

July 24, 2024

Office of the Governor  
Office of the Executive Council  
State House 107 North Main Street  
Concord, NH 03301

**\*\*BY EMAIL\*\***

**RE: Approved Standard Dredge and Fill Wetlands Permit Application (RSA 482-A)  
NHDES File Number: 2024-00378**

**Subject Property: Loon Island-Leavitt Bay, Ossipee, Tax Map #32, Lot #13**

Good morning. We are the directors of three non-profit organizations who are writing to ask you to intervene in DES's May 13, 2024 approval of the above referenced Dredge and Fill Application for docks on Loon Island in Leavitt Bay, Ossipee.

Leavitt Bay is the second-smallest bay in the Ossipee Lake system. Loon Island is undeveloped and uninhabited except as a loon nesting site.

The dock plan is for an 82.5 ft. x 3 ft. wharf, with five 34 ft. x 3 ft. piers accessed via a 6 ft. x 4 ft. walkway. DES's approval of the plan on May 15 authorized nine boat slips.

It is our view that the dock application was insufficient, the review process was flawed, and DES's approval was unreasonable.

We appealed the approval to DES on June 12 and asked for a mediated resolution of our concerns. DES declined. We are aware that we could have appealed to the Wetlands Council, but we lack the financial resources to retain an attorney and pursue an appeal at this time.

Instead, we are asking you to review our concerns, as you have the final say on the approval. If you believe our concerns are well-founded, we ask that you remand the application to DES to be corrected by the applicant and reviewed again by the Wetlands Bureau, including holding a public hearing. Toward that, we hope you will consider the following:

- DES erred when it decided the application did not require a public hearing because it was "not of significant public interest and will not significantly impair the resources of Ossipee Lake." DES had sufficient evidence to the contrary, including but not limited to:
  - A February 14 letter of opposition to the docks from the Ossipee Conservation Commission stating that the island cannot support the increased use.

- A February 26 letter from Ossipee Lake Alliance and Green Mountain Conservation Group stating that that errors and omissions in the application made it impossible to determine the environmental impact.
  - A February 28 letter from Ossipee's Planning Board detailing substantial public opposition expressed to the board by members of the public.
  - Various letters from members of the public directly affected by the proposal.
- That the matter was of significant public interest and concern was further evidenced when more than 200 lake property owners, our three organizations, Camp Marist children's camp, and the non-profit Loon Preservation Committee asked DES to enter into mediated discussions to address the threats to boating, wildlife and the environment that its approval created. DES declined the request, as previously noted.

We ask that you also consider the following information that was submitted to DES in February as evidence that the application should have been denied for being "inaccurate, incomplete and non-responsive."

- **Protected Species.** The applicant inaccurately stated in the application that the site does not contain protected species despite it being a documented nesting site for state-protected loons.
- **Non-Responsive Answers.** Section 7 of the application required the applicant to describe how "resource-specific criteria" for each of four chapters of state regulations will be met. The applicant's six-word answer was "Docks in accordance with applicable rules."
- **No Certified Plan or Data.** The Applicant's "certified plan" is a sketch of the docks hand-drawn on an outdated 1992 Topographic Map. Claims and inferences about the lake level, the available space for docks, and other required data points were inadequately documented—a critical omission for a proposal of this scope.
- The extent of DES's failure to exercise reasonable oversight in its review is additionally shown in emails obtained through a right to know request. One email reveals a DES employee helping the applicant determine the frontage of the island by using a piece of string against the bar scale of the 1992 map.

The employee then used the resulting number to determine that the island could accommodate nine boat slips.

- **Conflict with Dock Regulations.** The DES-approved plan conflicts with state regulations that docks be no more than 6 ft. wide and 30 ft. long if the water body is less than 1,000 acres.

Ossipee Lake is the state's sixth largest, at more than 3,000 acres. But that is misleading because much of its size is in three bays connected by headway-speed channels.

Leavitt Bay is only 176 acres, per state data. Our view is that the bay should be subject to the limits established for waterbodies of less than 1,000 acres.

DES's failure to hold a public hearing on the application deprived affected lake property owners and organizations like ours with an opportunity to air our concerns about the impact on boating, the environment, and state-protected species.

Had DES held a hearing, it would have understood, and perhaps seen, that Leavitt Bay is small, shallow, highly developed, and crowded with boats from property owners, a children's summer camp, a family campground business, and many boats passing through to and from the other bays.

A hearing would also have put on record the potential impacts to the lake that DES says are beyond its regulatory authority to consider.

These include but are not limited to the impact on safe boating based on increased traffic created by nine new boat slips, the potential need for headway speed restrictions that would adversely affect property owners and boaters, the island's lack of sanitary facilities, the lack of shoreline parking for those accessing the island, increased shoreline erosion, and increased litter.

In recent weeks, DES has also received letters of opposition to the docks from the non-profit Loon Preservation Committee of Moultonborough, and the Town of Freedom's Conservation Commission.

We note that the island's owner applied to DES in December 2020 for "Statutory Permit by Notification" (SPN) approval of a single seasonal dock, 40 feet long and 4 feet wide. This application, which had no opposition that we can find, was denied by DES because the extent of shoreline modification that was required made it ineligible for a Dredge and Fill exemption. The applicant returned this year with a plan for five docks at the same site, which DES approved.

In summary, we respectfully ask that you remand the approval to DES so it can require a new application correcting errors and omissions, and that there be a public hearing followed by a new, thorough review of the plan and its impact to the lake and the public.

Respectfully,

[NAMES FOLLOW]

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