PUBLIC NOTICE

US Army Corps of Engineers®
New England District

696 Virginia Road
Concord, MA 01742-2751

Date: March 16, 2010
File Number: NAE-2005-1142
In Reply Refer To: Ruth M. Ladd
Or by e-mail: ruth.m.ladd@usace.army.mil

This public notice is to share with the public the "2009 REPORT OF THE ACTIVITY OF THE NEW HAMPSHIRE DEPARTMENT OF ENVIRONMENTAL SERVICES AQUATIC RESOURCE MITIGATION FUND PROGRAM" dated January 14, 2010. The program, which is an In-lieu Fee (ILF) program, serves as an alternative form of compensation for impacts to aquatic resources authorized by the New England District Army Corps of Engineers (Corps) and/or the State of New Hampshire Department of Environmental Services.

Compensatory mitigation occurs in circumstances where a permittee is required to compensate for the functions and values of aquatic resources lost as a result of the authorization after all efforts are made to avoid and minimize impacts. ILF is an option available to the applicant instead of completing permittee-responsible mitigation. Use of the ILF program is contingent upon Corps and/or State approval.

All ILF agreements in New England are available on the Corps' website: http://www.nae.usace.army.mil under "Regulatory/Permitting" and then "Mitigation".

JMCarthy
JENNIFER L. MCCARTHY
Chief, Regulatory Division

If you would prefer not to continue receiving Public Notices, please contact Ms. Tina Chaisson at (978) 318-8058 or e-mail her at bettina.m.chaisson@usace.army.mil. You may also check here ( ) and return this portion of the Public Notice to: Bettina Chaisson, Regulatory Division, U.S. Army Corps of Engineers, 696 Virginia Road, Concord, MA 01742-2751.

NAME: _____

ADDRESS: _____

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

January 14, 2010

I. INTRODUCTION

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

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

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

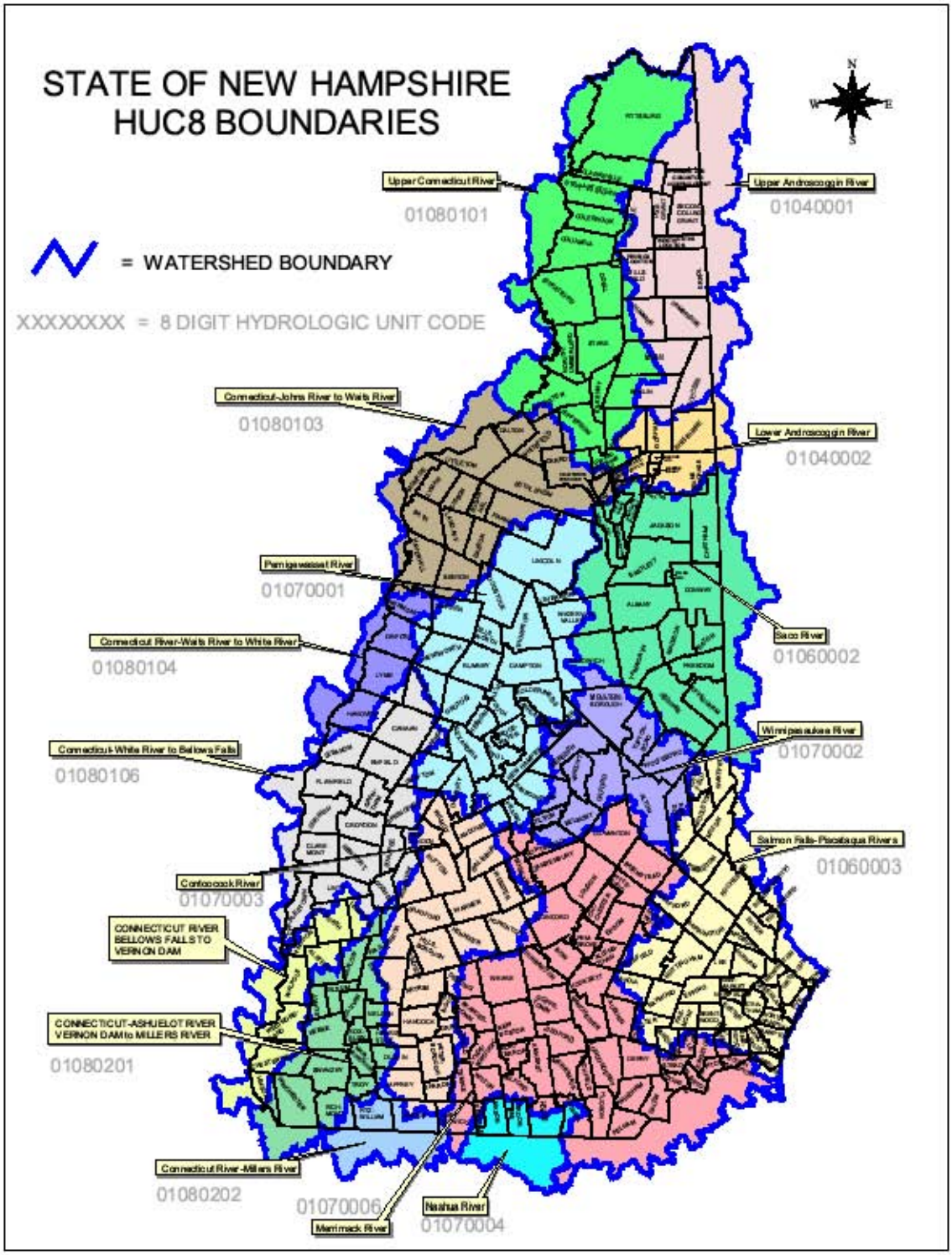
II. DES MITIGATION PROGRAM ACHIEVEMENTS IN 2009

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

- The DES Wetlands Bureau, Mitigation Program was awarded US Environmental Protection Agency grant funds to develop a strategy for identifying wetland restoration projects at the HUC 8 watershed scale. The grant developed a model that was initially used for the Merrimack River watershed. The results of that effort can be reviewed on an interactive web site as follows: www.restoreNHwetlands.com . The second phase of the grant is to continue implementation of the model on the Winnipesaukee River, Upper Connecticut, and Connecticut River from the Johns River to Waits River watersheds. This second phase will be completed in December, 2009. The Department may continue the use of the model in other watersheds for identification of restoration opportunities.

- Senate Bill 65 was entered into legislation to expand the use of the payment option for wetland impact projects. The amendment eliminated the one acre size threshold so now the law allows any project to provide payment in-lieu of other forms of mitigation. SB 65 also established the opportunity for stream related impacts to provide payments into the fund. The DES supported the bill which implements a recommendation of the Final Report of the Comprehensive Flood Management Study Commission (New Hampshire House Bill 648, Chapter 179.1, Laws of 2007). The report specifically recommended the development of a DES in-lieu mitigation option for projects that impact floodplains and stream channels. The funds generated will be eligible to municipal and state agencies, non-profit organizations and watershed associations for stream restoration and protection projects. See Attachment D for the final bill text.

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



- The Site Selection Committee worked together to evaluate proposals for funds eligible in the Merrimack River watershed. On April 2, 2009 DES announced the availability of $650,000 of funds

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

III. WETLAND LOSS AND CONTRIBUTIONS RECEIVED

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

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

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

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

UPPER ANDROSCOGGIN RIVER WATERSHED – Release October 2010

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

PEMIGEWASSETT RIVER WATERSHED – Release June 2010

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

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

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

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

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

SALMON FALLS RIVER – PISCATQUA RIVER WATERSHED
Release August 2010

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

MERRIMACK RIVER WATERSHED
Awards to 4 Projects Issued August, 2009

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

WINNIPESAUKEE RIVER WATERSHED
Request for Proposal sent out September, 2009

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

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

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

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

IV . DISBURSAL OF WATERSHED FUNDS IN 2009

Merrimack River Watershed

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

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

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

In July, 2009 the Committee visited all the sites for which access was available. On July 22 the Committee convened to evaluate the applications. The Committee determined that three projects provide the greatest potential to replace or protect specific wetland functions and values lost by the impacts in the Merrimack River HUC 8 watershed. Where project scores were comparable, preference was given to projects that provide the longer-term, more beneficial protection. The three projects selected included the Stewart Property in Francestown, Clay Pond Headwaters Protection Project in Hooksett, and the Concord Regional Solid Waste/Resource Recovery Center in Canterbury.

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

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

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

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

Committee Findings:

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

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

The town and Bear-Paw Regional Greenways are working in partnership to conserve 733+/- acres of high value wildlife habitat in the Clay Pond Headwaters area, including over 130 acres of wetlands. The goal is to permanently protect the area by combining town ownership with a conservation easement(s) held by Bear-Paw. This will assure permanent conservation of this area which is recognized as a top priority in Hooksett's Master Plan, the NH Wildlife Action Plan, Bear-Paw's Conservation Plan, and others. The Hooksett Conservation Commission, LCHIP, the NHDES Wetlands Mitigation and Drinking Water Source Protection programs, and the Open Space Institute's Saving New England's Wildlife program have already committed funds to this important project.

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

Committee Findings:

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

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

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

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

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

4. Project Proponent: Town of Londonderry
Project Title: Nesenkeag Brook Headwaters Project, Londonderry

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

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

Committee Findings:

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

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

V. CONCLUSION

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

ATTACHMENT A.

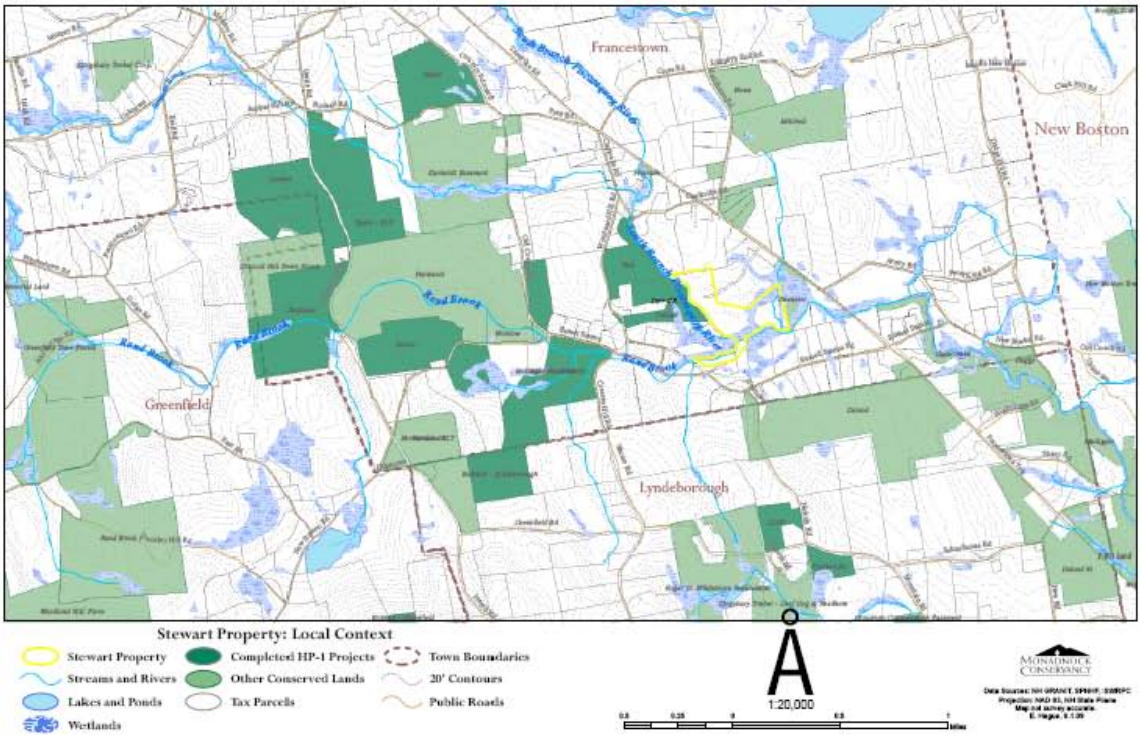
MERRIMACK RIVER WATERSHED ARM FUND PAYMENTS

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

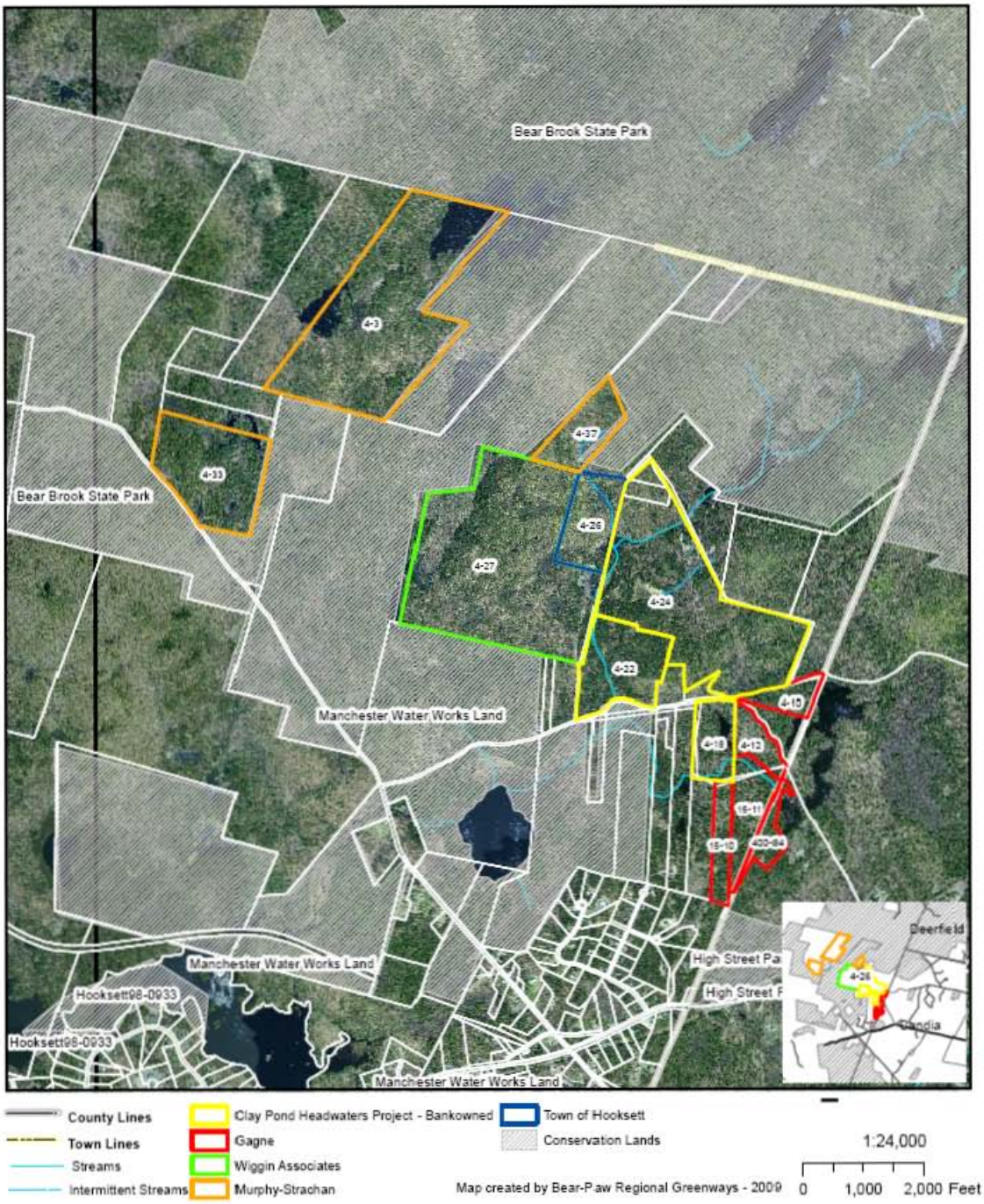
ATTACHMENT B.

PARCEL INFORMATION FOR FOUR ARM FUND PROJECTS

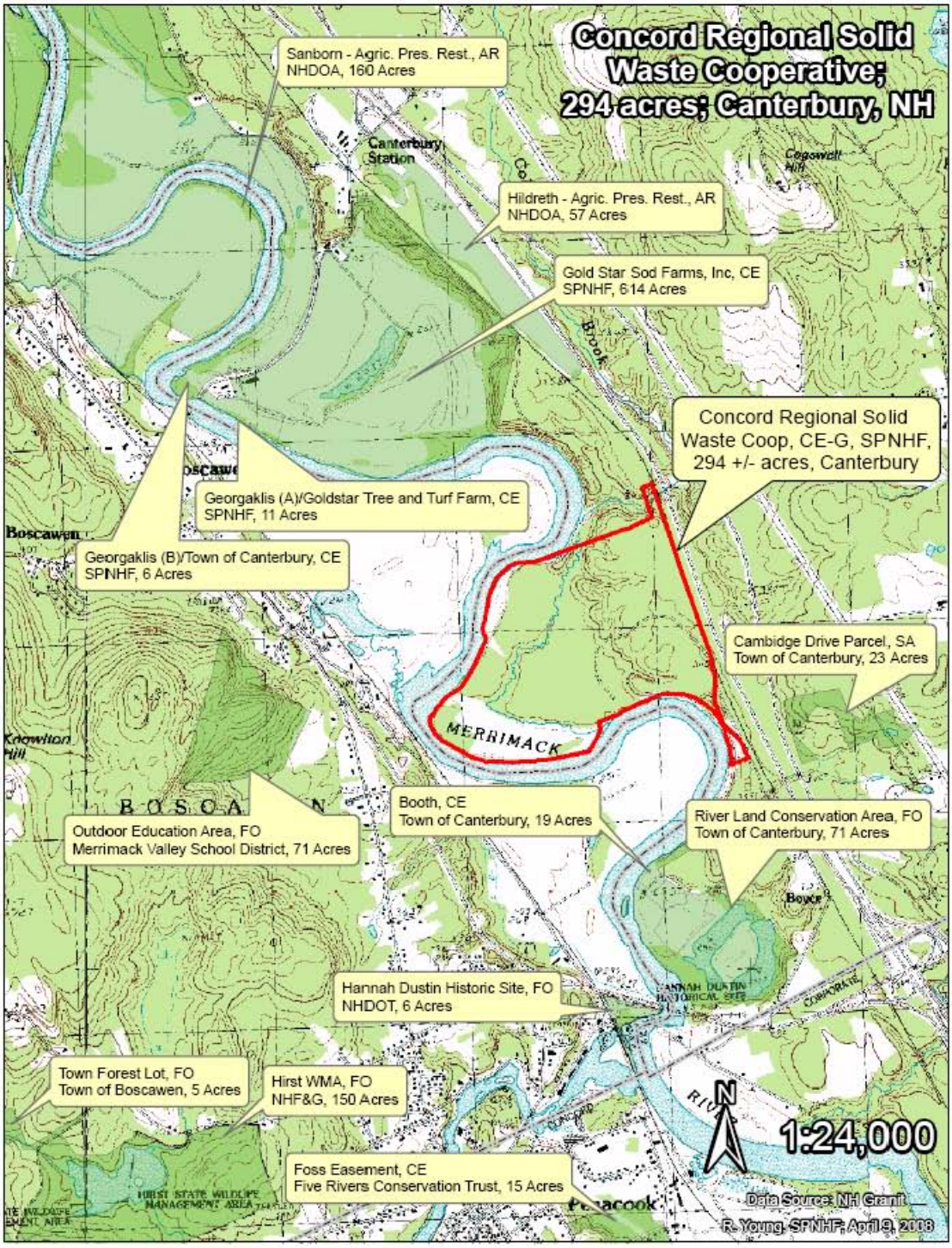
Stewart Property, Francestown



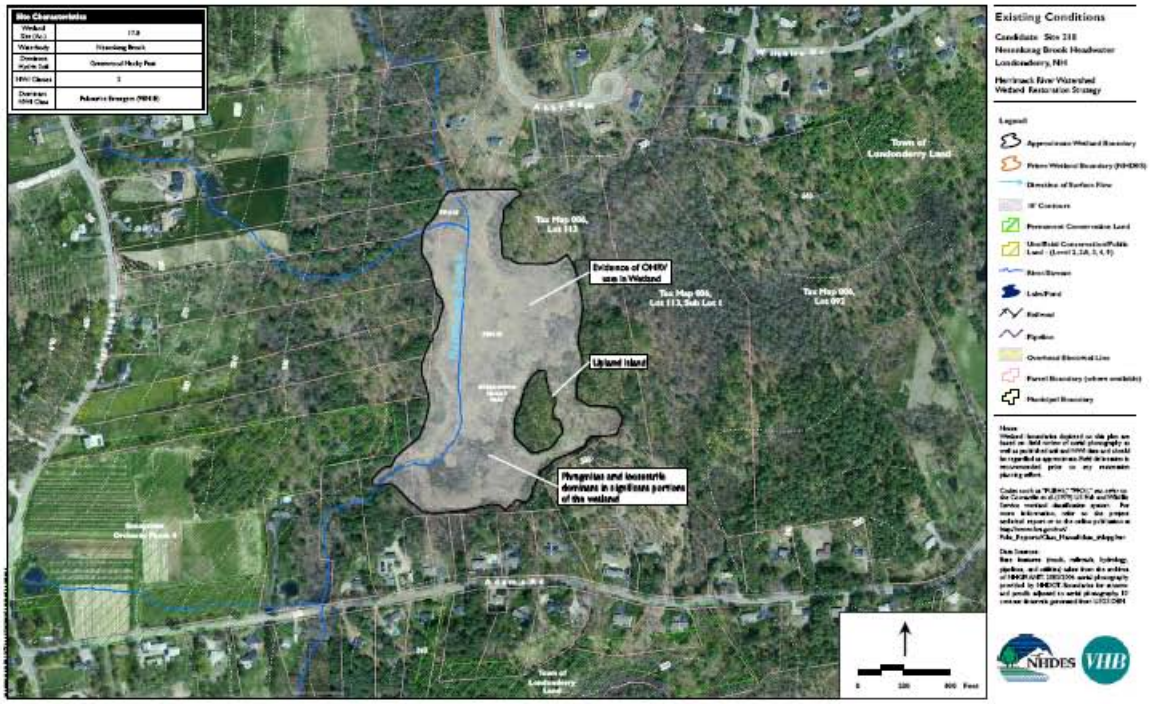
Clay Pond Headwaters Project, Hooksett - 2005 Aerial View



CRSWRRC, Canterbury



Nesenkeag Brook Headwaters, Londonderry



ATTACHMENT C.

SUMMARY OF FOUR ARM FUND PROJECTS NOT SELECTED FOR FUNDING

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

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

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

Committee Findings:

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

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

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

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

Committee Findings:

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

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

This four year project aims to restore an emergent wetland threatened by invasive plants and to create open water habitat. The property is located on Lowell Road and is privately owned. This project requests ARM funds to develop final restoration plans and to cover costs associated with the proposed

restoration work, construction of a walkway, permit costs and administrative costs. ARM funds are also requested for pre- and post-restoration monitoring and maintenance expenses until the site is successfully restored.

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

Committee Findings:

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

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

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

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

Committee Findings:

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

ATTACHMENT D

SENATE BILL 65-FN – FINAL VERSION

2009 SESSION

09-0743

06/03

SENATE BILL ***65-FN***

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

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

COMMITTEE: Energy, Environment and Economic Development

AMENDED ANALYSIS

This bill:

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

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

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costs related to wetlands creation or restoration, stream ***and river*** restoration, ***stream and river enhancement,*** preservation of upland areas adjacent to wetlands ***and riparian areas***, and the subsequent monitoring and maintenance of such areas.

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

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

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

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

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

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

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

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

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

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

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

303:8 Membership and Compensation.

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

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

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

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

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

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

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

303:12 Effective Date.

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

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

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

Approved: July 31, 2009

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

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

III. Remainder shall take effect September 29, 2009.

LBAO

09-0743

Amended 06/10/09