

# N.H. Lakes Management Advisory Committee

[N.H. Lakes Management and Protection Program](#)

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## LMAC MEETING MINUTES

November 30, 2021

9:00 – 11:00 am

NHDES Room 208C

29 Hazen Drive, Concord, NH

<b>Members Present</b>	<b>Representing</b>	<b>Term</b>	
David Packard, Chair	New Hampshire Lakes Association	August 1, 2024	V
Garret Graaskamp, V. Chair	Executive Director, F&G	Indefinite	NV
Shane Bradt	Scientific Community, UNH	August 22, 2019	V
Ryan Cardella	Marine Dealers Association	August 22, 2023	V
Eric Feldbaum	Commissioner, DNCR	Indefinite	NV
Tiffany Grade	Conservation Community	September 19, 2022	V
Jennifer Gilbert	Director, Office of Strategic Initiatives	Indefinite	NV
Mark Hemmerlein	Commissioner, DOT	Indefinite	NV
Sara Holland ( <i>pending</i> )	NH Association of Realtors	June 27, 2023	V
Shawn Jasper	Dept. of Agriculture, Markets & Food	Indefinite	NV
Frank Lemay	NH Business and Industry Association	July 8, 2022	V
Jared Maraio	NH Travel Council	August 1, 2022	V
Lisa Morin	State Conservation Commission	August 1, 2021	V
Dick Smith	Fishing Interests	November 17, 2019	V
<b>Members Absent</b>			
Capt. Tim Dunleavy	Commissioner, DOS	Indefinite	NV
Janet Kidder	Planning Boards	August 1, 2023	V
Meredith Smith ( <i>pending</i> )	Municipal Officials	August 1, 2021	V
Bruce Temple	Fish & Game Commission	August 22, 2021	V
Vacant	NH Assn. of Conservation Commissions	August 22, 2022	V
<b>NHDES Staff Present</b>			
Ken Edwardson	Watershed Management		
Nisa Marks	Rivers and Lakes Programs		
Tracie Sales	Rivers and Lakes Programs		
<b>Guests Present</b>			
Michele Davis	NH LAKES		
Steve Wingate	NH Association of Conservation Commissions		

## I. Welcome, Introductions and Brief Announcements

Chair David Packard called the meeting to order at 9:00 am. Chair Packard conducted a roll call of LMAC members, invited any guests to introduce themselves, and welcomed all present.

- 1) Mark Sanborn, the new NHDES Asst. Commissioner, is native to NH and has a background in public policy. Most of his career has been at federal agencies, NHDOT, and the former Office of Strategic Initiatives. He brings interest in offshore wind and transportation policy. Allocating ARPA funds and other federal dollars are a priority for the administration.
- 2) Ryan Cardella, the new representative for the Marine Trades, is part of a family business with nine locations in New England that is trying to grow lake-related businesses. He is also on the board of the Lakes Region Tourism Assoc.
- 3) Nisa Marks, the new Rivers and Lakes Program Assistant, has a background in biology and politics and is on the board of NH Audubon. She lives in Henniker.
- 4) Sara Holland has been nominated to represent the New Hampshire Association of Realtors. She is their vice chair for policy and works to bring the perspective of property owners to the state legislature. She has been in New Hampshire for 40 years and resides in Plymouth.
- 5) Steve Wingate has been nominated by the New Hampshire Association of Conservation Commissions. He first summered on Lake Winnepesaukee in 1947 and inherited his family's property there. He is a retired forester with experience managing watersheds.

## II. Lakes Contaminants Assessments

1) **PFAS fish consumption advisories:** Ken Edwardson, Senior Scientist in the NHDES Watershed Management Bureau, presented the results of fish sampling done in 2020 to learn about the concentrations of 34 PFAS compounds in fish from southern New Hampshire waterbodies. Results were used to determine if there is cause for human health concern. Samples focused on small mouth bass and yellow perch, which are species likely to be consumed by recreational fishers. Sampled waterbodies were mostly in the southern tier of the state where there are known sources of PFAS. Highland and Armington lakes were used as controls. The PFAS compounds tested were those with reference levels for human health.

Most PFAS forms were nondetectable in sediments and nondetectable or at low levels in the water column at most lakes, meaning there is not concern for exposure by skin contact (swimming) or accidental ingestion. Ten PFAS compounds were detected in fish tissue. PFOA, PFNA, PFHxS levels were not high enough to generate human health concerns. However, PFOS was detected in every sample, consistent with findings elsewhere in the country. There were no clear differences between the two sampled species. Unlike mercury which builds up over time, there seems to be an equilibrium PFOS level in fish.

NHDES issued fish consumption advisories on Nov. 4 for five waterbodies where the maximum amount of fish deemed safe to eat due to PFAS was less than the amount deemed safe to eat because of mercury contamination.

The study did not analyze for other contaminants and represents a small sample size. Results are not generalizable to all NH lakes and more data are needed elsewhere in the state. There are still many unknowns about total PFAS load, and much is unknown about PFAS accumulation in humans. The [NHDES report on PFAS in fish tissue](#) is available online.

Mark asked about the likely sources of PFOS, and about next steps. Ken described that there are many potential sources, from bathing suits to runoff. All new NPDES permits have quarterly PFAS sampling. Right now there are no surface water quality standards for PFAS. NHDES lacks staff to sample more broadly, but is looking for funding to sample more fish and are considering obtaining targeted fish samples from the public. Dave suggested coordinating with Fish and Game to get fish from fishing derbies.

2) **Loon egg monitoring: Squam Lake and beyond** - Tiffany Grade presented a summary of the Loon Preservation Committee's (LPC) statewide egg contaminants report, published last week. They tested for PFAS, PCBs, flame retardants and organochlorine pesticides in inviable loon eggs, which is expensive. To date they have tested 81 eggs from 24 lakes, with a majority coming from Squam Lake. All contaminants classes were present in all eggs tested. In more than 60% of eggs contaminants levels exceeded levels shown to have effects in other species; however, effects to loons are unknown. LPC found certain lakes had concerning levels of certain compounds: Squam (PCBs, flame retardants), Canobie and Arlington Mill (PFAS), and Francis and Merrymeeting (PCBs). The report includes recommendations for expanded contaminants testing in higher trophic level species. They hope the report will support advocating for NHDES funding to expand contaminants testing in higher trophic level wildlife. The report is available on [LPC's website](#).

### III. Consent Agenda

- 1) A motion made by Frank and seconded by Tiffany to accept the April 1, 2021 Draft LMAC Meeting Minutes passed by unanimous voice vote.
- 2) Tracie provided notice of Surplus Land Disposals not near any lake, following LMAC policy:
  - a) DOT SLR Concord Stickney Ave
  - b) DOT SLR Boscawen Railroad
  - c) DOT SLR Enfield RailTrail
  - d) CORD SLR 21-004 Campton-Thornton
  - e) DOT SLR Conway Eastman Road

**IV. Surplus Land Review:** CORD SLR 21-003 Laconia. Tracie notified Dave of the project on May 25. He decided not to convene a meeting of the LMAC as the transfer would not affect lakes or access.

**V. Elections of Chair and Co-chair:** Dave made the motion to reelect Dave as Chair and Garret as Vice Chair. No other nominations were forwarded. The motion passed by unanimous voice vote.

**VI. Remote meeting status:** Tracie described that public bodies subject to the provisions of the Right-to-Know act must have an in-person quorum and can no longer meet remotely. Meetings must meet pre-COVID-19 requirements. Providing that an in-person quorum is met, additional voting members can join remotely by phone, if requested of staff in advance.

**VII. Future agenda items:** Dave provided an introduction to several potential agenda items:

- 1) **Public trust doctrine/public access:** Dave provided as a matter of information the public trust document adopted by the LMAC in 2010. Tracie described that it was developed by staff but that the appendix was never written because the lakes program budget was abolished in 2011. Tracie finds the document a useful reference for calls from public with concerns about public waterbodies without public access.
- 2) **Public access/Public Waters Access Advisory Board (PWAAB)** – Garret described that Fish and Game has taken advisory information from PWAAB since 1993, when the statewide public boat access program was created. PWAAB was originally charged with studying access to lakes, which has been completed, and now looks at rivers and the 120 roads to public waters that were established by petition as access to lakes in 1930s-70s. PWAAB will also be looking at beach access. The Department of Natural and Cultural Resources has not opened a new state beach in 20+ years and Fish and Game has not purchased a property to expand boating access in nine years. The inventory of access points is stagnant and current sites are cumulatively over capacity for parking.

Lisa asked about lake carrying capacities for recreation. Garret responded that it has not been looked at systematically, though Connecticut has a way to assess capacity. Ryan referenced that emergency response is an issue with insufficient public access points.

- 3) **Drought/flood response** – Dave expressed interest in getting a response from NHDES about what the state will be doing to address increased occurrence of droughts and floods. He would like to see a more strategic preparedness response rather than just emergency response. Jennifer is the state floodplain management coordinator and offered assistance.
- 4) **Other ideas from membership** – Dave mentioned non-motorized boat registrations, which is the subject of a 2022 LSR. Dick mentioned that Fish and Game gets \$5 per boat, for total of half a million dollars, which is not sufficient to acquire or develop land for access. Garret clarified the \$5 is in statute, so does not account for inflation. Dick and Ryan mentioned that non-motorized users still require public resources such as access or emergency rescue. Eric manages federal Land and Water Conservation Fund (LWCF) money for the state, which is a 50-50 match program for properties intended for public use.

### VIII. Lake-related Legislation

- 1) **Present and Discuss 2021 Legislative Outcomes:** Dave gave an overview of the outcomes for each bill the LMAC took a position on in 2021, available in the linked spreadsheet.
- 2) **Present and Discuss 2022 LSRs and bills:** Dave postponed voting on legislation until January, and asked Nisa to give an overview of each bill for which there was language available: HB1014, HB1042, HB1066, HB1071, HB1073, HB1167, HB1220, and HB1227. Members provided additional comments on several of those:
  - HB1066: Shane commented that there is not a national strategy on cyanobacteria, meaning activity is largely state by state or town by town, and that having a coordinated approach, as proposed in this bill, would greatly help.
  - HB1071: Ryan said that Marine Trades Association supports the 250' from shore requirement for wakesurfing.

- HB1167 (PFAS): Mark expressed concern about legislating water quality standards. Tracie said NHDES generally prefers legislation that enables rulemaking.
- HB1227 (prime wetlands): Mark explained DOT's reasons for seeking an exclusion from prime wetlands for DOT rights of way. He said that the 1990 tax maps that towns use to designate prime wetlands are often incorrect and that DOT feels there is a sovereign immunity issue when towns dictate to state and federal transportation authorities.

Members discussed several LSRs where they had additional information:

- LSR 2033 (speed limits on Lake Winnepesaukee): Lisa described that it was unclear if the issues were generally felt in all areas of Lake Winnepesaukee. Ryan said that the Marine Trades generally support having speed limits at night. They hope the legislation would allow them to resume fishing tournaments and the use of racing boats. Dick described a conversation with Tim Dunleavy where Tim said that speed limits have not made a difference in safety statistics but is costly for marine patrol in training and obtaining radar units. Lisa expressed that many of the environmental organizations and lake associations are concerned primarily about erosion, turbidity, sedimentation and having a source of funding for repairing damage from larger wakes. Ryan pointed out that spending is going to enforcement, rather than these other issues.
- LSR2206 (non-motorized boat donations): Garret mentioned that the Fish and Game Department is working with Rep. Goley on the bill's language.
- LSR2473: Tracie described that Big and Little Pea Porridge Ponds are connected. Little Pea Porridge Pond is downstream and has a dam, which affects lake levels in Big Pea Porridge Pond. Residents on Big Pea Porridge Pond are seeking more control over water levels. The dam would not be a state dam.
- LSR 2705: Tracie described the bill would add the Manchester segment of the Merrimack River into the Rivers Management and Protection Program. The bill bypasses the public and grassroots processes currently required in statute.
- LSR 2912: Eric said that the LSR title has changed to focus on broadband infrastructure funding. The group decided to remove the bill as not relevant.
- LSR 3093: Tracie said staff was tracking this LSR in case it relates to surplus land disposals. Nothing further is known about it at this time.

Staff are tracking additional LSRs of potential interest, but about which nothing is known at this time: 2494, 2822, 2884, 3050, 3056, 3101. Dave asked members to forward to staff any other bills or LSRs that their organizations are tracking.

- 3) Present and Discuss Draft Revised LMAC Standing Legislative Positions: Dave presented a draft of revisions to the LMAC's standing positions, which enable the chair and vice chair to prepare testimony without calling a meeting to discuss it.

Ryan Cardella motioned to accept the revised Standing Legislative Positions as presented. Second by Frank Lemay. Dave Packard invited discussion.

Tracie presented a technical correction that RSA 483-A created the LMPP and recommended striking the reference to section 6. Dave accepted the recommendation.

Tracie expressed concern that the bullet enabling the subcommittee to act on bills that support the “uses and values that lakes provide” is too broad, because the members of LMAC provide diverse perspectives about what protects those values. Dave asked for all in favor of keeping the language. The body voted unanimously to strike the language.

Tracie commented that the two bullets supporting enforcement do not make sense, because bills define the statute and rules, not enforce them. The committee discussed several possible revisions. Garret suggested adding “existing” between state and surface water, as a way to set a benchmark that the body agrees on. Dave suggested removing “enforcement of” and add “existing” in both bullets. The body voted unanimously to make those changes.

To the bullet referencing supporting bills that “improve water quality,” Tracie suggested adding “in lakes.” Lisa and Shane described technical difficulties in defining the boundaries of that. Dave suggested that rivers issues affect lakes and so did not see the need to add the language. Garret said there hasn’t been problems so far with existing standing positions without the language. Dave asked for a vote in favor of maintaining the current proposed language, without addition of “lakes.” The body voted unanimously in support.

Dave asked for a vote to adopt the revised standing positions, including the changes supported above. The body voted unanimously in support.

- 4) Present and Discuss Draft Revised LMAC Policy and Legislation Subcommittee: Dave described key changes in the document, and opened the floor to discussion.

The document references posting legislative testimonies on the LMAC forum. Tracie described that the LMAC forum will be taken down at some point because of a decision by DoIT, and that this document would have to be altered, since there will no longer be a forum site. Staff does not yet know how the replacement will work. Dave elected to keep the language.

Tracie recommended changing the maximum number of voting subcommittee members from six to five in order to avoid triggering quorum. No opposition to that change was expressed.

Tiffany mentioned a technical correction that RSA 483-A created the LMPP and recommended striking the reference to section 6.

Dick Smith moved to accept with the changes in the number of voting members and the statutory reference. Ryan Cardella seconded the motion, which passed unanimously.

## **IX. LMPP Updates**

- 1) Nippo Lake Management for Control of Cyanobacteria: Tracie said that the aluminum treatment presented at the LMAC’s April meeting happened as described. The pH stayed within water quality standards during treatment. Aluminum concentrations exceeded chronic standards during treatment but dropped quickly and met water quality standards by mid-July. Aluminum concentrations never exceeded the acute standard. Water clarity historically was 4 - 5’, with less during blooms. Clarity has dramatically improved and is in the top 90<sup>th</sup> percentile for all New Hampshire lakes. In response to a question from Shane, Tracie did not know if other lakes in the area had improved secchi disk depths at the same time as those observed in Nippo.

- 2) LMAC Membership Renewals / Current Nominations – Nisa thanked Dick and Lisa for getting their renewal paperwork in. Bruce and Shane’s terms have expired. The governor has nominated people to fill the realtors’ and lakefront municipality seats, but not yet brought forward someone for the conservation commissions seat.
- 3) Instream Flow Update – Tracie said that the Cold River Protected Instream Flow final report will be published shortly.

**X. New Business and Action Item Review**

- 1) New Business: None.
- 2) Action Item Review: Staff will finalize the legislation procedure documents voted on today.
- 3) Next LMAC Meeting – Staff will coordinate with Dave and Michele L. Tremblay about a joint meeting and send out a Doodle Poll, likely for a mid-January meeting.

**Chair Packard adjourned the meeting at 11:40 am.**

DRAFT