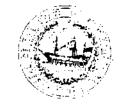


## The State of New Hampshire

## Department of Environmental Services



Michael P. Nolin Commissioner

April 18, 2006

The Honorable Bon Odell, Charman Senate Energy & Economic Development Room 102, LOB Concord, New Hampshire 93301

RE: House Bill 1289, Relative to Pennichuck Brook and its watershed

Dear Senator Odell.

Thank you for the opportunity to comment on HB 1289 which would establish land use restrictions and other requirements for the protection of Pennichuek Brook and its watershed. DES supports this legislation and would like to provide the committee with the following information.

RSA 485:24 currently provides DES with the authority to adopt rules "as it may doem best to protect the water or ice supply against any dangerous contamination." DES has adopted such rules on a case-by-case basis in Part Env-Ws 386, and readopted those rules with amendments on November 23, 2005. Currently, Env-Ws 386.50 contains provisions for the protection of Pennichuck Brook, which is the principal water supply source for Pennichuck Water Works, serving the city of Nashua and portions of surrounding communities.

The watershed of Pennichack Brook is highly developed, with a mix of suburban and increasingly urban lane uses. DES considers any development in a water supply watershed to represent a potential threat to the quality of the water supply source. Studies by the American Water Works Association and the Trust for Public Lands indicate that decreased forest cover in a water supply watershed is associated with the need for more extensive treatment of the raw water in order to meet applicable standards for human consumption, and consequently inglier treatment costs.

Historically, the trend in drinking water regulation has been for increasingly stringent health-based water quality standards for an ever-growing list of contaminants. Making matters more difficult, the disinfection of surface waters with chlorine compounds creates byproducts which themselves pose a health risk. Therefore, DES, the U.S. Environmental Protection Agency, and the U.S. water supply profession do not consider meatment along to be the preferred approach to ensuring safe drinking water. The preferred approach, the so called multiple-barrier approach, includes source protection as a key component. In an ideal environment, source protection consists of maintaining a water supply watershed in its natural state. In the real world, source protection is a balancing act involving a variety of interests and objectives.

A well-accepted approach to balancing water quality considerations with private property rights is to focus on the preservation of protection of land immediately adjacent to rivers, streams, and other water bodies, because the protection of such haffers is effective at reducing the loading of pollutents carried in ranoff. This is the approach emphasized by the N.H. Shoreland Protection Act (RSA 483-B) and similar statutes in other states. Unfortunately, RSA 483-B does not provide any protection for Pennichuck Brook or its tributaries because they are not fourth-order streams.

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The Himeranic Bob Odell, Chamman April 18, 2006

Land now or formerly awared by Pennichick Water Works (PWW) provides protected buffers along portions of Pennichica. Brook and the Pennichick ponds under a 1983 Public Utilities Commission order, and municipalities in the watershed have established buffers ranging from 25 to 225 teet. A 1998 Watershed Management Plan prepared by a consultant for Pennichick Water Works evaluated the full range of threats facing the water supply, and recommended the protection of a 400-foot buffer zone around the Pennichick pands and 200 feet along all tributaries and wellands, nurroring the Commonwealth of Massachusetts approach to protecting the Metropolitar. District's water supply sources. Also in 1998, PWW proposed changes to Env-Ws 386,50 that would have increased protective setbacks to 250 feet along Pennichick Brook, the ponds, and then imbutaries. HB 1289 is consistent with language contained a draft DES watershed rule which resulted from a number of discussions with DES, representatives of the watershed communities (Nashua, Amherst, Holbs, Merrimack, and Milford) and the general public. DES considers the approach embodied in HB 1289 to be sound. Taken together with other efforts of PWW and the City of Nashua to protect Pennichick Brook, it provides important protection for the water supply source serving Nashua and portions of the surrounding towns.

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Thank you again for the opportunity to comment on this legislation. If you have any questions or need additional information, please do not hesitate to call Sarah Pillsbury at 271-1168 or me at 271-3449.

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ee. Representative Balboni Representative Martin Representative Hills Harry T. Stewari, DES Water Division Director Sarah Pillsbury, DES