

April 20, 2018

Ms. Mary Ann Tilton, Administrator
New Hampshire Department of Environmental Services
Wetlands Bureau
P.O. Box 95
Concord, NH 03302-0095

RE: 2018 Draft Wetlands Administrative Rules - Comments

Dear Ms. Tilton,

Thank you for the opportunity to comment on the draft 2018 Wetlands Administrative Rules. As the leading non-profit dedicated to protecting the water quality and natural resources of Lake Winnepesaukee and its watershed, the Lake Winnepesaukee Association is very concerned with any changes to the Wetland Rules that may negatively impact the lake's ecosystem and water quality.

For the past seven (7) years, our organization has conducted watershed and water quality analyses that identify sources of pollutants that are contributing nutrient loading to the lake, informing and engaging the public and stakeholders on these threats and pollutants, and guiding community efforts to implement Best Management Practices to mitigate impacts from these sources of pollution. Our work serves and benefits the 14 municipalities located in Belknap and Carroll counties and their 50,000 residents, as well as the hundreds of thousands of visitors that come to the lake each year.

According to RSA 485-A2, XIV and Env-Wt 103.33, Lake Winnepesaukee is a surface water of the state, held in trust by the State of New Hampshire for the public. The Lake Winnepesaukee Association Board of Directors does not believe that the proposed changes outlined in Env-Wt 500 rules adhere to the public trust definition, but rather serve the interest of a **minority** of the approximately 10,000 shorefront property owners. The vast majority of lakefront property owners, lake users, and the public benefit from stricter controls that aim to protect the health of the lake.

We have already seen the detrimental effects that development has had on Winnepesaukee's water quality. The lake's ecosystem is under threat from stormwater runoff, invasive plant and animal species, nutrient loading, and more. More than 30 years of scientific data show an increase in concentration of in-lake phosphorus from natural background levels of 4.0 ppb to over 15 ppb in the northernmost part of the lake. Excessive levels of phosphorus have led to significant water quality problems including harmful algal blooms, hypoxia, and declines in aquatic and wildlife habitat.

Longtime residents on the lake report that there used to be abundant crayfish, freshwater clams, less algae, and better water clarity. The shoreline represents the first line of defense against pollutants from reaching the lake. To allow more development of the shoreline, and greater incursion into public waters will have further detrimental effect on the littoral zone habitat and biological diversity of the lake.

Specifically, we are **OPPOSED** to the following proposed changes:

- **Env-Wt 511** to allow deck construction as a water access structure, as an alternative to beach construction, or in addition to docks.

Env-Wt 511.02 (c)(2) states: The Beach/Deck structure will not have a negative impact on shoreline stability.

However, a study conducted on two lakes in Wisconsin looked at sunlight penetration, aquatic plant community, fish species and abundance, and macroinvertebrates in relation to size of piers and decks. They found:

- Decks, because of their larger size and thus greater capacity to reduce light penetration, reduced plant growth more than linear piers.
- Plant growth was altered, which then affects habitat for macroinvertebrates and fish communities; results in a loss of biodiversity.
(2005; P.J. Garrison, et al. Effects of Pier Shading on Littoral Zone Habitat and Communities in Lakes Ripley and Rock, Jefferson County, Wisconsin.)
- Near-shore structures have both a site specific and cumulative effect on shallow-water plant communities and the habitat functions they provide (Engel and Pederson 1998, Bryan and Scarnecchia 1992, Jennings et al 2003).

Because vegetation along the shoreline stabilizes the substrate, reduces turbidity, and helps protect the shoreline from wave action, decks will have a negative impact on shoreline stability.

Additionally, the elimination of the maximum area of a perched beach will result in more land disturbance. The maximum size of 900 square feet should be retained.

- **Env-Wt 513**
 - To increase the maximum width of docks to 8 feet.
 - Reducing baseline frontage to 50 feet.
 - To allow flexibility on the configuration of docks to a potential of a maximum of 900 square feet.
 - To allow greater incursion into the public water by extending the permissible lengths of docks.

We believe the current 6 foot width for docks is adequate.

We believe frontage should be kept at 75 feet. If a property owner has 100 linear feet of shoreline, does that mean they could have two docks built? If that is the case, then there is potential to have a tremendous cumulative effect on the lake's ecosystem. The proposed rules are not clear.

For the reasons stated above under Env-Wt 511, we do not agree with provisions to increase the square footage of any structure on or over the water, nor do we approve of the permitting of dug-in basins.

Additionally, we believe that all docks should be seasonal and not permanent structures.

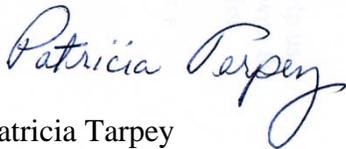
- Env-Wt 512- Breakwaters

Our watershed management work on Lake Winnepesaukee has taught us that Lake Winnepesaukee functions as several lakes due to its numerous islands and bays. We do not agree with the provision for breakwaters on Lake Winnepesaukee. Of utmost significance is that breakwaters are permanent structures placed in public waters and therefore do not protect the public trust. Breakwaters should not be allowed on Lake Winnepesaukee, just as they are not allowed on other water bodies in NH.

We recognize that the NHDES has put many hours and effort into the process of overhauling the Wetland Administrative Rules, beginning back in 2014, and we appreciate the opportunity to provide comments. However, we are disappointed that the revisions lessen restrictions on shoreline development, which will degrade the protected resource. These proposed changes only seem to benefit a relatively small number of lakefront property owners, and hurt the many who rely on the State of New Hampshire to ensure as clean a public waterbody as possible. As Lake Winnepesaukee is the State's largest lake, and key driver for the lake's region tourism economy, the LWA will advocate for tighter measures and controls that reduce pollutant loading, maintain shoreline integrity, and protect the water quality of the lake for the benefit of all. So should the State.

We will continue to review these rules and will provide fuller comments in the near future. We also request that LWA be included in any future stakeholder meetings that NHDES holds as this rules review process moves forward.

Sincerely,

A handwritten signature in blue ink that reads "Patricia Tarpey". The signature is written in a cursive style and is positioned above the typed name and title.

Patricia Tarpey
Executive Director