

Neil Levesque, Chair
The Lake Sunapee Public Boat Access Development Commission

February 28, 2018

The Honorable Chris Sununu
Governor of New Hampshire
State House
Concord, NH 03301

Dear Governor Sununu:

Pursuant to Executive Order 2017-06 please accept this report of the Chair and Majority of the Lake Sunapee Public Boat Access Development Commission.

The recommendations of this report provide the people of the state of New Hampshire with **1) near-term increase in access for trailered boats on Lake Sunapee, 2) allow the NH Department of Fish and Game to explore new options for deep water boat access points, 3) provide increased access for the public to Lake Sunapee, 4) end the long-term divisions and concerns associated with the Wild Goose boat launch site.**

New Hampshire is a small state with a history of constituencies working together to find realistic and workable solutions to problems in a practical way. It is in that spirit that we submit the following findings and recommendations.

History and Background

New Hampshire's lakes and ponds are held in trust by the state for the benefit of the public. In the 1980s, increased development along the shorelines of New Hampshire major water bodies threatened the public's access. In response, then-Governor Judd Gregg worked to better ensure public boat access and, in 1991, the Office of State Planning issued its Public Access Plan for Lakes, Ponds and Rivers (the Plan). The comprehensive Plan outlined existing law and suggestions for how to expand and ensure public access, potential hurdles and proposed boat access plans. In response to the Plan, the NH legislature took action, passing NH RSA 233-A, creating the state's public boat access plan, specifying, the Fish and Game Department (the Department) as the entity responsible for the plan and creating the Public Water Access Advisory Board (PWAAB). The Department was also authorized to collect a fee on boat registration to support its Boat Access Program, currently \$5/registration. (With these funds, many times used to match to US Fish and Wildlife Service funds, the Department operates its boat access program.)

During the same time period, in Newbury, an entity seeking to develop approximately 103 acres on the flank of Mt. Sunapee and including a 3-acre piece of property on Lake Sunapee went bankrupt. Local interest in preserving this property was strong. Newbury and the Lake Sunapee

Protective Association (LSPA), in particular, worked hard to make it happen, the LSPA contributing \$10,000 for the appraisal. Ultimately, the state purchased the property through the Land Conservation Investment Program, a state-funded program created for conservation purposes that no longer exists. Contemporaneously, there was much discussion of the use of the 3-acre shore land piece for public access to Lake Sunapee. The property lies on the short, residential Birch Grove Road, formerly Route 103, which originally closely followed the Lake Sunapee shoreline along the base of Mt. Sunapee as it drops to the lake. At one time, it was the location of the Wild Goose Cottages. The anticipated intensity of the use of the Wild Goose property at the time of purchase is disputed. Locally, given road safety and environmental concerns, only low impact cartop boat/canoe access was ever supported. In 1991, The LCIP directed DRED to assign the Wild Goose property to the Department. As a piece of state-owned land, oversight authority for Wild Goose, fell to the Council on Resources and Development (CORD).

During the 1990s, Fish and Game, assisted by PWAAB, assessed the public access points on the state's water bodies, particularly, its 10 largest lakes, including Lake Sunapee. At 4,136 acres, Lake Sunapee is the state's 5th largest lake, with frontage in the towns of Newbury, New London and Sunapee. As part of the process, the locally based Lake Sunapee Boat Access Advisory Committee was formed. The Department analyzed public access points on Lake Sunapee. As reported in detail in the Intertown Record, dated June 1, 1999, after a great deal of study, Fish and Game announced that it was abandoning plans to use Wild Goose for anything other than car top boat/canoe site because of road safety concerns and because developing the wooded, steeply sloping site, then \$750,000, did not meet its cost-benefit analysis. It decided to look elsewhere. The goal then, as it remains today, was to find a site that could accommodate 30-35 parking spaces for trailered boat access.

By 2004, when other existing opportunities failed, PWAAB recommended to the Department to develop its only remaining option, the Wild Goose site, for trailered boat access. By the late 2000s, with strong local opposition and much controversy, the Department unveiled its plan for the site. The plan called for extensive excavation, blasting and dredging to create a dual boat launch and 43 parking spaces (31 for trailer boats). The LSPA and Newbury unsuccessfully litigated the issuance of the Department of Environmental Services (DES) permits, CORD's approval of proposed plan given the terms of the original acquisitions and prevailing statutes (NH RSA 162-C), and Newbury's jurisdiction over road safety requirements. In June 2016, the Department sought approval of a \$2.1 million capital budget request to construct Wild Goose that included \$150,000 for road safety improvements. Governor Chris Sununu included the funding in his draft 2018-1019 Capital Budget, but it was removed by the legislature. Currently being litigated, the DES permits elapsed in August 2017. Governor Sununu issued Executive Order 2017-06 in September 2017, creating this Commission in an effort to solve the Lake Sunapee public boat access challenge.

The Department's effort to construct the Wild Goose boat launch has been fraught with difficulty, high costs, safety and community concerns and litigation. The Fish and Game Commission and sporting/fishing groups, particularly in Sullivan County, have strenuously supported it. For almost three decades, the high impact plan to create a boat launch for trailered

boats has been controversial, dividing people and communities. It has cost the Department, the state and constituencies hundreds of thousands of dollars. The result is a stalemate, the Department has not fulfilled its responsibilities under RSA 233-A and the public still does not have increased access to Lake Sunapee.

The Work of the Commission

Executive Order 2017-06 outlined the two main charges of the Commission to develop a new plan for the development of the Wild Goose property and to plan for expansion of public boat access that will be amenable to and be supported by relevant public and private stakeholders.

The Lake Sunapee Public Boat Access Development Commission met six times. Advance notice of these meetings was provided to stakeholders and the media. The public and stakeholders provided extensive input to the Commission at several meetings, including in Newbury, N.H., and Concord, N.H. All meetings were open to the public and audio recorded. The Commission also received extensive background materials during the numerous public hearings, by mail and email, including environmental impact statements, Lake Sunapee boat usage data, traffic studies, media reports, agency decisions and press releases, and court decisions relating to the Wild Goose project. The Commissioners toured Lake Sunapee public boat access sites (at the Wild Goose and Sunapee State Park locations) with representatives of the Department and the Division of State Parks.

Members of the public provided extraordinary insight into issues that weighed heavily on the Commission and the Commission is grateful to the public for their contributions to this report.

The safety concerns of the Wild Goose site voiced to the Commission by police, fire and emergency officials were critical to the recommendations outlined below.

The members of the Commission, some with long standing, deeply held beliefs on the subject at hand, worked cooperatively and in a civil manner during these deliberations. In the end, the seven unanimous findings reflect the common ground gained during this process.

The Issues

Boat access is not as simple citizen pedestrian access. The large, trailered deeper draft vessels require space, maneuverable parking, dockage and deeper water to access water bodies. Providing access to larger boats involves expensive shore land property, traffic safety upgrades, extensive engineering, and heavy construction, all at great expense. As noted in 1991 Public Boat Access Plan recommendations, among other things, public access requires land, the efficient use of funding and concern for environmental, socio-economic and abutter conflicts. In particular, the Plan recognized that active recreation at boat ramps in residential areas would cause valid abutter concerns, if not adequately buffered.

Reasonableness.

NH RSA 233-A, pursuant to which the Department operates the state's public boat access program, does not allow for the important consideration of what is reasonable, especially considering the availability of valuable shore property which is suitable for the development of a boat ramp able to accommodate large boats. For instance, the Plan recommends 10-15 acres for a boat launch that could accommodate 40 parking spaces like that being proposed for Wild Goose. The Department, faced with public boat access challenges, seeks to place a large boat facility in a 3-acre site. While DES determined that with extensive engineering, the state's environmental requirements were met, road safety and community concerns are not. Not having any other alternatives, the Department seeks to fulfill its responsibilities by constructing the Wild Goose boat launch on land the state owns. But, clearly, the Wild Goose site poor location for a 40-space double boat launch for all the reasons local residents and the Towns of Newbury, New London and Sunapee shared with the Commission.

Therefore, at the heart of the issue is the disagreement over what is "reasonable" capacity for access. The position of the Department has been that the state should provide access for 100% of boat-types, 100% of the time, for free, for any as many boats, regardless of the costs, concerns of the community, and safety hazards. This is as realistic as a motorist expecting the state to construct a highway for the capacity of the busiest day of the year, without regard to community, safety nor cost.

In seeking to fulfill its mission, the Department has expended hundreds of thousands of dollars in untold hours of staff time, engineering fees and litigation costs. The local residents, organizations and towns have done the same, fighting what they perceived to Fish and Game's unreasonable proposal. Emotions have run high.

In its determined pursuit of Wild Goose boat ramp's construction, the Fish and Game Commission, as supported by PWAAB, did not give sufficient consideration to what was reasonable in relation to other concerns, most notably traffic safety, inadequate residential buffering, expense, existing boat access and environmental impact. But for the fact that the state owns Wild Goose, it is unlikely that Fish and Game would have selected this challenging site to build a boat launch.

Existing Access

While the Department is required by law to provide a public boat access area on Lake Sunapee, it is worthwhile to review existing access on the lake. There are five boat launches on Lake Sunapee, all free and open to the general public, except the ramp at the State Beach for which there is a fee. The Commission received testimony from the LSPA, backed by data generated through the Lake Host aquatic invasives program, showing that thousands of boats are accessing the lake annually, approximately $\frac{3}{4}$ of which are motorized boats. The program runs during the summer during business hours, so more boats than the LSPA has checked have access the lake. The number of boats has steadily increased over the past several years. Area towns rely on boat visitors for tourism dollars. In fact, representatives of the Town of Sunapee testified that it recently invested \$40,000 to improve Sunapee Harbor boat ramp and parking lot. Thus, there is relatively extensive motorized boat access on Lake Sunapee already. There is no access crisis.

Nevertheless, there is not enough parking at locations that can accommodate larger boats. The Commission, unanimously, acknowledged in our findings the need for more deep-water access for boats on Lake Sunapee.

Road Safety

The Commission heard a great deal of testimony from local emergency services personnel from Newbury and New London expressing their strong opposition to the construction of the Wild Goose boat ramp because of existing traffic hazards. Sunapee, Newbury and New London all wrote to Commission to reconfirm these concerns. In fact, Route 103, from its intersection with Route 103A to the Mount Sunapee traffic circle is already a dangerous stretch of road with a lengthy crash history. Newbury provided ample documentation to the NH Department of Transportation when applying for a Highway Road Safety Audit grant. In awarding the grant, by letter dated June 8, 2016, the DOT asserted that such grants are made where there are “serious safety issues.” DOT issued Road Safety Audit report May 8, 2017. The audit outlines the car access challenges from both of the skewed intersections from Birch Grove Road with Route 103, including insufficient site distances, the steep incline of road to Route 103 and the contours of Route 103 itself. Route 103 carries a great deal of east-west commuter, tourist and truck traffic at road speeds of 50 mph and more. The improvements needed to make access onto Route 103 safe for vehicles with trailered boats safe would be extensive and very expensive. The Fish and Game plan included only \$150,000 for road improvements and while it has had many discussions with DOT about the site, no permit application was ever made and approved. Sufficient improvements would only add to the expense for this cash-strapped agency.

Furthermore, because Wild Goose is a state project, the Town of Newbury has no jurisdiction to require the state to make any improvements, safety or otherwise, to Birch Grove Road. The Commission cannot, in good conscience, recommend proceeding with a project when such grave public safety concerns exist.

Environmental Impacts

Lastly, the Commission received testimony on the environmental impact of the construction of the Wild Goose. The LSPA provided evidence of the extensive excavation, blasting and dredging necessary to make Wild Goose an acceptable boat ramp. Although the LSPA and many others feel they were inappropriately issued, DES did issue the necessary permits, but as evidenced by the over \$2 million capital budget request, the extensive excavation makes Wild Goose very expensive.

State Beach

None of these arguments are new. For this reason, the State Beach has been the focus of much attention as a viable alternative. The Commission looked closely at this option and greatly appreciates the cooperation and input of the Division of State Parks, specifically its director, Phil Bryce, a member of the Commission.

The current use of Sunapee State Park boat launch provides interesting information. In the summer, the boat trailer parking is utilized 33% percent of the time on weekdays and close to 100% on favorable weather weekends. Four of the six fishing tournaments on Lake Sunapee in 2017 were based from the Sunapee State Boat Launch. The State Beach boat ramp is not as deep as the boat ramps at Sunapee Harbor or at Georges Mills. For approximately seventy-five years it has been used as a boat launch without dredging to the channel (called Chandler Brook).

Reportedly, the lake directly in front of the channel was at one time dredged. The depth of the channel is variable depending on the time of the year and rainfall. The conclusion is that the State Park launch is well-utilized, and is a preferred location for launching fishing boats, but it is at maximum capacity on summer weekends. An increase in parking would increase access to the lake, but would not accommodate deeper draft vessels without dredging at Sunapee State Park.

Additionally, Director Bryce expressed valid concerns that greatly increasing boat traffic at the beach would be counter to its primary mission of providing beach access for the public. Some members of the Commission strongly believe that dredging of the mouth of the channel at the State Beach would be an overall solution to boat access on Lake Sunapee.

Clearly, there are no perfect answers to this twenty-seven year conflict.

Findings

The Commission approved the following unanimously by the members present at the 2/14/18 meeting.

1. Currently, there is not enough accessible parking capacity for trailers at deep water boat ramps on Lake Sunapee available to the general public.
2. For twenty-seven years the NH Department of Fish and Game has attempted to construct a boat launch at the Wild Goose site. This proposal has been met with opposition which has divided communities, prompted litigation, and has delayed the Department from its obligation to comply with RSA 233-A to provide public boat access to Lake Sunapee as called for by that statute.
3. The New Hampshire General Court in 2017 did not support the capital funding for the construction of the Wild Goose boat launch.
4. Currently, the status of the Wild Goose Site permits are as follows: The Department of Environmental Services wetlands permit is in litigation. The Department has taken the position it cannot be extended. The Alteration of Terrain permit has expired and the Shoreline Water Quality Permit is in force.
5. There are unresolved traffic and safety concerns regarding trailer boat traffic patterns entering and exiting Route 103 to and from the Wild Goose Site.
6. Sunapee State Park cannot serve as a replacement for the deeper water, thirty-one trailer boat parking space, Wild Goose site.
7. The New Hampshire Division of State Parks is committed to exploring additional boat trailer parking at Sunapee State Park, for park visitors, outside of current parking lots. This development would increase access in the near term for trailered boats.

Recommendations

The Chair, joined by the majority of the Commission further recommend the following:

1. ***We strongly recommend*** that the Wild Goose site be removed from consideration as a Department of Fish and Game boat launch site by way of CORD transferring the property to the Division of State Parks by the power granted to CORD in RSA162-C:6. This action will release the Department from its focus on the Wild Goose development and empower it to find a more acceptable alternative for a deeper-water boat access point on Lake Sunapee. The transfer of the property to the Division of State Parks is the right course. The Division has a strong and successful history of providing public access to public waters for recreational purposes as defined by RSA 271:20-a, I. Upon transfer, the Division of Parks should make its own determination as to the suitability of site's use, consistent with its mission to provide public access. This may include providing fishing, car top boat/canoe access, picnicking, or even camping opportunities at the Wild Goose site. The Commission anticipates that the Division will work closely with area communities in developing any plans to avoid the pitfalls of Department's Wild Goose experience. It should be fully expected that the Division of State Parks will charge fees to compensate for any expenditures at the site.

After twenty-seven years of division, strife and ongoing traffic safety concerns, it is time for the Fish and Game to be released of this site, so it can comply with its obligations under RSA 233-A.

2. The New Hampshire Department of Fish and Game should be charged with and strongly supported by the state and local constituencies with finding an alternative site for compliance with RSA 233-A. The Department should immediately begin work on locating a new alternative. Towns and stakeholders, including many who served on this Commission, have stated their willingness to assist in this effort. In the short term, the Department should consider remedies that will help increase access to Lake Sunapee, such as free trailer parking in areas near existing boat launches.
3. Ideally, the New Hampshire General Court should make the Department whole for expenditures relating to developing the Wild Goose site, so that the Department is in a stronger position to develop alternatives.
4. Should the Division of State Parks seek to increase trailered boat parking at the State Beach, it is hoped that the state will approve necessary funding to make it possible. This is the most viable solution to increased parking in the near term.

There are two considerable variables with these recommendations.

1. That the Division of State Parks will be sufficiently motivated to comply with their stated commitment to create more boat access at Sunapee State Beach. That town, state, and recreational enthusiasts work closely with the Division of State Parks to advance the additional parking spaces outside of the existing parking lots.

2. That the Department of Fish and Game is allowed to find and develop an alternative deep-water boat launch site on Lake Sunapee. In the strongest possible terms, the Commission recommends that the state and area communities assist the Department in this effort, so that the challenge of increased access is a joint effort.

It is our hope that the stakeholders and elected officials in the future work to ensure that these recommendations be followed, so that, at long last, the public's right to increased boat access to Lake Sunapee be provided.

Signed,
Neil Levesque, Chair
Senator Ruth Ward
David Kidder
Nancy Marashio
Suzanne Gottling
Vahan Sarkisian
Steve Puksta
Peter Stanley
Dennis Pavlicek

Abstained:
Eugene Forbes, Department of Environmental Services
Phil Bryce, Director of State Parks
Robert Dufresne, NH Wildlife Federation

Attached:
Letter from Robert Dufresne
Minority Report
Executive Order 2017-06

MINORITY REPORT

Recommendations

The undersigned Commission members respectfully disagree with the Majority Reports' recommendations and take issue with some parts of its "History and Background" discussion. After multiple meetings, public input and site visits to the Wild Goose site and the Sunapee State Park beach and boat launch only, the Commission conducted its final deliberations on February 14, 2018. At that meeting, all of the members present reached a consensus on the seven findings that are set out at page six of the Majority Report. The Chair then went on to give his recommendations at that meeting, with which the undersigned members cannot agree.

The consensus findings of the Commission, in summary, is that there is a need for more trailer boat parking capacity at deep water boat ramps on Lake Sunapee. The only current such ramps, at George's Mills and Sunapee Harbor have either no, or extremely limited and inconvenient, parking. It should be noted that the Town of Sunapee, at any time, could restrict these two boat ramps to town residents only, thus excluding the rest of the general public. The Commission's consensus findings also conclude that the boat launch at the Sunapee State Park beach cannot serve as a suitable "replacement for the deeper water, thirty-one trailer boat parking space, Wild Goose site". Thus, there is no dispute there is no currently existing deep-water publicly accessible trailer boat access site on Lake Sunapee and that there is a need for such a site. Under the Majority's recommendations, that situation will continue, despite the purchase of the Wild Goose site by the LCIP program in 1992 to serve as the primary, public boat access for Lake Sunapee. Finishing the development of the Wild Goose site as proposed by the Department is the only realistic way to provide the type of site that the Commission agrees Lake Sunapee lacks and needs. Finishing the development of Wild Goose would also allow the Department to fulfill its obligations under the statewide public boat access program to provide such access to Lake Sunapee, a mandate that the Majority Report agrees needs to be fulfilled (see p. 2-3 and RSA 233-A).

The Majority's recommendation to abandon Wild Goose without any proposed substitute site is an abandonment of the Commission's charge to "develop a new plan for the development of the Wild Goose Property and expansion of public boat access at Lake Sunapee ...". Unfortunately, the only expansion of public boat access recommended by the Majority is that the Division of Parks and Recreation consider adding an unspecified number of trailer boat parking spaces for the Sunapee State Park's shallow-water boat ramp. As to Wild Goose, its recommendations are to abandon it as a trailer boat site and turn it over to the Division of Parks and Recreation with no directive other than that that Division: "should make its own determination as to the suitability of site's use, consistent with its mission to provide public access. This may include providing fishing, car top boat/canoe access, picnicking or even camping opportunities at the Wild Goose site". Such a recommendation does nothing to address needed public boat access to Lake Sunapee. Instead, the undersigned Commission members, consistent with the Commission's consensus findings, recommend that the traffic issues of Wild Goose be addressed further so that there can be more confidence in the safety of trailer boat and vehicle combinations entering and exiting Birch Grove Road. This was the one problem with the

Wild Goose site identified in the Commission's consensus findings. This issue has been repeatedly raised and addressed over the years as the Department developed its plans for Wild Goose. The Department of Transportation was repeatedly questioned about these issues and agreed with the Department's outside engineers that their changes to the western Route 103/Birch Grove Road intersection, including moving

some guard rails to increase sight lines were sufficient. Those changes are in the Department's current Wild Goose plans. The undersigned Commission members agree that additional traffic control and safety measures should be considered, including: possible signage prohibiting left turns across Route 103 by trailer boat/vehicle combinations; possible reductions or adjustment of speed limits and zones, and possible warning traffic lights, activated by sensors that read a boat trailer. With such traffic controls and improvements, the undersigned recommend that Wild Goose be funded and completed. The permits that have expired can be renewed. It is important to clarify the Majority's cost statements at p. 2 and understand that the estimated 2.1M project cost will be paid 75% by the U.S. Fish and Wildlife Service and only 25% by state funding. Less than 550K of state funds will be needed, all paid for over time by the direct funding from the five dollar per annual boat registration fee.

The undersigned Commission members strongly believe that Wild Goose provides the only realistic possibility for providing adequate public boat access to Lake Sunapee in the next few years. The citizens of New Hampshire have waited too long for an adequate trailer boat access site on Lake Sunapee. They should not face the prospect of another 27 years of no action.

The Majority Report's History and Background Section

Commission members first saw this largest, five page section of the Majority Report on the afternoon of February 26, 2018. If time permitted, a further meeting of the Commission could have attempted to review and modify this section to attempt to reach a consensus. While much of this section states relevant history and facts, there is an important omission and an overall tone of this section that suggests that Wild Goose is a very poor choice for a trailer boat access site and that "but for the fact that the state owns Wild Goose, it is unlikely that Fish and Game would have selected this challenging site to build a boat launch". (p. 4).

The simplest rebuttal to this claim is that not only Fish and Game, but the LCIP and the Federal U.S. Fish and Wildlife Service thought it was very suitable for a boat launch. DES and DOT approved all of Fish and Game's plans for the development of Wild Goose and DRED's Division of Parks and Recreation supported the project.

The Majority Report in making this argument concludes that the three acre Wild Goose site is too small for the proposed 31 trailer boat and 9 car top parking spaces and boat ramp. Three acres, however, is typical of the size where the Department has successfully built large trailer boat access sites. The Department's sites at Newfound Lake, Squam Lake, Winnisquam Lake, Ossipee Lake/Pine River and Lake Winnepesaukee at Downing's Landing are all three acres or less. The Majority Report is not complete in its recitation of relevant history at p. 2. In discussing the Department's 1999 decision to abandon Wild Goose, it leaves out the history

provided to the Commission by the Department's Executive Director that that decision was made only because at the time it looked like the Department could acquire both the Georges Mills boat ramp and sufficient adjacent land for trailer boat parking. When that fell through, the Department had no choice but to return to Wild Goose and no other alternative site on Lake Sunapee has surfaced in the many years since.

Finally, the undersigned Commission members would like to point out that the Commission had just under half of its members that were residents of, or Lake Sunapee lakeshore owners, in the three towns bordering the Lake. The Commission heard repeatedly from residents of the nearby cities of Newport and Claremont that they were long-time boaters and lake users who supported Wild Goose and who felt that they should have had a place on the Commission.

Respectfully submitted,

Thomas Quarles
Glen Normandeau
Rep. Peter Hansen