



STATE OF NEW HAMPSHIRE
DEPARTMENT of NATURAL and CULTURAL RESOURCES
OFFICE OF THE COMMISSIONER

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January 28, 2020

The Honorable John Cloutier
and the Public Works and Highways Committee
Legislative Office Building, Room 201
Concord, NH 03301

RE: HB 1553, an act prohibiting the posting of certain state properties as no trespassing areas

Dear Chairperson Cloutier and Members of the Committee,

Thank you for the opportunity to provide testimony on HB 1553, an act prohibiting the posting of certain state properties as no trespassing areas. The Department of Natural and Cultural Resources (DNCR), Division of Forests and Lands and the Division of Parks and Recreation oppose this bill because it conflicts with existing statutes, the Department's rulemaking authority, and deed/easement restrictions and conditions. The Director of the Division of Forest and Lands is authorized to "execute all matters pertaining to the use of state reservations, except matters pertaining to the recreational development, administration, and maintenance, which shall be done in cooperation with the Director of the Division of Parks and Recreation..." (RSA 227-G:3, I, (c)).

The Department's reservations and forestlands are declared a public benefit that require the "maintenance, protection, conservation, multiple use, and rehabilitation of forests for the social, economic, and environmental benefits that result from a diverse forest cover" (RSA 227-G:1). A comprehensive state park system "shall be developed, operated, and maintained to achieve the following purposes in order of the following priority: (1) To protect and preserve unusual scenic, scientific, historical, recreational, and natural areas within the state. (2) To continually provide such additional park areas and facilities as may be necessary to meet the recreational needs of the citizens of all regions of the state. (3) To make these areas accessible to the public for recreational, education, scientific, and other uses consistent with their protection and preservation. (4) To encourage and support tourism and related economic activity within the state" (RSA 216-A:1). It is long recognized that state lands are held in trust: maintained and accessible to the public.

As such, the Commissioner of the Department "shall adopt rules under RSA 541-A governing use by the public of state forests, parks, or any other land or buildings operated by the Department of Natural and Cultural Resources. This shall include, but not be limited to; the Commissioner's responsibilities under RSA 216 and 227-H" and "such rules shall include, but not be limited to: (a) Conduct of persons using the property, including prohibitions or restrictions on use, restrictions on

smoking, or transportation of any substances, articles, or other matter. (b) Use of vehicles, including, but not limited to, restrictions on parking and speed. (c)-(e) [Repealed.] (f) Imposition of administrative fines under paragraph IV.” (RSA 12-A:2-c, I.).

Under the Department’s administrative rules, DNCR lands are accessible for use unless closed or restricted by posting and/or by public notification if “(1) An external subdivision of government requests the Department to close a specific DRED property at a time and for causes so listed below which the department deems reasonable; (2) There is a need to reduce vandalism; (3) It is necessary for public health and safety; (4) It is necessary to protect the natural resources, physical improvements, or other features and resources of a DRED property; (5) There is a restriction pursuant to a deed, easement, trail use rules, property or trail management plan or where such plans are developed through a public involvement process; or (6) The quiet enjoyment of the recreational use of the property by other users or abutting landowners is being disturbed.” (Res 7301.07).

The Department fully supports hunting as a traditional use of state lands. The rules related to hunting on Department lands were established to protect public safety and the recreational experience of all visitors; and to uphold state laws, deed and easement restrictions. Specifically, “(a) No person shall discharge a firearm within 300 feet of developed recreation areas when occupied, including parking lots, administrative and maintenance facilities, dwellings, camps, cabins and yurts, bathhouses, campgrounds, campsites, playgrounds, athletic fields, beaches, pavilions, picnic areas, and boat launches, lawful use of firearms pursuant to RSA 627 excepted. (b) Hunting shall not be permitted at Robert Frost historic site, the Urban Forestry Center, that portion of Odiorne Point State Park located on the east side of NH route 1-A, Opechee Bay State Forest and Shieling State Forest. (c) At Bear Brook State Park, hunting in the area known as the game refuge east of Podunk Road shall be limited to bow and arrow.” (Res 7301.10).

HB 1553 provides the authority to post state lands for safety, but grant the authority to the Department of Fish and Game, who has no direct authority over the management of DNCR state reservations. The DNCR is responsible for public safety on lands it manages, and bears the costs of the litigation settlements directly out of the State Parks Fund for incidents that occur on parklands.

As part of its stewardship responsibilities to protect the state’s built and natural assets, the DNCR needs to retain the authority to post no admittance in cases where vandalism of these sites could occur. Examples of areas where high vandalism and trespass occur are at the bunkers at Odiorne Point State Park and the Command Center at Fort Stark. In addition, we are monitoring the site of the \$1.3 million bathhouse facility at Umbagog to determine if we needed to post that property to protect the state’s assets and investment. The site is not open in the winter and there is no parking. Another example is temporarily restricting access into an area with active timber harvesting, for both safety and vandalism purposes.

Lastly, we question how this may impact the over 260,000 acres of conservation easements that the DNCR administers, where the land is not fee owned, but we purchase certain rights, such as public access, among other things. The rights and privileges of the landowner to be able to temporarily close portions of their land to public access are clearly spelled out in the easement language, and such decision can only be made with the approval of the DNCR. This bill could conflict with easement language.

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The existing statutes are clear in directing the Department to provide public access, as one of its primary functions. It is why the state's reservations exist. However, we need to provide access in a way that protects the resources and infrastructure that we are responsible for, as well as the experience of our visitors.

Thank you for the opportunity to provide testimony on HB 1553. Please let me know if you need any additional information.

Sincerely,

A handwritten signature in black ink that reads "Sarah Stewart". The signature is written in a cursive style with a long horizontal line extending from the end of the name.

Sarah L. Stewart
Commissioner

cc: Brad W. Simpkins, Director, Division of Forests and Lands
Philip A. Bryce, Director, Division of Parks and Recreation

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