

June 23, 2025

New Hampshire Department of Justice
1 Granite Place South
Concord, NH 03301

RE: Case # 217-2025-CV-00039

Dear Attorney General John M. Formella :

I am writing to you as a concerned citizen commenting on what I believe is an unjust and unfair Motion to Dismiss [Motion] filed by your office regarding case # 217-2025-CV-00039.

I believe that the Motion wrongly argues on page 9 that the Pease Development Authority [PDA], acting through the the Division of Ports and Harbors [DPH], is exempt from RSA 541-A Administrative Procedure Act [APA] requirements as a function of RSA 541-A:21, I(n). Such a conclusion appears to be unsupported by law as set forth below:

RSA 541-A:21 Exceptions.

"I. Authority granted under the provisions of the following statutes shall be exempt from RSA:"

*Section(n) states: "rules adopted by the authority [PDA] acting through the division of ports and harbors under RSA 12-G:42, X, which **shall be subject to the provisions of RSA 541-A:3 through RSA 541-A:15**, RSA 12-G, relative to the Pease development authority."*

RSA 541-A:22, I states: "Validity of Rules. I. No agency rule, including a form, is valid or effective against any person or party, nor may it be enforced by the state for any purpose, until it has been filed as required in this chapter and has not expired."

I believe that the intent of the legislature was for the PDA to promulgate proper rules that would provide a level playing field for all affected parties operating on DPH "state-owned commercial piers and associated facilities" [RSA 12-G:42,X(d)] to include such as concession fees in their DPH APA rules as is done for mooring, parking and storage fees.

A plain reading of the law set forth above is ample evidence that the PDA has acted in excess of its statutory authority by charging a concession fee for two years without benefit of a proper APA rule.

Accordingly, I believe that there is a moral and legal obligation to: (1) put right this matter for the litigants; (2) consider that the PDA has mismanaged the DPH and has not acted in the public interest or in good faith; and (3) legislatively put the DPH back into the Department of Natural & Cultural Resources where it was administered from 1936-2001. Your help may serve to resolve this controversy.

Sincerely,

David Delorey