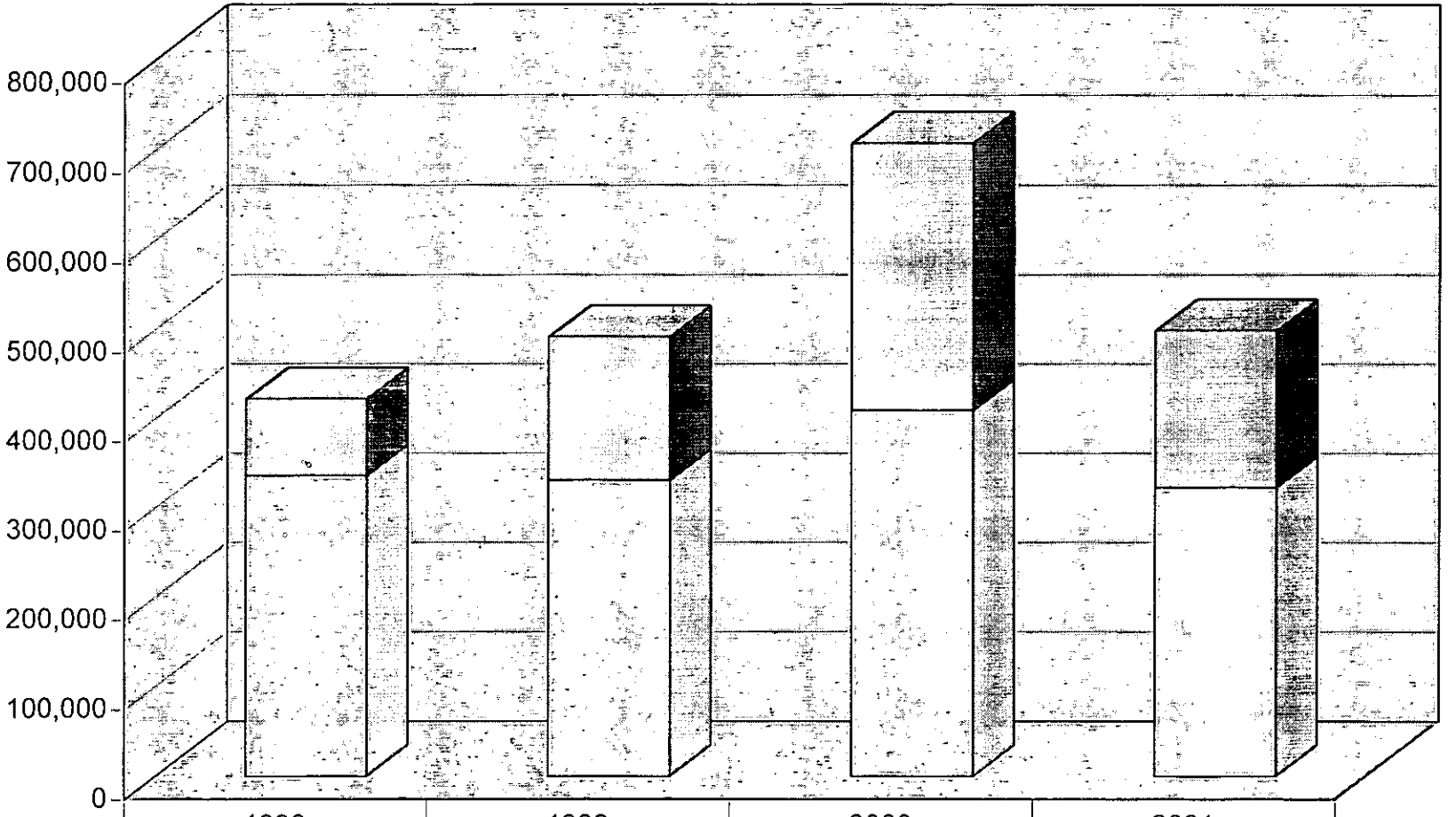
Wt 805.01 Notification of Construction Completion. Within 60 days of completing a mitigation plan which requires creation or restoration of wetlands, the applicant shall submit a signed letter specifying the date of completion and the anticipated dates of submittal of the annual monitoring reports.

Wt 805.02 Notification of Recorded Conservation Easement or Deed Restriction. Prior to commencing work on a project for which the mitigation plan requires preservation, the applicant shall:

(a) Record the easement or deed restriction for each parcel to be preserved with the registry of deeds for the county in which the parcel is located; and

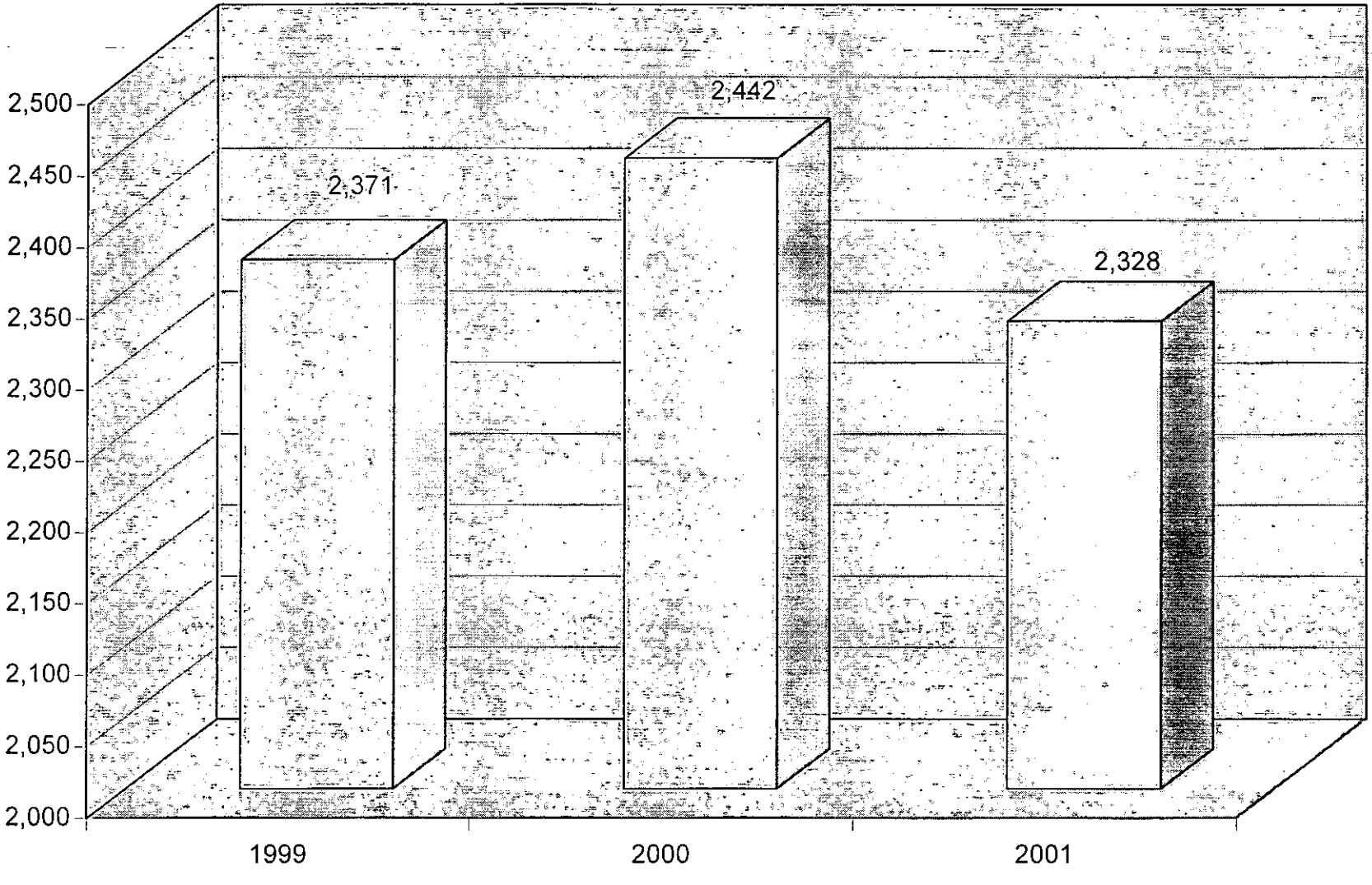
(b) Submit a copy of each recorded document to the department.

Wetland Bureau Fees & Fines



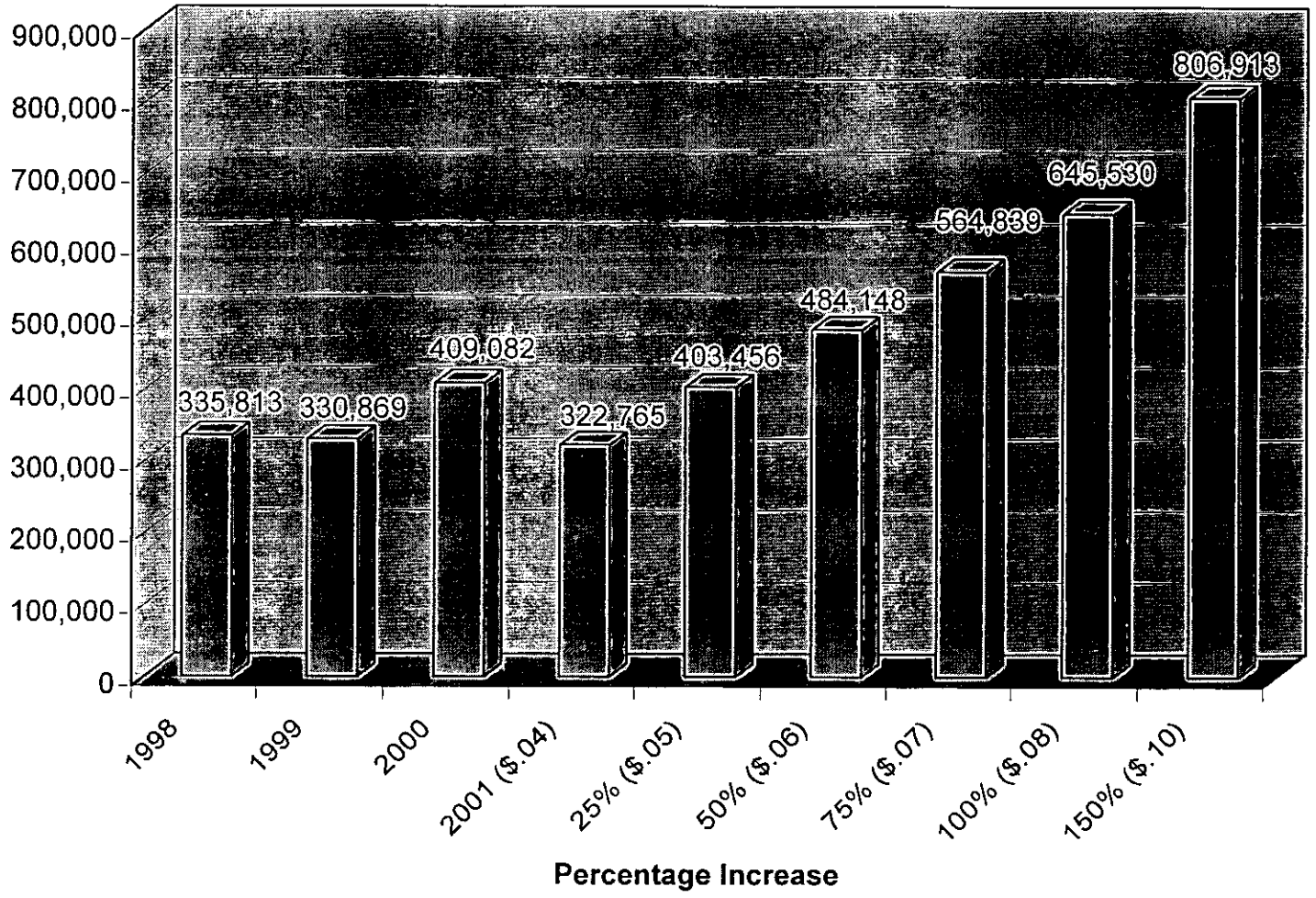
	1998	1999	2000	2001
Fines (1)	86,576	160,950	298,924	176,078
Fees (1)	335,813	330,869	409,082	322,765

Permit Applications



Past Fee History & Proposed Fee Increase

(Based on 2001 Applications)



Comparison of Applicant Fee by Project Size

Project Size (Acre)	$.04 / Sq. Ft. (current)	$.05 / Sq. Ft. (25% increase)	$.06 / Sq. Ft. (50% increase)	$.07 / Sq. Ft. (75% increase)	$.08 / Sq. Ft. (100% increase)	$.10 / Sq. Ft. (150% increase)
1	1,742.40	2,178.00	2,613.60	3,049.20	3,484.80	4,356.00
2	3,484.80	4,356.00	5,227.20	6,098.40	6,969.60	8,712.00
3	5,227.20	6,534.00	7,840.80	9,147.60	10,454.40	13,068.00

Chart Data

	Wetland Bureau Fees				Proposed Increase				
Year	1998	1999	2000	*($.04)* 2001	*($.05)* 25%	*($.06)* 50%	*($.07)* 75%	*($.08)* 100%	*($.10)* 150%
Fees (1)	335,813	330,869	409,082	322,765	403,456	484,148	564,839	645,530	806,913
Fines (1)	86,576	160,950	298,924	176,078					
Total	422,389	491,819	708,006	498,843	403,456	484,148	564,839	645,530	806,913
Permits (2)	*Data*	2,371	2,442	2,328	2,328	2,328	2,328	2,328	2,328

Footnotes:

(1) DES Figure 1: Wetlands Fee Account Annual Revenue (Feb. 2002)

(2) DES Figure 10: Incoming Applications vs. Decisions Issued (Feb. 2002)

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

ATTACHMENT #3 Wirsell from Dick Lemyre re: HB 810

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.

State of New Hampshire

HOUSE OF REPRESENTATIVES

CONCORD

MEMORANDUM of UNDERSTANDING

Peter
Give me a call
cell 454 7074

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

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

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.

ATTACHMENT #4

GRANITE STATE DESIGNERS AND INSTALLERS ASSOCIATION
76 South State Street, Concord, NH 03301-3520
Tel. (603) 228-1231 ♦ FAX (603) 228-2118

April 28, 2003

TO: Honorable Members of Senate Energy and Economic Development Committee

SUBJECT: HB810, being heard before your committee April 29, 3:50 p.m.

Please be advised the governing body of this Association has chosen to not take a position on HB810 (relative to processing excavating and dredging and terrain alteration permits, changing the fees for permits, establishing two new positions, and making an appropriation therefor), and therefore will not attend this hearing.

When the House committee reported out this bill it stated in error this Association was in support of this bill. That assumption was based upon a communication from NH Department of Environmental Services, which said this organization had been in discussions with the Department on this bill. That was not a fact. We had discussed with the Department about a similar bill last year, but never concurred with them this year on this bill. Hopefully, this communication will state our position if it is alleged at the public hearing our position on this bill is one of support.

Sincerely yours,

Richard H. Clough, CAE
Executive Director

KNA KEACH-NORDSTROM ASSOCIATES, INC.

For On File ATTACHMENT #5

May 09, 2003

The Honorable Bob Odell, Chairman
Energy & Economic Development Committee
Legislative Office Building – Room 102
Concord, New Hampshire 03301

Subject: **House Bill 810 – Relative to Wetlands & Site Specific Programs**

Dear Chairman Odell:

We have been advised that your Committee will soon consider House Bill 810. We are writing to express support for the content of this important Bill and to request that your Committee act favorably on the same. As consulting civil/site engineers to both the public and private sectors, we have found that the staffing level of the NHDES Site Specific Program is simply insufficient given their ever-expanding workload. Although, the existing staff members at the Site Specific Program are diligent and competent, they are unable to keep up with the number of applications they must receive and process. With a typical backlog frequently reaching two to three months, the time frame for application and receipt of a Site Specific Permit is now often the principal cause for delay in construction of both public and private sector projects. Often this delay translates to increased costs for those seeking to construct new commercial/industrial facilities or expand existing businesses, particularly given New Hampshire's relatively short construction season.

Although we understand that an increase in the staffing levels of the NHDES may result in an increase in application fees, we remain strongly in favor of House Bill 810 and urge your Committee to do all within your power to see that this Bill becomes law. As always, please contact the writer if you should have specific questions or if you would like to discuss this matter in any way.

Sincerely:

Steven B. Keach, P.E.
President

Civil Engineering *Land Planning* *Landscape Architecture*

10 Commerce Park North, Suite 3B Bedford, NH 03110 Phone (603) 627-2881 Fax (603) 627-2915

Speakers

SENATE COMMITTEE HEARING IN ENERGY & ECONOMIC DEVELOPMENT

Date: **April 29, 2003** Time: **3:50 PM** Public Hearing on **HB 810-FN-A**

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.

Please check box(es) that apply. SPEAKING	FAVOR	OPPOSED	*NAME (Please print)*	*REPRESENTING*
1. ☐	☑	☐	Sen. J. Kenney	Dist. 3
2. ☑	☑	☐	Jay Phinizy	Sullivan 13
3. ☑	☑	☐	Gary Abbott	Assoc. General Contractors
4. ☐	☑	☐	Marjory Swope	NH Assoc. of Conservation Commissions
5. ☑	☐	☐	MaryAnn Blanchard	Rock 86
6. ☑	☑	☐	James P. Gove	Myself
7. ☒	☒	☐	Rep. N.C. Dickinson	Carroll #4
8. ☒	☒	☐	Harry Stewart	NHDES
9. ☑	☐	☑	Dick Wenzell	
10. ☐	☐	☐		
11. ☐	☐	☐		
12. ☐	☐	☐		
13. ☐	☐	☐		
14. ☐	☐	☐		
15. ☐	☐	☐		
16. ☐	☐	☐		
17. ☐	☐	☐		
18. ☐	☐	☐		
19. ☐	☐	☐		
20. ☐	☐	☐		

Committee Report

STATE OF NEW HAMPSHIRE

SENATE

REPORT OF THE COMMITTEE

Date: {Type FLOOR DATE}

THE COMMITTEE ON Energy and Economic Development

to which was referred 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.

VOTE: 2 to 1

Having considered the same, report the same without amendment and recommend that the bill: **OUGHT TO PASS.**

Senator Russell E. Prescott
For the Committee

HB810 Docket

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	Body	Description
1/30/2003	**H**	Introduced and ref to Res, Rec & Dev; HJ 12, p210
1/30/2003	**H**	Report due 3/6/2003
2/5/2003	**H**	==CANCELLED(Storm)==Hearing Feb 18 11:00 RM305,LOB
2/18/2003	**H**	Rescheduled Hearing Mar 3 11:00 RM305,LOB
3/3/2003	**H**	Subcom Work Session Mar 4 3:15 & Mar 5 2:30 RM305,LOB
3/6/2003	**H**	Maj Report OTP/AM for Mar 12 (Vote 15-2;Reg)
3/6/2003	**H**	Prop Comm Am{0560}; HC20, p489-491
3/12/2003	**H**	Comm Am, AA VV; Passed with Am and ref to Ways & Means VV; HJ23, p572-573
3/12/2003	**H**	W&M Hearing Mar 18 10:30 RM202,LOB
3/20/2003	**H**	W&M Maj Report OTP for Mar 25 (Vote 20-0;CC)
3/25/2003	**H**	Reps Hess & Nordgren Susp Rules for late ref to Finance, MA 2/3VV; HJ 29-pt 1, p896
3/25/2003	**H**	Passed with Am and ref to Finance; HJ 29-pt 1, p896
3/25/2003	**H**	Fin Div I Subcom Work & Exec Session Mar 31 9:00 RM209,LOB
3/31/2003	**H**	Fin Maj Report OTP/AM for Apr 10 (Vote 21-1;Reg)
3/31/2003	**H**	Prop Fin Comm Am{1052}; HC31, p1054
4/10/2003	**H**	Fin Am, AA VV; Passed with Am VV; HJ 34, p1138 + 1143
4/17/2003	**S**	Introduced and Ref. Energy & Economic Development; SJ 13, Pg.329
4/23/2003	**S**	Hearing; April 29, 2003, Room 102, LOB, 3:50 p.m.; SC20
5/15/2003	**S**	Committee Report; Ought to Pass , [05/22/03]; SC23
5/22/2003	**S**	Ought to Pass, MA, VV; Refer to Finance [Rule 26]; SJ 17, Pg.439
5/29/2003	**S**	Committee Report; Ought to Pass, [06/05/03]; SC25
6/5/2003	**S**	Ought to Pass, MA, VV; SJ 19, Pg.601
6/5/2003	**S**	Sen. Clegg Rules Suspension for 3rd Reading and Final Passage 2/3 nec., MA, VV; SJ 19, Pg.601
6/24/2003	**S**	Enrolled; SJ 20, Pg.828
6/24/2003	**H**	Enrolled;

7/1/2003	**H**	Became Law Without Signature on 7/1/2003 Eff: 7/1/2003* Chap: 0224
7/1/2003	**H**	*Multiple Effective Dates, Sec. 3 eff. 7/1/2006

Next|Prev|Results List|Main|Bill Status

Docket Abbreviations