



State of New Hampshire

DEPARTMENT OF SAFETY
OFFICE OF THE COMMISSIONER
33 HAZEN DR. CONCORD, NH 03305
603/271-2791

JOHN J. BARTHELMES
COMMISSIONER

In the Matter of: Senter Cove, in Lake Winnepesaukee,
Moultonborough, New Hampshire

DECISION & ORDER

HISTORY:

The Department of Safety received a petition dated March 15, 2011 submitted by Mr. Sean R. Kinney and signed by at least twenty-five (25) co-petitioners, supporting the request. The petitioners applied for a hearing pursuant to RSA 270:12 seeking to appeal the hearing conducted on June 26, 2009. An instructional letter sent to Mr. Kinney on March 26, 2011 provided general information along with providing an explanation that an appeal cannot be acted upon, and providing the procedures and lawful authority to use when submitting a petition for public hearing. An amended petition dated April 29, 2011 for a public hearing to remove the current No Wake Zone implemented in June 2010 was accepted with a date for the public hearing to be determined.

Pursuant to RSA 270:12 and the New Hampshire Code of Administrative Rules, Saf-C 409, a public hearing was held under the authority of RSA 541 between the months of June and September and was scheduled on Friday, June 24, 2011 at 12:00 p.m. at the Moultonborough Town Office Complex, 6 Harbor Road, Moultonborough, New Hampshire. Mr. Curtis Duclos conducted the public hearing as my designee.

The procedure for adoption of such rules is outlined in section RSA 270:12 of Title XXII governing navigation, harbors, and coast survey in the State of New Hampshire.

PETITION:

"We, the petitioners, request a hearing to remove the "No Wake" speed limit for motorized vessels in Moultonborough's Senter Cove on Lake Winnepesaukee. We believe the enforcing the existing laws about boat speed and distance from other boaters, the shoreline, channel markers and rafts provides the necessary safety for all of us. The current No Wake Zone is unnecessary and excessive.

RSA 270:12 is the rule relevant to Motorboat Use and our petition. Our 54 signatures exceed the 25 required landowner or resident signatures required for this petition and for a hearing to be scheduled. The overwhelming majority of petitioners are "abutters" directly impacted by the current "No Wake" Zone. We are either Senter Cove waterfront property owners inside the No Wake Zone area or people with direct water access in Senter Cove inside the No Wake Zone area. We, the petitioners, include every member of the Lighthouse Lane Association and almost every member of the Bay Road Association. These 54 signatures are more than two times the 25 signatures for the original request.

We reviewed the Decision & Order document from the original decision to put the No Wake speed limit into effect in Senter Cove. We believe several inaccurate arguments were given in support of the original petition. Here are a few examples of these inaccurate points articulated for why a No Wake Zone is needed and then we provided our response and analysis.

- 1) To protect the wildlife and loons. The No Wake Zone request for Salmon Meadow Cove was rejected. The Loon Sanctuary is located in Salmon Meadow Cove. If we do not have a No Wake Zone to protect the Sanctuary in its cove, having a special No Wake Zone to protect the loons in other open water spaces seems inconsistent.
- 2) To protect swimmers and bathers. Existing regulations and laws, the natural water depth, and the numerous swim platforms adequately protect Senter Cove. The law requires 150 feet between a boat and the nearest object. Considering the navigation buoys and the many rafts that are 150 feet from shore, the minimum distance a boat above headway speed could *legally* come to shore is 300 feet. We believe that existing regulations and topography are therefore more than adequate for safety and there is no need for a No Wake Zone to protect residents from boats, boat waves or water skiers.
- 3) To protect swimmers and bathers. According to the New Hampshire Marine Patrol, there has not been a violation of dangerous boating within the last 5 years, as stated in the Decision & Order document.
- 4) To protect boats, the historic boathouse and-docks from-boat-waves; A No-Wake-Zone-does-not address solve this problem. The cove faces southwest and generally the wind blows from that direction. There are windy days with "white caps" in the cove. On these days, the waves from the wind exceed boat wave size and frequency. Rather than boat waves, we believe that the general wind conditions are a more serious risk to these structures. A No Wake Zone will not prevent damage from wind conditions.
- 5) To protect Wallace Island from erosion. Wallace Island is outside the No Wake Zone. Water skiers, including ourselves, now ski more frequently near Wallace Island than we did before, when we could water ski in the No Wake Zone area. If protecting Wallace Island from boat waves was a desired effect of the No Wake Zone, it is having the opposite effect.

We, the petitioners, are parents and grandparents concerned about safety and our children. Many of us have lived in Senter Cove for 30 years or longer. Unfortunately, a few individuals desire to treat the cove, which is a common resource, as their own personal area. The interests of those few should not trump the majority, especially where safety is not an issue.

The New Hampshire state motto is Live Free or Die. We believe this means a life without excessive rules and regulations. We should act in accordance with our state motto.

We look forward to having our voices heard. Please let Sean Kinney know what the next step in the process is and on what date the hearing will be scheduled. In our ideal situation, the hearing would be held 1 year and 1 day from when the No Wake Zone was implemented. We believe that date is June 27, 2011. Thank you for your time and consideration.

REMARKS BY THE MODERATOR: June 24, 2011 Public Hearing

Everyone present was informed:

- The public hearing is recorded;
- the recording will be obtainable for seventy-five (75) days, explaining the procedure to receive a copy;
- The Notice of Hearing and the Petition along with all supporting documents are displayed for review by interested persons. Notification of the public hearing was published in The Union Leader, on June 10, 2011; and, they may review the legal notice clipping from the newspaper, along with the original petition and any other documents;
- the opportunity to sign the appropriate "sign-up sheet" to present public comment on the petition;
- how and where to submit written comment that must be received within seven (7) days from the hearing date by the Department of Safety specifying before the end of business on Friday, July 1, 2011; and,
- the appeal procedure in accordance with RSA 541:3.

EXHIBITS: Public Hearing

- A. Power Point presentation presented by Sean Kinney and sent to the Department of Safety via email.
- B. Power Point presentation presented by Mimmy Cooper submitted as a PFD.
- C. Power Point notes of public comment submitted by Tom Kinney.
- D. Notes of public comment submitted by Jacqueline Sutcliffe.
- E. Notes of public comment submitted by Russell Hoyt
- F. Notes of public comment submitted by Cheryl Kahn.
- G. Notes of public comment submitted by Dudley Hare, Jr.
- H. Notes of public comment submitted by Melvin Borrin
- I. Notes of public comment submitted by David Sunderland

STATISTICS:

Fifty four (54) people signed the petition submitted initiating the hearing process (some of the petitioners spoke at the public commentary hearing on June 24, 2011 and/or submitted letters or emails in favor of the Petition);

Ten (10) persons signed up testifying in favor of the petition;

Fourteen (14) persons signed recording themselves present in support of the petition;

Eleven (11) persons signed up testifying against the Petition;

Eleven persons (11) signed up recording themselves present against the Petition;

Written public comments received before and/or at the hearing, or by email, or by U.S. Mail within seven (7) calendar days following the hearing are categorized as follows:

Fifteen (15) different individuals or couples wrote emails or letters in favor of the Petition;

Thirty-nine (39) different individuals or couples wrote emails or letters against the Petition; with One (1) of the thirty-nine letters also writing in behalf of an "Association" representing thirty-six homes against the Petition.

One (1) person wrote stating he was in favor of safety on the lake.

The hearing was closed to public comment at the end of the business day on Friday, July 1, 2011.

OFFICIAL NOTICE:

I take official notice of the following:

- Submitted Petition dated March 15, 2011 seeking appeal to a prior ruling on Senter Cove based upon a public hearing conducted June 26, 2009 which was returned without action along with a letter of general information and instruction on March 26, 2011;
- submitted amended Petition accepted dated April 29, 2011;
- the clipping from the newspaper of statewide circulation published on June 10, 2011;
- the hearing was conducted under the established statutes and rule listed on page one;
- the soundtrack of the public hearing conducted June 24, 2011 containing the instruction and recording public commentary from the persons speaking in favor or against the petition;
- the list of exhibits submitted on the hearing date, or presented on that date and provided after the hearing within seven calendar days;

- The public commentary submitted by mail or Email prior to the hearing, on the date of the hearing, or within the seven calendar days allowed after the hearing, and that have been listed by name and made a part of the official file for this hearing;
- A copy of the Decision and Order regarding Senter Cove conducted on June 26, 2009, since the petitioners and those whom as some measure of their position, contrast or argue alleged discrepancies between commentary and statistical information received.

SYNOPSIS OF TESTIMONY:

Sean Kinney spoke in favor of the petition by testimony and by use of a PowerPoint presentation [Ex. A]; the presentation provided a narration of the breakdown as to why the petition should be favorably considered. Mr. Kinney as the author of the petition presented a narrative focusing upon the fifty-four petitioners not knowing that a hearing in 2009 had occurred and that the petitioners are abutters to the cove and made up of diverse groups consisting of families young and old, and parents or grandparents. Mr. Kinney spoke of the reasons provided by the 2009 petitioners asking for a No Wake Zone including that the width was too narrow, the depth was too shallow and environmental concerns such as damage to boats and to property. Measurements show different numbers than provided the fact finder in 2009 and other coves are narrower with no speed restrictions beyond the navigational laws in place. He argued that he and the petitioners use motor boats and also kayaks and canoes. They know that non-motorized craft have more right-of-way, but should not have more privileges to the use of the cove. He said if cars can share the road, then boats and kayaks should be able to share the cove.

Mr. Kinney compared the fishing, amount of Salmon and wildlife, including loons and eagles to Salmon Meadow Cove, a cove with no speed restriction for the entire cove, emphasizing that Salmon Cove has the same or better environment without a No Wake Zone. Salmon Meadow Cove has a shallower water depth than Senter Cove; wind and boat wave origins are difficult to determine, noting a 2009 petitioner saying the waves are caused by boats, Mr. Kinney arguing this is difficult to comment on without specific education and knowledge of cause and effect. He testified by reading a letter by the Director of Safety Services acknowledging there are no recorded complaints within Senter Cove for the last five years. The decision in Senter Cove is a precedent for other coves, but the decision for Salmon Meadow Cove is incongruent.

Mr. Kinney pointed out that a 2009 speaker explained where a water-skier must begin within the cove. Mr. Kinney said that the No Wake Zone in place no longer allows a water-skier to start anywhere in the cove. This means that the generation of those taught to waterskiing in Senter Cove is no longer possible. He also pointed out that the cove is busy on some weekends, but what about other times? Mr. Kinney spoke of a recent storm in the last few days that created waves that damaged docks. On windy days, because of the requirement to travel at a no wake speed, he isn't able to leave the cove as it faces southwest. He called three times to Marine Patrol complaining he was land-locked and given a reply that he cannot exceed a no wake speed.

The 2009 arguments are not supported by fact. Complaints should be reported rather than add regulations. Why can't the next generation learn how to water-ski? How many days of the year is the lake really that busy? Is this because of a couple of wake boats? The existing laws of the lake and natural size of the cove provide safety. The abutters are affected by the no wake restriction because of the wind, making certain boats landlocked and the inability to water-ski. The No Wake Zone should be removed.

Mimmey Cooper spoke against the petition through testimony and by use of a PowerPoint presentation [Ex. B]. Ms. Cooper explained the PowerPoint she is presenting is similar to the 2009 presentation with updated information. She supports the present No Wake Zone primarily for safety, protection of future generations; water quality; safety to the boathouse. Her PowerPoint provided size and distances of the lake, surrounding locations, depths, and shallow areas within Senter Cove. She said there are many more boats using the cove than some years. The presentation showed examples of damage to docks and the shoreline due to boat wakes. Since the NWZ was placed in the cove people are able to use the lake, giving an example of swimmers crossing the cove. Loons, although in the cove for years, are coming closer to the shoreline along with other animals. Safety and enforcement are important. Before marine patrol arrives, the people are gone, suggesting this is the reason for no record of problems. Most people are obeying the law, with some exceptions. The inconvenience of two or four minutes to cross the cove is not that great. Ms. Cooper offered thirty-two individual letters against the petition from people unable to be present.

Eugene Farnum spoke in favor of the petition. He said if it is a safety issue, why would he want to take his children and grandchildren out into the lake where there are more boats and the speed limit is forty-five miles per hour. Before the No Wake restriction, he and others could watch the children having fun and hear them laughing and having a good time. It is safer within the cove; the cove is big enough to handle the activities of water-skiing, knee boarding, tubing, and the cove is small enough to require the people to keep the speeds down.

With respect to the previous petitioners, it is Mr. Farnum's experience that people reach their saturation or tipping point so petition for a No Wake Zone, but in doing so, it should be fair and equitable. He feels that part of the tipping point was the result of a wake boarder coming into the cove in 2009 wake boarding for hours and hours and not allowing anyone else to go out and enjoy the cove. The Wake Boarder was obnoxious, but should not result in the restriction. Mr. Farnum offers that the fact finder should consider a compromise in deciding the outcome of this petition. He believes the Marine Patrol are not undermanned or unable to patrol the lake, so should be called to control any safety issues.

Tell all the facts on environmental issues, consider the wind, etc.; not just the boats. It is not fair for one group of people to have dominion over those in favor of this petition; there must be common sense logic. Base the decision on facts, not emotion. Just because Granny is all upset because she is worried that the grandkids could get killed in their kayaks, she should provide more supervision over them.

Jim Sutcliffe stating that he was speaking for the petition, but his remarks clearly spoke against the petition. He generally discussed the 2009 thirty-one petitioners and why they asked for the restriction saying property owners needed to sandbag the shoreline against wakes, explaining the waves are surge waves and not from other sources and continuous. Over the earlier years his children water-skied and when damage was caused he took care of the damage. He mentioned that Senter Cove is used by five communities and the numbers have increased. Water-skiing makes waves and doing so within the cove creates such a surge, he hopes there will not be an accident. He is upset that none of the petitioners came to him to observe the damage to his property.

Tom Kinney spoke in favor of the petition providing a PowerPoint [Ex. C]. He provided a brief history of how and where he purchased property at Senter Cove and explained how his family enjoyed using the water and teaching his children how to water-ski. He explained the sandy bottom and how nice it was to have that when saying "hit it" and helping them start while not endangering yourself. He wanted to have his grandchildren enjoy the Winnepesaukee experience, but now it has been taken away and he is really upset. The first he knew was when the buoy was placed.

Mr. Kinney points out that the measurements others previously had testified to at the prior hearing were right; however, the lake chart shows thirty-eight areas on the lake that are smaller than Senter Cove that allow water-skiing. At One Mile Island, the Mount Washington travels through, noting that passage is narrower. As to public safety in the cove, he has no knowledge of there ever having been a single accident, a close call or near miss. He said rather than restricting activities, if it is a few young men behaving badly, the core issue can be dealt with, suggesting cell phone camera pictures to the Department of Safety, or posting to U-Tube. He has seen no significant evidence of erosion in the previous thirty plus years. Most of the shore is rocky on the southern coast and natural sand on the eastern side. The cove is windy and the waves are large from storms.

Mr. Kinney next discussed damage from boat waves as opposed to storms providing a detailed explanation of wave measurements, its speed and frequency per minute, noting in a six hour storm there can be thirty-six hundred waves, the equivalent of ten water-ski boats every day for three months and four rides each. Mr. Kinney explained the conditions enjoyed within the cove being the same as kayakers, saying flat water is "premo", noting no water-skier likes choppy water. The cove is unique because of the sandy beaches for teaching water-skiing. It is also the best for parents and grandparents to watch them wave as they go by. Canoes should not have more shared rights than water-skiers; everyone should be equal.

Mr. Kinney spoke of an eagle nearby to the cove and the loons and waterfowl not being affected as they have come back, pointing out that the loon nest is in Salmon Meadow Cove with no restrictions there. He suggests a compromise, to remove the No Wake Zone and add black or red markers, ask that the rap music stop and protect the shore, leaving the center of the cove for everybody., summarizing the other coves will want the same as Senter Cove.

Jacqueline Sutcliff spoke against the petition [Ex. D]. (Ms. Sutcliff provided a response to an earlier speaker regarding navigational law, spoke of boaters passing so close she could reach out and touch them. In addition, she wished the Mount Washington did come in to the cove because the wakes by the other boats are larger, even boat lifts do not help. Primarily she spoke using her notes as follows:

Here are some of the reasons to keep the no wake zone for Senter Cove: Environmentally there is serious erosion- along the shorefront that is caused by large boat waves in such a small confined cove area. Beach fronts, natural shoreline bush and tree areas and boats moored or tied to three different community docking systems have been detrimentally affected by the continuous bombardment of sizable waves caused by speeding boat waves Greatly increased boat traffic in this small cove the past ten years of water skiers, jet skiers and motor boaters coming from more distant areas.

Safety- as it relates to the relative tightness of the cove and the danger of motorized watercraft coming every single angle at every speed, often endangering sailboats, swim float, canoes and kayaks trying to utilize this same cove area.

Wildlife-Loons were driven from the cove as boat traffic increase and now loons are coming to the shoreline. Bald Eagles, mating pair, roost around [the] cove [and] often nest at Blueberry Island. Smallmouth bass and pickerel are here; but before, bass left nests before the spawn due to turbulence. Kona Boathouse is a historic landmark and the no wake has protected the boathouse from further damage.

Russell Hoyt spoke in favor of the petition [Ex. E] saying he has been on the lake for about fifty years and agreed with the various elements of the presentations to remove the no wake zone. There are other similar sized coves without restriction and the 'not in my backyard' is not a reason for the restriction to remain.

Cheryl Kahn spoke against the petition [Ex. F]. Her comments follow: "We respectfully request that the no wake zone be maintained in Senter Cove, Moultonborough. Since NH's State Motto has been invoked, I would like to comment on that and several points raised in the petition under consideration today. General John Stark, Revolutionary war hero and NH's most famous soldier of that war, sent this toast to his war-time comrades in 1809 on the 32nd anniversary of the Battle of Bennington. The toast was "live free or die; death is not the worst of evils." These people were celebrating freedom from the oppression of a foreign government—most certainly not freedom for the laws of the State of NH. "Live Free or Die" was adopted as the NH State Motto in 1945 as another great war that threatened the sovereignty of the USA was ending.

Regarding the comment that no marine violations had been cited prior to the no wake zone being instituted, prior to the no wake we had called the marine patrol on numerous occasions, however since the Marine Patrol cannot possibly be everywhere at once, by the time they arrived the offender had left.

Regarding the comment made by the petitioner concerning wind-driven white caps causing more damage to the historic Swallow boat house than boat wake, the white caps from the SW or NW wind do not reach the Swallow Boathouse because it is located on the lee side of Swallow Point. However, wakes generated by boats within the cove itself, do indeed Strike the' boat house.

Regarding the comment that the original petition to create the NO WAKE zone only had 25 signatures vs. the petition to rescind having 54 signatures, the fact is that anyone can get any number of signatures for a petition. Simply garnering signatures may get you a hearing, but it does not prove the merits of a case. Only a few of the addresses on the petition you are considering today are directly on the cove and in fact, many of those signatures are from areas a considerable distance away from the cove. While those with cove access get to enjoy its benefits, they do not have to endure the downside of boat wake damage and marine violation issues we had observed prior to no wake being established.

There are close to 100 homes that have deeded access to Senter Cove. Each home bordering on the cove has a dock and there are marinas, moorings, and swim platforms in the cove. Since the advent of personal watercraft, many of the homes with access to the cove now have more than one water craft. There literally is hundreds of motorized watercraft residing in the cove, as well as kayakers, canoes, paddle boats. There are boats coming in and out of the cove and sightseers coming to look at the Swallow Boathouse. Before no wake was instituted, we additionally had numerous wake boarders and water skiers coming into the cove. All this makes for a great deal of congestion and coming and going in a small area.

This is a heavily congested 34- acre cove in a 44,000-acre lake. I would implore the State to maintain the no wake zone in Senter Cove. It is a safety issue, a quality of life issue, and an erosion of property issue."

Lynn Worth spoke in favor of the petition stating she had taught many children to water-ski in the forty-two years she has been at the cove. However, putting up the safety marker is not as safe because teaching a deep-water start leaves her there waiting to be picked up. Waterskiing has been done legally within the cove and is an ideal spot in which to teach.

J. Peter Hare spoke against the petition. He has been in the cove since 1942, and has observed the numbers of boats and has seen all kinds of violations even since the marker was put in. He thinks the zone should have been put in place five years ago. He can hear the banging of waves hitting the boat house from the boats. He implores the State to continue the No Wake Zone.

Paul Worth spoke in favor of the petition owning property since 1969 and coming to the lake for many years. He recalls drinking the water from the lake growing up. He has trained for triathlons for a number of years wearing goggles. Since 2003 he cannot see the bottom of the lake, concluding that acid rain and other factors are creating the condition and not the boats. Mr. Worth continues to water-ski with one ski. Since the No Wake Zone, because of his medical condition he cannot begin with one ski in deep water, so starts with two skies, then dropping one. It is left in the lake and it could be a navigational issue. When allowed to begin within the cove the dropped ski would drift back to shore for later retrieval. The State has created a safety issue outside the cove because of more boats, more wakes, and boats passing each other. As to noise, he spoke to one of the people in the two wake boats and they people agreed to turn down their loud music. Mr. Worth has a number of boats but in answer to the added boats, he mused how many boats can I use at one time. The marina in a harbor close by may be the reason why there are added boats.

Mr. Worth is the President of the Swallow Cove Association representing fourteen property owners with ten in favor of the petition; one opposed the petition, one is ambivalent and two he has not heard from. The association is in favor of the petition.

Mel Borrin spoke against the petition [Ex. H]. Before using his written testimony, he noted that the concerns [by the petitioners] are not regarding erosion, protection or safety, but a one-on-one regarding waterskiing. Mr. Borrin believes that every hearing stands on its own and the petitioners should not use arguments from a prior hearing. As to the letter Director Barrett submitted at the prior hearing, he believes the State is 'strapped' for money and resources to support the laws in place. He noted that at least five fulltime positions will be lost due to the budget and others seeking part time employment will not be hired. His property has benefited from the No wake zone because as the boaters enter and leave from the No Wake Zone Buoy, they slow down, or accelerate slowly, so the shore buffeting has lessened. Erosion is also caused by unnatural sources such as big boat wakes taking shorefront.

Mr. Borrin testified to his method for washing his boat using lake water to clean and then rinse with well water, contrasting the cleaning with results no longer requiring well water, showing the water quality is better. He also argues that the decision for one cove is based on what was presented at that hearing; inferring that what happens in Senter Cove will happen in the rest of the lake is untrue. Mr. Borrin said that noting the addresses of those persons on the documents submitted are not all from Senter Cove and shows that the cove is a great place to water-ski and becomes a destination for water-skiers; the cove cannot take it. In reference to the openings between islands and mainland such as Blackie Cove and Half Mile Island where the Mount Washington travels, the biggest difference is the acreage available to absorb wave action, saying it is one hundred to one thousand times more than what Senter Cove can take. Senter Cove is hammered by waves and damaged; knowing that there are waves by natural causes; Mr. Borrin surmises that reducing the unnatural cause of waves is why the State made its decision. Mr. Borrin submitted remarks at the conclusion of his commentary as follows:

"I request that it be noted that my testimony today is as a resident and not as an elected official of the town, an appointed member for the moorings appeal board or as a ROW Commissioner of the State.

I am a commercially NH licensed captain and have over 40 years experience boating on Lake Winnepesaukee. I offer the following: I was a petitioner to the NWZ request of 2009 that became a rule last year. The decision and order by the Commissioner of Safety John Barthelmes was made based on ample evidence presented by the public over the course of the hearing process, by the testimony today continues to be in order, and should not be changed in any way shape or manner.

The letters and verbal testimony support the existing order as it pertains to: Public Safety; Protection of the Environment; Water Quality; Continued nurture of Wildlife. It is interesting to note that the petition appeal set forth by letter of March 15, 2011 may contain signatures of individuals that are remote to the Senter Cove area.

Petitioners that live or have property on Long Island, Krainwood Shores, Shaker Jerry Road, Oak Ridge and other 'Non Senter Cove Areas" ring clear of the decision of what happened in the Barbers Pole area of Tuftonboro and the NWZ matter that needed to be addressed after the fact.

This is not to infer that the Senter Cove Area is private- We do know that it is part of the public waters of the State.

Senter Cove has environmentally started to return to what it was some 30 years ago; The quality and clarity of the water has improved. The shoreline erosion has diminished. The loons, muskrats and other wildlife have returned.

Most importantly and on a personal basis to most, the NWZ has provided a veil of safety for children using the Cove and for adults that enjoy kayaking, paddle boarding, canoeing and just taking a swim to the historic Swallow boathouse.

I join with Senator Bradley, Representative Patten and other State officials that agree and support the continuation of the NWZ in Senter Cove.

The petition to appeal the removal of the NWZ lacks merit and is not in the best public interest of the residents and the State of New Hampshire."

Gordon Brown spoke in favor of the petition. He said that he started to see boats using the cove in 1983. His family has not had a problem even with additional boats using the cove. He mentioned the two wake boats no in his area, rather than in the cove. He purchased and invested in his property in a no wake zone. If there is a safety issue, then he would understand, but not being able to enforce the safety is not a good reason. Where do you draw the line with noise, music, or loud boat engines? Making a law is not reasonable. The pleasures and enjoyment of the lake should be shared, and the burden too should be shared. It is not a burden to water-ski on the lake. Pushing everything over to the water-skiers is not fair either. Mother Nature gives and takes erosion away as well.

William Richards spoke against the petition regarding property values having a major affect where there is turmoil on the water. People buy property because of a no wake zone. He spoke of a boat passing his Bass boat "like he was the Mount Washington", almost knocking him out of his boat. Mr. Richards said property taxes are high on the lake; the economy is not good right now. There are a lot of good people, but there are a number of bad people too and the property owners are paying the price for the bad people. Removing the no wake zone is not a smart move economically or in the best interests of safety.

Maurice McCarthy spoke in favor of the petition saying there are two sides of the story and those in favor of the petition were not aware of some of the issues. On the other hand shorefront owners have a natural risk regarding erosion. He provided a history of his family coming to the cove and for twenty-four years not experiencing any problems. His family stayed for the summers and he commuted from work, recalling that he would be asked to water-ski by his children once arriving. He argues now that the time has passed for other families children; it is now time to close the door for families that have children wanting to water-ski, the door should remain open for those children to water-ski in the cove.

Mr. McCarthy suggests that now that everyone has heard the concerns everyone will be more sensitive to the issues. He said he has seen loons in the cove and other coves. He recently saw a moose too.

Eric Hebert spoke in favor of the petition saying with rising gas prices it is costing more to get out to the no wake marker. The "plowing" caused when boats power down at the marker is creating more wakes resulting in more erosion. With the information resulting from this meeting, people will now be more aware.

Dudley (Skip) Hare spoke against the petition. He testified from [Ex. G] his notes as follows: I have been on the cove for over sixty years and have watched its development from a pristine body of water with no houses, no boats, and no marker buoys to a highly developed and wonderful center of human activity. Several hundred residents along its shores, over 100 boats and a center for a broad range of water-based activities including power boating, water skiing, PWC use, sailing, canoeing, kayaking, snorkeling and of course, swimming. Through the 1980s the cove could sustain all of these activities safely. I enjoyed them all. About 15 years ago we passed the point where the increasing presence of high speed boats including PWCs and the safety of swimmers and slow-speed boats were seriously at odds. Since then there have been reported serious incidents and easily observable near collisions on a regular basis. This small cove simply cannot be safely used by high numbers of high

speed boats and swimmers or slow moving boats. To maintain all these activities together simply puts lives at risk

We fortunately have had an excellent test of the tremendous value of the NWZ designation during the summer of 2010. Throughout the summer the use of the cove by children, sunfish sailors, canoes, kayakers and swimmers all gradually increased. It was peaceful, slow moving and safe - precisely the environment that residents and the state should seek to encourage and maintain. Our trial run has clearly demonstrated that the cove can be a place that can be used by children and adults without feeling you are putting your life in someone else's hands. The state would be negligent to end the NWZ designation.

It has been very clear that a significant number of vehicles at speed do not "follow existing laws" for boaters. As an example I have observed on a number of occasions speed boats with skiers pass inside the swimming floats anchored about 200 feet from the beach and take great joy in doing it. As a former water safety instructor I cannot conceive of a more dangerous practice. To say these activities can be handled by law enforcement is impossible. The Marine Patrol might visit the cove several times per week for 5-10 minutes.

I cannot help but comment on the new petitioners' participation on this issue. In reaching the decision to implement the NWZ the current petitioners missed the public notice of the original petition, they missed the first hearing, they missed the second hearing, they missed the third hearing, and they missed the appeal process outlined in the decision. They decided one year later to take action. The earlier process was well known in the community and multiple opportunities were available for those opposed to NWZ to make their feelings known. This only suggests that this current effort is not serious, is too little, too late and is being carried out after a correct decision was made by the state using a thorough and inclusive process. Please save lives. Keep the No Wake Zone.

David Sutherland spoke in favor of the petition providing by email a copy of his testimony at the June 24, 2011 hearing as follows: As to the remarks of Mr. Hare asserting that those now in opposition knew about the previous hearing and thus could have appeared, let me assure you that such assertion is not true. The first we knew about the possibility of a no wake zone was last June when the marker went in.

We are here today discussing whether there should be, or whether there should not be, a no wake zone in Senter Cove. I want to discuss what matters in arriving at the answer to that question. We, the abutting landowners and other owners with deeded rights do not get to vote on how Senter Cove is to be used. It is not our private domain. Access is available to everyone and everyone has equal rights to access.

In the documentation of the hearing about Senter Cove held in June, 2009, RSA 270:1 II Declaration of Policy is cited: " in light of the fact that competing uses for the enjoyment of these waters, if not regulated for the benefit of all users, may diminish the value to be derived from them, it is hereby declared that the public waters of New Hampshire shall be maintained and regulated in such way as to provide for the safe and mutual enjoyment of a variety of uses, both from the shore and from water borne conveyances. Such provisions shall take into consideration the following: the variety of special uses appropriate to our lakes, public safety, protection of environment, and water quality, and the continued nurture of New Hampshire's threatened and endangered species." RSA 270-D: 2 General Rules for Vessels Operating on Water is also cited and Saf-C 409.04 Criteria for Review is also cited.

So, the public policy is generally to provide for a variety of uses. A No Wake Zone restricts uses. Starting in 2001, there have been 12 petitions for No Wake Zones. Only 2 (3 minus the approval for Barber's Pole which was subsequently withdrawn) have been approved. No Wake Zones are not easy to get. In light of the public policy to provide for a variety of uses, it must be true that there must exist at least one compelling reason to restrict uses, based on the Criteria for Review of Saf -C 409.4. And, I would argue that any reason need to be substantiated, not just put forth as opinion and should not be overstated.

Prior to 2010 or 2009, as has been indicated, many people in this room and many others as well used the waters of Senter Cove for a variety of uses, safely and with respect for each other, the shore, the environment and wildlife. What has changed? I submit that no compelling, substantiated, and realistic reason has been put forth as to why the public policy for a variety of uses should be restricted.

At the hearing in 2009, no one appeared in opposition to the No Wake Zone or to challenge any assertions put forth at that hearing. Because no one in opposition appeared, no one challenged any assertion that may have been suggested as a compelling reason. Clearly opposition is present today.

I submit that unless a compelling and substantiated reason to restrict uses is put forth, Senter Cove should be returned to its prior state without a no wake zone allowing for a variety of uses.

Kenneth Johnson spoke against the petition testifying as the President of the Windward Harbor Association, consisting of thirty-six homes along the cove. The association is in favor of keeping the No Wake Zone. The association has numerous children and people do water-ski, but the association does not see the issue as being about water-skiing, or using tubes, but about safety and erosion. The difference between Senter Cove and others is that it is narrow coming in and it is not very long, so everyone coming in has to make the corner and go back out again. With three or four boats in the cove it gets very congested and very busy. Windward Harbor Association has at least one hundred boats and there are two other associations with docks and several boats with each along with boats traveling in from outside the cove.

The other problem is the historic boathouse. He is a licensed engineer and spoke of the builders placing the building where the least amount of wave action would affect the structure. The only waves the building gets of any size is from boats. The waves from a recent storm did not affect the boathouse, because of its location on the leeward side. Another erosion concern is the size of the waves from boats in a shallow sandy area causing the waves to hit the dock and boats resulting in further erosion.

Kyle Hebert signed to speak, however had left prior to being called.

Nancy Talbot spoke against the petition saying she has resided within the cove for forty-three years. She has water-skied in the past, but is speaking on the subject of erosion that has become a major problem in just the last three years because of fast-paced boats entering the cove. Waterskiing is not the issue; all fast-traveling boats have created a problem with the shore front property. The repair has been done, and it has washed away again pointing out this had not happened and the shorefront had not eroded prior for years and years. She mentioned that she expects change not living in a static environment and more boats, but there is a point when you have to ask if the cove can handle that number of boats. She continued that by the time the Marine Patrol arrives everything is peaceful and also that without taking action, the erosion will continue.

Ms. Talbot noted that Salmon Meadow Cove has a natural No Wake Zone as the passage into it is narrow, like a canal and boats cannot 'zoom in and zoom out' again. The reality is that there are a number of people who don't use their boats correctly, they speed and zoom by closely. The reality is that today people have become more concerned with themselves and their own enjoyment rather than the affect they will have on the people, the land and water around them. She is not asking to 'go back to how it was' because it never will be, but if people don't begin to set some limits on what is possible, we will destroy the very lake we love.'

Jean Malone signed to speak, but had left prior to being called.

Representative Betsy Patten spoke against the petition focusing her message with respect to resolving a balance of use within the cove. She said many would like to go back to a quieter and gentler time, but that will not happen. The carrying capacity of Senter Cove has been reached, and the State must look at the contributory affects.

SYNOPSIS OF EXHIBITS; LETTERS; E-MAIL SUBMITTED:

(Documents received prior to or within the lawful timeframe after the public hearing.) As possible, the commentary is verbatim. Specifics such as salutations, non related remarks, home or email address have been removed from these documents as they will be posted on a website. All commentary has been registered and recorded including the noted exhibits.)

Councilor Raymond Burton stated "I come down on the side of safety for the users of the lake."

SUPPORTING THE PETITION:

Marilyn Brackett supports the petition I own a summer home at 42 Sticks and Stones Road. We have been there with my parents since 1984. We have always enjoyed water skiing in Senter Cove. Now that there is a "NO WAKE" zone. My children and I cannot enjoy one of our favorite activities in one of our favorite places. Can you please remove the NO WAKE zone and return Senter Cove to its original state.

Eugene Farnum supports the petition. I will not bore you with the notion of the tens of years that we have been able to use Senter cove for water recreation. Such as, water skiing, tubing, wake boarding Etc. even though this true. Instead I would like to challenge the case brought forward by the people who

want the no wake zone. These people will tell you that Senter cove is now busier than it has ever been in terms of boat traffic. There is no question that the Cove is busier, but has there been any reported accidents that have caused Death, Bodily Injury, or property damage? The answer is absolutely not. The New Hampshire Marine Patrol can confirm that. If we are not allowed to use the cove for water sports recreation that means we have to go out into a larger part of the lake which is that much more active. This puts our families in more danger of possible accidents.

The people that want the no wake zone have not made their case with Regard to Senter Cove being busy. The people that want the no wake zone have brought up the concern of beach erosion. The statement of the boat action and the waves and wakes that the boats make are the cause of the erosion. It is true that the boat waves and wakes do contribute to the erosion but it is not the primary cause. You must consider also, Wind, Rain, Ice, Snow, vegetation, trees or lack of trees on the shore line. The people that want the no wake zone have not made their case with regard to Senter Cove re: erosion.

The people that want the no wake zone are concerned about Wildlife. I have spent many hours of the day and night on our beach during spring, summer and fall. I have seen multiple species of Ducks, Canada Geese, Loons. When I walk into the water I see many small fish. Along the shore you will see otters, mink, and muskrat. The wildlife in and around Lake Winnepesaukee are hardy, resilient, and are survivors.

When the cove gets busy the wildlife move away from the cove, they go to nesting spots, other feeding areas. When the cove gets quieter the wildlife come back.

The people that want the no wake zone have not made their case with Regard to wildlife in Senter Cove. I would also strongly object to Rep. Betsy Patten of Moultonborough using her office to influence this case. She does not live on or near Senter Cove, she has no direct knowledge or interest in Senter Cove. If I had known that Rep. Patten was going to be at this hearing to render her opinion, I would have searched out a State Rep. that would have been sympathetic to my case of not having a no wake zone in Senter Cove. I find that Rep. Patten was totally unprofessional in attending the hearing and trying to use her office to support the no wake zone in Senter Cove.

In conclusion Mr. Commissioner I believe that there is no case regarding the keeping of the no wake zone in Senter Cove. I believe that you should be making your decision based on Facts, Evidence, and Professional testimony. Please do not make your decision based on emotion, stories and what ifs. The people that want the no wake zone are the Prosecutors, they have to provide you with facts, evidence, so that you can make an informative decision. They have not done that, please do not fall into the trap of Feel Good Legislation. Your decision should be Fair, Equitable and with Common Sense.

Roy and Sue Gagne support the petition saying that they have two children, and there has never been any issue with the wakes in the cove. Mr. and Ms, Gagne canoe and have never experienced any problems. They also are concerned that any resale value on their home might be diminished if any prospective buyers are concerned about being able to take their boats out into the cove.

Patricia Hayes supports the petition saying that Salmon Meadow Cove only has a no wake zone at the entrance; jet skis and water skiers, etc. can use the interior small cove. It would be a hardship if jet skis, boats or skiers had to go around Wallace Island before they could have fun. Ms Hayes does not own a jet ski however; she does own a pontoon boat and would not like to go at headway speed to get around Wallace Island. She reports that a no wake zone is not viable at the entrance to Senter Cove as the opening is quite a bit wider than Salmon Cove. She knows of no destruction to personal property due to wakes and she and others that regularly use this portion of the lake do not race along the shore causing damage.

Russell Hoyt supports the petition saying that a few property owners petitioned for a no wake zone two years ago, but the majority of property owners were not aware so did not express an opinion. He writes the present restriction is a "not in my backyard" requirement, but doesn't apply to other coves with similar conditions. In addition he argues that Representative Patten's comments should not be considered as [she] did not contact all the property owners in Senter Cove.

Edward Kenney supports the petition.

Babette Kinney supports the petition saying she helped teach her three children to water-ski in Senter Cove and enjoyed watching them from the beach. Now retired, her family visits the association beach often. Ms. Kinney looked forward to watching her seven grandchildren learn to water-ski, but

presently cannot. She has difficulty entering and exiting small water craft. To go beyond Senter Cove and enjoyed watching the children from the beach as they skied by and waved.

Sean Kinney supports the petition adding commentary by email is to provide additional comments based on the hearing. Thank you for the hearing on Friday, June 24. Both sides were present to deliver their arguments, unlike the original 2009 hearing on the subject. 54 petitioners signed the Petition to remove the No Wake Zone and, from my recollection, 32 people want to keep it. This letter is not to restate my presentation, but to provide additional comments based on the hearing. I apologize in advance for the length of this document, but I believe all points are worthy of discussing in full detail.

Traditionally, the Burden of Proof is the responsibility of the side trying to drive to a desired outcome. In this case, with the petition to remove the No Wake Zone, it seems to be reversed. Those that want to keep the No Wake Zone have this Burden of Proof that the No Wake Zone is necessary. The decision should be based on substantiated facts and data, as Gordon Brown commented. This applies in several places. There seemed to be 3 key opinions stated for why a No Wake Zone is required: Safety, Erosion and the historic Boat House.

Safety. Safety is critical to everyone. As the father of two small children, safety on the water is my foremost concern. However, I do not believe that imposing a no wake zone in Senter Cove is justified for safety reasons. When the No Wake Zone was first imposed, not a single safety violation was presented to justify imposing the no wake zone, and to my knowledge there is still no evidence of any safety violations in Senter Cove involving excessive speed. At the hearing, there were arguments on both sides about the Safety concerns. It was probably an even split between those who had lived here, including me, and never seen a safety incident and those that claimed to have witnessed several.

However, other than some anecdotal memories, no one presented any evidence of actual safety violations or incidents. I am unaware of any safety incidents in Senter Cove in my 30 years living there. Further, those proposing to keep the No Wake Zone failed to present any evidence that any boater had been cited for excessive speed or dangerous operation at any time. If such incidents existed, they would have been reported. Based on the evidence, therefore, we do not think there is a legitimate argument that the no wake zone is needed for safety reasons.

The petitioners do not see Senter Cove as a safety risk without the No Wake Zone. While it is difficult to prove a negative, I'll note again that those in favor of the No Wake Zone have failed to prove either empirical or specific data demonstrating that this imposition is justified for safety reasons. Indeed, a review of comparable areas on the lake demonstrates that a No Wake Zone is not needed here.

As Mr. Borrin stated "The reason that there is not a No Wake Zone in places like the Center Harbor channel at One Mile Island is that there is more room for wave dispersion." Based on these comments, Mr. Borrin agrees that boat traffic does not determine a need for a No Wake Zone.

Mr. Borrin's statement is supported by the data on Lake Winnepesaukee. There are 28 No Wake Zones on Lake Winnepesaukee. Excluding the commercial area of Meredith Bay, the widest distance between 2 points of land in any of the 27 No Wake Zones is 585 Feet. The narrowest point in Senter Cove is 975 feet – 70% wider than any other No Wake Zone. Senter Cove does not fit the current model of where No Wake Zones are implemented.

Erosion. I discussed the impact of climate change and its associated more intense storm activity, citing several sources including Newsweek, The Boston Globe and nh.gov website. No conclusive evidence was provided to show that it was boat waves causing erosion instead of the changing climate. Further, no evidence was provided to show that Senter Cove is unique and different than any other waterfront with their current laws requiring headway speed within 150 feet of the shoreline.

Historic Boat House. Similarly, damage to the historic boat house was caused by "age and waves" according to the president of the Windward Harbor association. No evidence was presented that it was from the boat waves and not just age. Using a Bushnell Rangefinder, I measured that at a distance of 300 feet from this boathouse, the width between the shoreline and a raft is 300 feet. Thus, requiring 150 feet on each side and $150 \times 2 = 300$, there is a natural No Wake Zone using existing laws 300 feet away from the boathouse.

Additionally, it was claimed that a repair of \$200,000 to \$300,000 was required. In looking at the boathouse closely on Monday, June 27, I noticed that the ramp from the shoreline to the backside of the boathouse has been completely replaced, rebuilt and "upgraded" aesthetically. The ramp receives no waves of any type from any direction. Additionally, the roof has recently been improved, which could not be caused by boat wave damage. I wonder how much of the "repair" was spent on these ramp and roof projects.

During my presentation, I asked several questions that I hoped would be answered by those against the petition. One of the most critical is "How often is this an issue?" I would agree that Senter

Cove, like the rest of the Lake, can be busy on Saturday afternoons. This has been true for multiple decades and is not new. As an example, I have rarely water skied in our cove in the past 3 decades during this time. This usage is beneficial for the state and the local economy. The rest of the time, the cove is quiet and has little activity.

Using this logic, I calculated the following:

- Saturday afternoon: 4 hours/week
- Summer season: 10 weeks.
- Foul Weather reducing boat traffic on 3 of 10 Saturday afternoons
- Total hours when the cove and the rest of Lake Winnepesaukee can be "busy": 4 hours/week x (10 - 3 weeks) = 4 x 7 = 28 hours.

Similarly, Assuming 14 hours of daylight/day and 7 days a week from April 15 to October 15 (183 days), the total daylight available boating season is 2562 hours. This "busy time" is 1% of the daylight boating season.

Those against the petition repeatedly mentioned lack of enforcement of existing boating laws as a reason why we need the No Wake Zone. If this is true, how will the No Wake Zone be enforced? The location and access time by Marine Patrol is obviously identical. I do not believe there is any difference and therefore, one is not better than the other.

They also mentioned the increasing number of boats, yet provided no statistical evidence. I would have liked to have asked "What is the percentage increase? Is it 2%, 20% or 50%? And how did you conclude this?" The number of houses in the cove and relative density has not changed since Windward Harbor was built in the mid-1980's.

One person mentioned that the cove has reached its "Saturation Point". I do not believe there is a definition for anything like this, nor is there a "Saturation Point" or boat limit for the Lake in general. Again, I do not believe there has been an increase in boat traffic, but this is an opinion, like the opinions of others who believe it has increased.

For reference, after the hearing on June 24, my family and I were out on our boat. We were boating in the area "inside" lighted buoy #54, including Senter Cove and the larger body of water outside it extending all the way to the entrances to Ash Cove and Salmon Meadow Cove for 3 hours from 4PM to 7PM. I saw only 1 other boat on the water in the area.

In addition to our boat on this larger body of water, I also observed:

- On Saturday, June 25, at 3:30 PM, there were 1 boat, 1 wake boat and 1 PWC
- On Saturday June 25 at 4:30, there was 1 boat
- On Sunday, June 26 at 4:30, there were 2 boats
- On Monday, June 27, between 3PM and 5PM, there were 6 boats, 1 kayak (outside the No Wake Zone) and 2 canoes that were never more than 100 feet from the shoreline.
- On Tuesday, June 28, between 4PM and 5PM, there were 2 boats and 1 PWC.
- In my presentation, the photograph on Slide #14 showing the wind and waves was taken on the afternoon of Saturday June 19. No boats are anywhere in the photograph.

As a lifelong resident, I know that more boats access the Town of Center Harbor with its public docks, local businesses and beaches than access Senter Cove. Accordingly, there cannot be a congestion issue nor is it a factor in determining where No Wake Zones are implemented.

It is unfair for a small but vocal minority to impose unwanted and unnecessary change on their neighbors without valid reason. The imposition of the No Wake Zone has negatively impacted my family's enjoyment of the lake. It is only fair that such unwanted regulation be imposed for a valid objective, and here no such objective has been presented. Nor do the facts warrant such a change in the original status quo; the residents of Senter Cove have been enjoying the lake for decades without a no wake zone and without incident, and we see no reason for that to change.

Finally, Betsy Patten spoke supporting the No Wake Zone. She is a representative of the people in her district. Yet, she never contacted any of the petitioners, who are her constituents for their input and beliefs. She is representing the minority. Based on this narrow-minded action, she will not be getting my vote in the next election.

In summary, I understand that this decision is not an easy one. Residents on both sides care about this issue. I ask that your decision be made based on the facts and not emotion or politics. Please remove the No Wake Zone from Senter Cove.

Thomas Kinney supports the petition. He submitted two letters including a survey as follows:

This letter is regarding Senter Cove and my support of the petition to remove the existing No Wake Zone. I attended the hearing on June 24 and listened with interest to all of the speakers both pro and con. I could not find a single compelling interest from a single speaker as to why the No Wake Zone

was ever implemented. Almost everyone agreed that had there been any opposition 2 years ago when the first decision was made, the outcome may not have been the same. I will try and summarize some of the arguments.

Privatization of Lake Winnepesaukee.

I took a small and unscientific sample of people from all over the lake with waterfront homes in Center Harbor, Moultonborough, Meredith, Melvin Village, Tuftonboro and Wolfeboro and asked them a simple question. "Would you prefer to have a No Wake Zone in front of your home?" Out of approximately 60 persons, the entire 100% wanted a No Wake Zone. To a person they said that this would eliminate noise, waves, and increase their own personal enjoyment of the lake. The people in Senter Cove want the same things. The only exception is that they were able to get it. If you listen to some of the testimony, they do not like the idea of anyone not living in Senter Cove to boat in the cove. They want to eliminate all of the residents of New Hampshire from using Senter Cove except for themselves.

Erosion.

There was considerable testimony from the "Keep the No Wake Zone" group on erosion and that the current state law of 150 feet is not enough to insure elimination of erosion. However, they will agree that they altered their own landscape from a rocky shore and installed man made beaches. Now they are angry that Mother Nature wants to reclaim her own. There was not a single piece of evidence on erosion submitted, only anecdotal stories that may or may not be true.

Mr. Cooper, the original petitioner for the No Wake Zone 2 years ago, has a swim float 225 feet from his man made beach and before the NO Wake Zone was implemented boat traffic must be 375 feet from his beach. He claims that this is inadequate to stop erosion from a man made beach. It is adequate for the natural rocky coast. It makes no sense to me that the No Wake supporters can use their boats 150 feet from every shore on Lake Winnepesaukee but no one else can use his or her boat in Senter Cove. If the 150 foot limit is inadequate for Senter Cove, it should be inadequate for the remainder of the lake. Conversely, if the 150 foot limit is adequate for all of Winnepesaukee the same limit should apply to Senter Cove.

Safety.

There were some anecdotal testimonials on safety violations in Senter Cove. However, in my 30 plus years of using the cove, there has never been an accident of any kind. Think of that. Senter Cove has been the safest if not one of the safest places to boat and swim on the lake since Jimmy Carter was in the White House. I have 3 children and 7 grandchildren. I would never put any of them or anyone else in harms way. I do not think that this argument holds up. There was testimony about the behavior of 2 wake boats that have used the cove. It is patently unfair to punish all the citizens for the behavior of 2. I have offered to teach one of the shorefront property owners how to use his video cell phone and record any future law breakers. This should stop the violators. We would send the video to the boys' parents and if his behavior does not improve then onto to DOS. The net effect is that Senter Cove is large enough to be safe for all people and all uses.

Wildlife safety.

Two years ago there was testimony about the safety of bald eagles and loons and that they were endangered by the boating in Senter Cove. This was completely discredited in that the bald eagle aerie is located on Blueberry Island (which has no boating restrictions and has a smaller entrance on the Black Cat side). The eagle pair has returned this year and have produced two chicks. They appear to be thriving. The loon nest is not located in Senter Cove but in Salmon Meadow cove. The 3 loons use the entire section of Winnepesaukee from Salmon Meadow Cove through 3 Mile Island for swimming and fishing and whatever else loons do. The No Wake Zone has zero effect on their lives.

Variety of Uses

Two years ago, there was testimony that kayaking, canoeing and bass fishing would be more enjoyable with the No Wake Zone and that boaters would have "no need to utilize Senter Cove for their water sports" I object to having one sport take superiority over another and forbid its use. The opposition does not own Senter Cove. It is a shared resource for all to enjoy.

The effect of Adoption of the petition.

The effect of the decision two years ago has been a loss of freedom for the people of the State of New Hampshire. I realize it is a small bit of freedom but it is measurable. To punish 2 groups of wake boarders, a small group passed a petition and had a favorable ruling without notifying any opponents. They completed the legal process and we all should have been more vigilant. However, the net effect has been group punishment for the bad behavior of a few. It has had a devastating effect on my wife and family. According to the testimony of the opposition, my grandchildren will not learn to water-ski as easily as all the children from Mr. Cooper, Mr. Borrin and Mr. Sutcliffe. In military terms, they are collateral

damage. I had to explain to my grandson, Jackson, the concept of a whipping boy in medieval times. He does not want to be the whipping boy for a couple of wake boarders. Thank you for your attention to this letter and I hope that you can right a wrong and decide to remove the No Wake Zone.

Letter two

This is my second letter to you in support the petition to remove the No Wake Zone in Senter Cove.

During the public hearing on June 24, 2011 in Moultonborough, I was very upset that the final speaker for the group that wishes to keep the No Wake Zone was State Representative Betsey Patten. I also learned that she was a speaker two years ago when the No Wake Zone was approved. Ms. Patten did not speak as a private citizen but rather as our Representative to you. She signed the speaking sheet and was introduced by her title as Representative. This is not only unfair but certainly unseemly. She clearly does not represent most of the people at the meeting. In her testimony, stated that she lived a long way from Senter Cove and had not visited the Cove in some time. She also stated that she is not an expert in any of the areas of Safety, Wildlife effect etc. She is simply paying off a political debt to some of the original petitioners for the No Wake Zone by lobbying your agency. I cannot tell you if this is illegal, but it sure smells fishy to me.

Ms. Patten stated that Senter Cove is too congested. By what measure? Did she hold hearings? I thought that was the responsibility of the Department of Safety. If she commissioned any studies, they were not shared with any of us. I am told that she was contacted by some of her political backers and asked to lend the weight of her office to this issue. She only heard one side of the discussion and should not have been in a position to decide whether or not the No Wake Zone should be removed. I believe that all of her testimony should be disregarded.

If there is any appeal to your final decision. I believe that Ms. Patten should testify under oath about her involvement in this issue. Those of us that wish for the removal of the No Wake Zone are hoping for a positive decision but the least we expect is a fair hearing and a fair shake. I am confident that we can place our trust in you.

Maurice McCarthy, Esq. supports the petition. 1. My name is Maurice McCarthy. My wife and I own [property] in Moultonborough, NH which property has the benefit of deeded boating and bathing rights to a so-called community beach front lot on the shoreline of Senter Cove and I believe said lot is shown on Town of Moultonborough, Assessor [Map]. If you were to enter Senter Cove perpendicular to the present No Wake Zone (NWZ) line looking straight ahead to the further most shore line of the cove, the community beach front lot is located essentially in the middle of such shoreline.

2. My wife and I purchased said property in 1987 and at that time my three children were ages 11, 7 and 4. The principal reason why we purchased this property was because it provided us, as a family, access to the full use and enjoyment of Senter Cove a part of wonderful Lake Winnepesaukee. From 1987 to the present our such use and enjoyment included but was not limited to motor boating, children learning how to water ski and perfecting the same swimming, canoeing, sun fish sailing and of late hobey cat sailing all within the cove. However in 2010 a NWZ was imposed on the entire cove which has restricted the speed of water vessels to headway speed and therefore has eliminated waterskiing especially by children in the Cove. This in turn forces children waterskiing and/or learning to water ski into the body of water outside of the Cove which area is heavily traveled by motorized vessels putting the water skier into danger that the skier did not sustain in the Cove. There were statements made at the hearing by both sides of the issue that prior to the NWZ, their children and in some cases their grandchildren learned to ski in the Cove.

3. Until such time as all of my children completed their educations, my wife spent nearly every summer full time at our said lake home. I would come up mostly every weekend and more often than not long weekends Based on the foregoing, I believe I have a strong basis for my observations of the multiple activities in Senter Cove covering the time period from 1987 to the present which is approximately 24 years.

I am submitting the following as a supplement to that which I stated in the course of the hearing to Revoke the No Wake Zone that occurred on June 24, 2011 concerning Senter Cove, Moultonborough, NH and my supplemental comments will appear following certain pertinent parts of Saf-C 409.04

Saf-C 409.04 Criteria for Review.

(a) The commissioner shall, after the hearing, adopt rules of the type authorized by RSA 270:12 if it appears that, consistent with RSA 270:1, II, the rule shall provide for the safe and mutual enjoyment of a variety of uses, taking into consideration the factors in (b) In determining whether to adopt such rules the commissioner shall consider the following:

(1) The size of the body of water or portion thereof for which rulemaking action is being considered;

I submit that the area of Senter Cove is 45 to 46 acres of area. The width of its entrance is about 1,000.00 feet. It is important to note that there already exist natural no wake zones in the Cove. Motor boats and personal water craft (pwc) are not allowed to operate at greater than headway speed within 150 feet of the shoreline or other lawful objects in the water such as docks and swim rafts. It is my opinion that the shoreline of Senter Cove is already protected by approximately 250' (in some cases maybe more) set back taking into consideration 150 feet from the aforementioned objects. I believe we have essentially a natural NWZ of approximately 250 feet from shoreline surrounding most of the cove

(2) The effect which adopting or not adopting the rule(s) would have upon:

a. Public safety;

I submit that prior to the imposition of the NWZ there was not a significant issue about Public Safety. Through out the Cove, people have enjoyed all of the lawful multiple uses in a responsible manner consistent with the legal requirements pertaining to the activities. In some activities such as swimming, canoeing, sailing and kayaking, I don't know of any rules of the State of NH affecting the same as to safety. I do know that common sense should govern these activities. Whether you swim in Senter Cove or outside of it there are always certain risks. If we are going to protect for example swimmers in Senter Cove by a NWZ then the whole lake should either be a NWZ or prohibit swimming except in designated areas. Before the imposition of the NWZ, my wife almost daily would swim from our so-called community beach front lot in Senter Cove to Wallace Island and back, a distance of approximately 1400 feet one way. The route she takes is a sensible route based on the multiple uses of the Cove and that is in general along the shoreline and in any case clearly within the approximate 250 natural NWZ. I usually use my canoe in the Cove and I generally follow the same lane of travel as my wife. Depending on the weather, size of waves and boating traffic in the Cove I do occasionally canoe across the Cove i.e not along the shoreline to different shore lines after weighing all the risks. Again common sense should prevail and I believe has always prevailed A NWZ should not is used as Substituted Judgment because of lack of common sense.

The some people would have you believe that there are too many motorized vessels in the cove and some believe it is because of new housing in the cove. I don't know of any home being built on any undeveloped waterfront lots in Senter Cove. I believe the following is fair estimate of back lots having deeded access rights to Senter Cove: I know of only three relatively new houses that were built on lots that did not previously have a home thereon that have beach rights to our community beach. However, I do know that at least 3 homes located on water front lots have been demolished and new homes built there on. I don't believe the new houses that replaced former houses or new houses that were built on lot never built on before added any significant increase in boats.

In the 2009 hearing for a NWZ, Mr. Duclos summarized the commentary of David T. Barrett, Director, Division of Safety Services which essentially consisted of the following which I incorporate herein "Director Barrett's staff looked into any history of unusual activity or complaints on safety violations finding none in the database for the past five years. He said while the Petitioners cite safety concerns, there is no documentation of dangerous activity to support the requested restriction."

This commentary from the Director of the Division of Safety Services should and does carry weight and in fact I believe it should carry substantial weight as to the issue of safety. However I do recognize that the Marine patrol can not be everywhere at the same time, I am reasonably sure that there have been some violation in and out of the Cove though I have not specifically witnessed the same. However, I must point out there is no official documentation stating that motor boating, PWC and/or water skiing in the Cove is dangerous activity. I can only attest to what I know, I know of no accidents or dangerous activity occurring in the Cove.

Some of the proponents for the NWZ suggested that the advent of so-called "wake boats" in the past couple of years has caused them problems. If that is so, then the Marine Patrol can take care of violations. The rest of us who use the Cove in a responsible and lawful manner should not be the sacrificial because of a few violators who need to be educated and/or cited. I am sure their activity occurs outside of the Cove and throughout the whole body of Lake Winnepesaukee. However as previously stated that we who use the Cove should be vigilant and substantiate and report violators to and as an assist to the Marine Patrol

From 1987 to the imposition of the NWZ, both adults and children have learned, perfected and enjoyed water skiing in the safety of the Cove. Once again common sense dictates when and under what circumstances this occurs such as but not limited to weather, wind, waves and motor boat and PWC traffic. Nothing has changed. The NWZ should be revoked so that we can resume using the important activity of waterskiing in the Cove just as we have always done lawfully and responsibly.

Finally, Betsy Patten spoke supporting the No Wake Zone. She is a representative of the people in her district. Yet, she never contacted any of the petitioners, who are her constituents for their input and beliefs. She is representing the minority. Based on this narrow-minded action, she will not be getting my vote in the next election.

In summary, I understand that this decision is not an easy one. Residents on both sides care about this issue. I ask that your decision be made based on the facts and not emotion or politics. Please remove the No Wake Zone from Senter Cove.

Thomas Kinney supports the petition. He submitted two letters including a survey as follows:

This letter is regarding Senter Cove and my support of the petition to remove the existing No Wake Zone. I attended the hearing on June 24 and listened with interest to all of the speakers both pro and con. I could not find a single compelling interest from a single speaker as to why the No Wake Zone was ever implemented. Almost everyone agreed that had there been any opposition 2 years ago when the first decision was made, the outcome may not have been the same. I will try and summarize some of the arguments.

Privatization of Lake Winnepesaukee.

I took a small and unscientific sample of people from all over the lake with waterfront homes in Center Harbor, Moultonborough, Meredith, Melvin Village, Tuftonboro and Wolfeboro and asked them a simple question. "Would you prefer to have a No Wake Zone in front of your home?" Out of approximately 60 persons, the entire 100% wanted a No Wake Zone. To a person they said that this would eliminate noise, waves, and increase their own personal enjoyment of the lake. The people in Senter Cove want the same things. The only exception is that they were able to get it. If you listen to some of the testimony, they do not like the idea of anyone not living in Senter Cove to boat in the cove. They want to eliminate all of the residents of New Hampshire from using Senter Cove except for themselves.

Erosion.

There was considerable testimony from the "Keep the No Wake Zone" group on erosion and that the current state law of 150 feet is not enough to insure elimination of erosion. However, they will agree that they altered their own landscape from a rocky shore and installed man made beaches. Now they are angry that Mother Nature wants to reclaim her own. There was not a single piece of evidence on erosion submitted, only anecdotal stories that may or may not be true.

Mr. Cooper, the original petitioner for the No Wake Zone 2 years ago, has a swim float 225 feet from his man made beach and before the NO Wake Zone was implemented boat traffic must be 375 feet from his beach. He claims that this is inadequate to stop erosion from a man made beach. It is adequate for the natural rocky coast. It makes no sense to me that the No Wake supporters can use their boats 150 feet from every shore on Lake Winnepesaukee but no one else can use his or her boat in Senter Cove. If the 150 foot limit is inadequate for Senter Cove, it should be inadequate for the remainder of the lake. Conversely, if the 150 foot limit is adequate for all of Winnepesaukee the same limit should apply to Senter Cove.

Safety.

There were some anecdotal testimonials on safety violations in Senter Cove. However, in my 30 plus years of using the cove, there has never been an accident of any kind. Think of that. Senter Cove has been the safest if not one of the safest places to boat and swim on the lake since Jimmy Carter was in the White House. I have 3 children and 7 grandchildren. I would never put any of them or anyone else in harms way. I do not think that this argument holds up. There was testimony about the behavior of 2 wake boats that have used the cove. It is patently unfair to punish all the citizens for the behavior of 2. I have offered to teach one of the shorefront property owners how to use his video cell phone and record any future law breakers. This should stop the violators. We would send the video to the boys' parents and if his behavior does not improve then onto to DOS. The net effect is that Senter Cove is large enough to be safe for all people and all uses.

Wildlife safety.

Two years ago there was testimony about the safety of bald eagles and loons and that they were endangered by the boating in Senter Cove. This was completely discredited in that the bald eagle aerie is located on Blueberry Island (which has no boating restrictions and has a smaller entrance on the Black Cat side). The eagle pair has returned this year and have produced two chicks. They appear to be thriving. The loon nest is not located in Senter Cove but in Salmon Meadow cove. The 3 loons use the

entire section of Winnepesaukee from Salmon Meadow Cove through 3 Mile Island for swimming and fishing and whatever else loons do. The No Wake Zone has zero effect on their lives.

Variety of Uses

Two years ago, there was testimony that kayaking, canoeing and bass fishing would be more enjoyable with the No Wake Zone and that boaters would have "no need to utilize Senter Cove for their water sports" I object to having one sport take superiority over another and forbid its use. The opposition does not own Senter

Cove. It is a shared resource for all to enjoy.

The effect of Adoption of the petition.

The effect of the decision two years ago has been a loss of freedom for the people of the State of New Hampshire. I realize it is a small bit of freedom but it is measurable. To punish 2 groups of wake boarders, a small group passed a petition and had a favorable ruling without notifying any opponents. They completed the legal process and we all should have been more vigilant. However, the net effect has been group punishment for the bad behavior of a few. It has had a devastating effect on my wife and family. According to the testimony of the opposition, my grandchildren will not learn to water-ski as easily as all the children from Mr. Cooper, Mr. Borrin and Mr. Sutcliffe. In military terms, they are collateral damage. I had to explain to my grandson, Jackson, the concept of a whipping boy in medieval times. He does not want to be the whipping boy for a couple of wake boarders.

Thank you for your attention to this letter and I hope that you can right a wrong and decide to remove the No Wake Zone.

Letter two

This is my second letter to you in support the petition to remove the No Wake Zone in Senter Cove.

During the public hearing on June 24, 2011 in Moultonborough, I was very upset that the final speaker for the group that wishes to keep the No Wake Zone was State Representative Betsey Patten. I also learned that she was a speaker two years ago when the No Wake Zone was approved. Ms. Patten did not speak as a private citizen but rather as our Representative to you. She signed the speaking sheet and was introduced by her title as Representative. This is not only unfair but certainly unseemly. She clearly does not represent most of the people at the meeting. In her testimony, stated that she lived a long way from Senter Cove and had not visited the Cove in some time. She also stated that she is not an expert in any of the areas of Safety, Wildlife effect etc. She is simply paying off a political debt to some of the original petitioners for the No Wake Zone by lobbying your agency. I cannot tell you if this is illegal, but it sure smells fishy to me.

Ms. Patten stated that Senter Cove is too congested. By what measure? Did she hold hearings? I thought that was the responsibility of the Department of Safety. If she commissioned any studies, they were not shared with any of us. I am told that she was contacted by some of her political backers and asked to lend the weight of her office to this issue. She only heard one side of the discussion and should not have been in a position to decide whether or not the No Wake Zone should be removed. I believe that all of her testimony should be disregarded.

If there is any appeal to your final decision. I believe that Ms. Patten should testify under oath about her involvement in this issue. Those of us that wish for the removal of the No Wake Zone are hoping for a positive decision but the least we expect is a fair hearing and a fair shake. I am confident that we can place our trust in you.

Maurice McCarthy, Esq. supports the petition. 1. My name is Maurice McCarthy. My wife and I own [property] in Moultonborough, NH which property has the benefit of deeded boating and bathing rights to a so-called community beach front lot on the shoreline of Senter Cove and I believe said lot is shown on Town of Moultonborough, Assessor [Map]. If you were to enter Senter Cove perpendicular to the present No Wake Zone (NWZ) line looking straight ahead to the further most shore line of the cove, the community beach front lot is located essentially in the middle of such shoreline.

2. My wife and I purchased said property in 1987 and at that time my three children were ages 11, 7 and 4. The principal reason why we purchased this property was because it provided us, as a family, access to the full use and enjoyment of Senter Cove a part of wonderful Lake Winnepesaukee. From 1987 to the present our such use and enjoyment included but was not limited to motor boating, children learning how to water ski and perfecting the same swimming, canoeing, sun fish sailing and of late hobey cat sailing all within the cove. However in 2010 a NWZ was imposed on the entire cove which

has restricted the speed of water vessels to headway speed and therefore has eliminated waterskiing especially by children in the Cove. This in turn forces children waterskiing and/or learning to water ski into the body of water outside of the Cove which area is heavily traveled by motorized vessels putting the water skier into danger that the skier did not sustain in the Cove. There were statements made at the hearing by both sides of the issue that prior to the NWZ, their children and in some cases their grandchildren learned to ski in the Cove.

3. Until such time as all of my children completed their educations, my wife spent nearly every summer full time at our said lake home. I would come up mostly every weekend and more often than not long weekends Based on the foregoing, I believe I have a strong basis for my observations of the multiple activities in Senter Cove covering the time period from 1987 to the present which is approximately 24 years.

I am submitting the following as a supplement to that which I stated in the course of the hearing to Revoke the No Wake Zone that occurred on June 24, 2011 concerning Senter Cove, Moultonborough, NH and my supplemental comments will appear following certain pertinent parts of Saf-C 409.04

Saf-C 409.04 Criteria for Review.

(a) The commissioner shall, after the hearing, adopt rules of the type authorized by RSA 270:12 if it appears that, consistent with RSA 270:1, II, the rule shall provide for the safe and mutual enjoyment of a variety of uses, taking into consideration the factors in (b) In determining whether to adopt such rules the commissioner shall consider the following:

(1) The size of the body of water or portion thereof for which rulemaking action is being considered;

I submit that the area of Senter Cove is 45 to 46 acres of area. The width of its entrance is about 1,000.00 feet. It is important to note that there already exist natural no wake zones in the Cove. Motor boats and personal water craft (pwc) are not allowed to operate at greater than headway speed within 150 feet of the shoreline or other lawful objects in the water such as docks and swim rafts. It is my opinion that the shoreline of Senter Cove is already protected by approximately 250' (in some cases maybe more) set back taking into consideration 150 feet from the aforementioned objects. I believe we have essentially a natural NWZ of approximately 250 feet from shoreline surrounding most of the cove

(2) The effect which adopting or not adopting the rule(s) would have upon:

a. Public safety;

I submit that prior to the imposition of the NWZ there was not a significant issue about Public Safety. Through out the Cove, people have enjoyed all of the lawful multiple uses in a responsible manner consistent with the legal requirements pertaining to the activities. In some activities such as swimming, canoeing, sailing and kayaking, I don't know of any rules of the State of NH affecting the same as to safety. I do know that common sense should govern these activities. Whether you swim in Senter Cove or outside of it there are always certain risks. If we are going to protect for example swimmers in Senter Cove by a NWZ then the whole lake should either be a NWZ or prohibit swimming except in designated areas. Before the imposition of the NWZ, my wife almost daily would swim from our so-called community beach front lot in Senter Cove to Wallace Island and back, a distance of approximately 1400 feet one way. The route she takes is a sensible route based on the multiple uses of the Cove and that is in general along the shoreline and in any case clearly within the approximate 250 natural NWZ. I usually use my canoe in the Cove and I generally follow the same lane of travel as my wife. Depending on the weather, size of waves and boating traffic in the Cove I do occasionally canoe across the Cove i.e not along the shoreline to different shore lines after weighing all the risks. Again common sense should prevail and I believe has always prevailed A NWZ should not be used as Substituted Judgment because of lack of common sense.

The some people would have you believe that there are too many motorized vessels in the cove and some believe it is because of new housing in the cove. I don't know of any home being built on any undeveloped waterfront lots in Senter Cove. I believe the following is fair estimate of back lots having deeded access rights to Senter Cove: I know of only three relatively new houses that were built on lots that did not previously have a home thereon that have beach rights to our community beach. However, I do know that at least 3 homes located on water front lots have been demolished and new homes built there on. I don't believe the new houses that replaced former houses or new houses that were built on lot never built on before added any significant increase in boats.

In the 2009 hearing for a NWZ, Mr. Duclos summarized the commentary of David T. Barrett, Director, Division of Safety Serves which essentially consisted of the following which I incorporate herein

"Director Barrett's staff looked into any history of unusual activity or complaints on safety violations finding none in the database for the past five years. He said while the Petitioners cite safety concerns, there is no documentation of dangerous activity to support the requested restriction."

This commentary from the Director of the Division of Safety Services should and does carry weight and in fact I believe it should carry substantial weight as to the issue of safety. However I do recognize that the Marine patrol can not be everywhere at the same time, I am reasonably sure that there have been some violation in and out of the Cove though I have not specifically witnessed the same. However, I must point out there is no official documentation stating that motor boating, PWC and/or water skiing in the Cove is dangerous activity. I can only attest to what I know, I know of no accidents or dangerous activity occurring in the Cove.

Some of the proponents for the NWZ suggested that the advent of so-called "wake boats" in the past couple of years has caused them problems. If that is so, then the Marine Patrol can take care of violations. The rest of us who use the Cove in a responsible and lawful manner should not be the sacrificial because of a few violators who need to be educated and/or cited. I am sure their activity occurs outside of the Cove and throughout the whole body of Lake Winnepesaukee. However as previously stated that we who use the Cove should be vigilant and substantiate and report violators to and as an assist to the Marine Patrol

From 1987 to the imposition of the NWZ, both adults and children have learned, perfected and enjoyed water skiing in the safety of the Cove. Once again common sense dictates when and under what circumstances this occurs such as but not limited to weather, wind, waves and motor boat and PWC traffic. Nothing has changed. The NWZ should be revoked so that we can resume using the important activity of waterskiing in the Cove just as we have always done lawfully and responsibly.

The proponents of the NWZ seem to state the Cove is busy with a lot of motor boats, PWC'S and water skiing (they don't identify when and how frequently and to what extent) and therefore dangerous to others enjoying the Cove. However based on my observations a lot of us are so-called weekend users of the Cove. That is to say that some of us are in the Cove doing the aforementioned water activities mostly on weekends weather permitting.. At least this is true of my experience. From ice out to the end of June there are not many boats, PWC'S and/or skiers in the Cove. Yes, during July and August there are more boats, PWC'S and skiers. During the weekdays of July and August there is not a considerable amount of such activity due to the absence of the so-called weekend user. I would venture to say that this is reasonably true also for the whole lake. Remember, most people leave the lake and return to their permanent homes and work. During July and August the weekends (approximately 9 weekends) and on only a few of those weekends the Cove gets somewhat busier with the aforementioned activities. Usually it is on a Saturday from about noon time to about 4:00 P.M. Of the 9 Saturdays during July and August usually such activities are in most cases brought to a stand still due to weather, waves etc. based on my past experiences from 1987 to the date of the imposition of the NWZ. On those somewhat busier days I have noticed that water skiing is somewhat curtailed by reason of common sense etc.

b. The maintenance of residential, recreational, and scenic values;

I submit: Some water front owners complain about erosion to their beach and/or shoreline causing them to maintain the same. It is a fact that erosion is a risk of owning a home on the shore line. Erosion is complicated and is brought about by many know and unknown factors such as but not limited to climate, weather, storms, wind, lake levels storm water drainage and run-off and man himself in altering the natural shoreline. My lot is not directly on the water and abuts a gravel road. We have to maintain the erosion caused by some of these factors.. The so-called community water front beach lot that I and others have deeded beach rights to on very few occasions sustains erosion and we maintain it. We have taken steps to prevent it from occurring. The wind that causes the waves directly impacts said lot and the dock located thereon. I do not know of any boat or dock damage to our lot nor on the lots abutting our beach front lot. Our beach front lot gets the brunt of the wind and waves. To illustrate, in the winter I get approximately five to seven foot drafts of snow on my property and one recent year the snow was drifted as high as the roof of my house.

As to the Kona Boat House, I don't know who owns it, maybe Mr. Hare or the condo association or someone else or some entity. In any case I presume it is private property and like all private property maintenance is always a concern. But that concern is not unique to the boat house. No documentation was submitted at the hearing as to all the factors that affect the structure. Nor was there a submittal as to what role (percentage or otherwise), if any, motor boating has in the matter. The structure purportedly is

about a hundred years old and has sustained boating throughout the years along with climate changes, weather, wind, waves, water levels and maybe unwarranted pests and natural deterioration through the years.

c. The variety of uses of such body of water or portion thereof;

Senter Cove, like the entire lake, is used for motor boating, PWC'S, water skiing, sailing canoeing, kayaking and swimming.

d. The environment and water quality; and

As to erosion kindly refer to my comments under Maintenance. No expert people spoke at the hearing on the issue of the impact of all the multiple uses of Senter Cove as it relates to the environment and water quality.

Though I am not an expert, I have done some research and clearly ecosystems of the lake are impacted by several known and unknown factors including but not limited to climate, weather, water temperatures, storms, storm water runoff, wind and water levels of the lake. Water turbidity is affected in whole or in part by the foregoing and to some extent by the use of motorized vessels and water skiing. But this is equally true for boating all over the lake and not unique to the Cove. If motorized vessels contribute to turbidity on weekends, then it is fair to say there will be less turbidity during the week because there are substantially less boating activities unless of course the other factors that affect the degree of turbidity are present during the week.

I don't believe we have a PH problem and unlike a portion of Meredith the State of NH has not, to my knowledge, found a problem with the water quality in Senter Cove for fishing and/or swimming. In fact I don't recall Senter Cove ever being closed or warned of contaminated water in the Cove.

Revoking the NWZ will have no effect of the environment and water quality

e. Threatened and endangered species.

I don't recall any expert statements being made on this subject at the hearing. I presume we are talking about loons and not eagles because the eagles, I believe, apparently reside outside of the Cove.

It is my understanding that Salmon Meadow Cove has been and continues to be one of the prime nesting areas for loons. I believe there is a natural NWZ at the entrance and channel of Salmon Meadow Cove while the remainder of Salmon Meadow Cove is not subject to a NWZ, Since a cove housing prime nesting place does not need a NWZ certainly Senter Cove does not need one.

From 1987 to the present we have always had loons visiting our Cove and I have never seen a dead one, let alone a dead one caused by motor boating, water skiing and/or PWC'S. I did read an article recently about several loons being found dead I believe in Meredith I think it was last January 2011. It seems loons migrate to the sea coast in the winter. I believe the Loon Society was called in to investigate and give an opinion and it was theorized that the dead loons were affected by climate changes (warmer than usual) and thought they could survive the winter. It was concluded that they gambled in error.

I guess what I am trying to say is that the existence of loons and their success in having chicks is affected by so many factors such as climate, storms, wind, waves, water temperature and lake levels that it is seemingly impossible to attribute their problems to motorized vessels and/or waterskiing both in and out of the Cove. Likewise fish and in particular small mouth bass and their ability to spawn are affected by all of the factors affecting erosion and the loons. No one factor is the culprit and the same factors are applicable all over the lake and not unique to the Cove.

(3) The number of people affected, either directly or indirectly, by adopting or not adopting the rule(s); and

Before the NWZ, life was good in the Cove. All of the multiple users of the Cove seemingly existed harmoniously in enjoying all of the multiple uses of the Cove and had been for decades. Safety is a concern of the State and for all of us all over the lake whether there is or is not a NWZ. The NWZ is not the solution. Like Salmon Meadow Cove and other coves, the Marine Patrol is the solution, along with some of us substantiating and reporting violations as and if they occur. The need for safety is equal whether operating in or outside of the Cove..

Being denied the long standing experience of motor boating, water skiing and using PWC'S in a reasonable and lawful manner in the relative calm of Senter Cove has a substantial negative impact to those of us who oppose the NWZ and to all people of the State of NH.

A new family moved into my neighborhood and they have two young children. I promised them we will all go into the Cove and teach their little children the sport of water skiing within the safety of the Cove just like I did with my children several years ago. A NWZ prevents this and therefore the NWZ should be revoked.

(4) The availability and practicality of enforcement of the rule(s).

To the extent that there are violators of the rules and regulations of motorized boating, water skiing and /or use of PWC'S, I feel confident that the Marine Patrol can adequately address the same. Also, we as responsible users of the Cove should and will substantiate and report violations as a assist to the Marine Patrol.

About the only good thing I see as a result of the imposition of the NWZ was that it is a so-called "wake up" call. Just like the hearing on June 24, 2011. It has made all of us aware of each other and our respective concerns. But that is not a valid reason for having a NWZ.. A NWZ primarily based on safety on account of a few violators is not a good reason to continue to have a NWZ to the detriment of the many who use the Cove responsibly.

In the hearing of 2009 you heard essentially a one sided story. As a result of the June 24, 2011 hearing on the Petition to Revoke the No Wake Zone in Senter Cove, Moultonborough, NH the proponents of the Petition seeking the revocation of the NWZ have been afforded the opportunity to provide you with the rest of the story which in my opinion substantially out weighs the arguments of the proponents for the NWZ. . Kindly revoke the No Wake Zone.

Glenn Sakellar supports the petition.

David Sunderland supports the petition adding to his verbal comments saying in a subsequent email as follows: I have reread the Decision & Order regarding the June 12, 2009 hearing on Senter Cove. On page 11 of that document, in the Findings of Fact section of the document, item 11 says, "The law requiring the slowing speed of watercraft as defined presently within RSA 270-D:2 does not provide adequate safety for swimmers, the persons using small non-motorized vessels and the lake's wildlife ecosystem." This additional testimony addresses this item 11.

First, I address the portion of item 11 relating to "adequate safety for swimmers and persons using small non-motorized vessels." In the Decisions & Order document for the 2009 hearing in the Synopsis of Testimony section, testimony by Mr. Cooper on page 3 reads, in part, "the area has 6 or more rafts on a given weekend with water skiers traveling within 20 feet of those rafts or moored boats. He also mentioned that his three daughters have each been knocked down by another boat coming too close" and testimony by Ms. Sutcliffe on pages 5 and 6 reads, in part, "she testified that while in her sailboat, she has almost been run over with the passing boat so close, that she could almost reach out and touch that boat, and the water skier behind" and in the Synopsis of Exhibit Letters/Email Submitted section, testimony by Mr. and Mrs. Walters on page 7 reads, in part, "they have seen two or three water-skiers at the same time intermingled with smaller /slower craft." The testimony I have described relates to violations of RSA 270-D:2 and is the only testimony (I believe) put forth that relates to specific observed instances of safety violations. This testimony does not indicate rampant non-compliant behavior. While some appear to be exaggerated, it is impossible to argue conclusively that these instances did not occur or somewhat as described. When they occurred is not stated and it is not stated that they are recent events, which if they were, might imply that behavior in the cove has changed from a compliant safe state to a non-compliant unsafe state. They could have occurred in, for example, 2004 or 2005, many years before the 2008 petition was submitted stating the need for a change to a no-wake zone. We do not know either way. There is additional testimony relating to the adequate safety point (see testimony by Galles on page 6, by Hare on page 6, by Burrer on page 7, and by Creem on page 7) but this testimony is pure opinion.

Senter Cove has been used safely and in compliance with RSA 270-D:2 regarding swimmers and operators of small non-motorized vessels (and other motorized vessels as well, I add) in probably hundreds of instances and over many years, including 2008 and 2009—recent years before the no wake zone was put in place in 2010. There has not been a general sudden switch from safe and compliant behavior to unsafe and non-compliant behavior; there has not even been a switch. I agree that this is an opinion. At the June 24, 2011 hearing there was lots of testimony regarding this point as well.

Regarding enforcement of safety, it can be enforced in the Cove—by obeying the laws, by marine patrol visits and by the method of abutters and others noting boat ids, documenting violations and reporting them in a substantiated manner. It should not be presumed that the Marine Patrol can enforce

the boating rules elsewhere on the Lake but not in Senter Cove. There is no documented evidence to indicate that this is true.

I want to make a point about density and congestion as it relates to safety. There were arguments put forth in the 2009 hearing and the 2011 hearing about the size of the Cove, denseness, congestion and similar issues. I agree with the point that the cove area for boating is smaller than the actual Cove for various reasons. The presence of swim rafts—there are at least 6 of those—and moored boats is one such reason. The Cove has not shrunk. These rafts have been there in basically the same location for years. Windward Harbor was completed in the late 1980's at the latest and no new homes have been built where none existed before. The Cove is no denser than it has been. In addition, it might be inferred from some testimony that before the no wake zone the cove was a hubbub of activity, with constant and continual traffic from all kinds of watercraft using the waters in various ways. It is not. It is as busy or not busy as any other similar cove—no more, no less.

Secondly, regarding the portion of item 11 that might relate to "the lake's wildlife ecosystem"; there was no testimony put forth that any species was endangered either less or more by a no wake zone. I also argue that erosion is not covered by "the lake's wildlife ecosystem." If a rule to establish a no wake zone is put forth so as to "maintain residential, recreational, and scenic values" (see (b) (2) b. of Saf-C 409.04 Criteria for Review), I argue that these values can be maintained by means other than a No Wake Zone.

Last, I address the issue of what can and can't be presumed regarding the petition to remove the No Wake Zone. I argue that the 2011 hearing, in effect, reopens the entire question of whether a No Wake Zone should be the rule. It is the same as discussing the merits of a No Wake Zone on their own. The prior hearing exists as testimony, but the fact that a No Wake Zone exists currently does not mean that the petitioners to remove the no wake zone have a higher standard of proof than any person who might have objected at the 2009 had. Conversely, those who object to the petition have no less of a standard of proof than the proponents at the 2009 hearing had. It is a new debate of the same question.

This testimony is to refute item 11 and the Conclusion of Law in the Decision and Order that the 2008 petition (discussed at the 2009 hearing) was and/or is in the public interest.

Tom Ward supports the petition.

Dan Wilkins supports the petition saying for over forty years his family has had a boat in the cove. Three years ago, his daughter started water-skiing and he was delighted she wanted to ski. She continued to ski for two years, always starting in the cove. Last year, he learned that the cove was declared a no wake zone, and his daughter refused to ski since because she is uncomfortable starting in deeper water; disappointing to him, and essentially ruined his daughters' interest in skiing. There have never been any issues involving safety or otherwise. It is extremely disappointing that one person's unfounded agenda has impacted so many others, without notice, and in particular has had such a negative effect on his family. Mr. Wilkins is opposed to the no wake zone in Senter Cove, ending stating "In short, we hate it!

Paul Worth supports the petition saying he and his wife are full time residents of Moultonborough and the cove. He and his wife and I stand in favor of the petition because by forcing boats to bypass Senter Cove, this has caused more boats to operate in an area outside the buoy marker. This is inherently more hazardous than allowing boats to travel in and out of the cove. Mr. Worth ends saying "I would request that facts and merits of the case be considered and not the innuendo and speculation presented at the hearing. You may consider my above statement either as fact or speculation."

OPPOSING THE PETITION:

Charles Badzmierowski and Sharon Waid This email is to express our support for maintaining the no-wake zone in Senter Cove, Moultonborough. As permanent residents of the Kona Bay Association and frequent users of our deeded lake access, we see no compelling reason to rescind the original ruling that made the cove a no-wake zone in 2010. There are, however, many reasons to let the ruling stand and maintain the cove as a no-wake zone.

First is safety. With many lakefront beaches, swim platforms, lake access, docking and moorings in the area, there is considerable use of the water by all the families, both permanent residents and summer residents. Many have canoes, kayaks and also swim in the cove. Returning this to an allowable wake zone is a safety issue both for our families and for our property. Second is the beach and shoreline erosion caused by the continual wash of boat wakes, which given the small size of the cove, can reach significant heights. This has been a problem in many areas and we don't want to see that become a problem in Senter Cove. Third, and as important, is the danger to wildlife. Ducks, Loons and many other water fowl are all around the area. To remove the no-wake zone in Senter Cove clearly puts the wildlife at risk, too.

We hope you will consider all these issues as the request to rescind the no-wake zone ruling is reviewed and rule to let Senter Cove remain the tranquil area it has become and keep the no wake zone regulations in place.

Jeffrey and Elizabeth Boutin My name is Jeffrey Boutin. My wife Elisabeth and I own property on Senter Cove in Moultonborough identified as Lot #[redacted] on the town map. We are writing in support of the petition seeking to keep Senter Cove designated as a "No Wake Zone". We believe that a "No Wake Zone" will ensure the safety of the residents around the cove and slow the erosion of their shoreline properties. We also believe a "No Wake Zone" will help promote the lake's wildlife that seeks to make the cove its home.

We further believe that everyone should be able to enjoy the lake to its fullest including those who seek its quiet enjoyment. Lake Winnepesaukee is big enough to accommodate everyone who wants to use their watercraft fast and loud, so expanding the areas in which to do so is unnecessary. We ask that hearing board preserve the quiet enjoyment of Senter Cove for its residents and its wildlife and keep the "No Wake Zone" in place.

Senator Jeb Bradley I am writing in support of the Department's previous decision to create a No Wake Zone in Senter Cove, Moultonborough. I have reviewed the documents in the case and believe your decision to create a No Wake Zone is in the public interest and should be maintained through the appeal process.

Rob Childs I live with my family in a community that shares a beach on Senter Cove. There are several other similar communities on Senter Cove that have shared beach rights and this results in many people using the small cove. On any given day, lots of people can be seen enjoying swimming, kayaking, canoeing, paddle boating and traveling by boat to and from their docks on the protected, calm waters of the cove.

Prior to the establishment of the no wake zone in the Cove in 2010 we often watched in horror and fear from our beach as high performance ski boats and jet skis sped around the Cove ignoring the 150' headway speed laws and endangering others using the cove and themselves. In addition to endangering people using the cove, these high speed boating activities generate significant wave action which causes concern for damage to the many boats docked in the Cove. In short, Senter Cove is a very small and densely populated cove and common sense dictates that high speed boating activities should not be permitted in areas such as these on Lake Winnepesaukee.

My family and I enjoy water skiing, tubing and jet skiing on Lake Winnepesaukee. There are several areas adjacent to, and nearby to, Senter Cove where there is ample room for water skiing and other boating activities and where speeds in excess of headway speed are not a danger to people using Lake Winnepesaukee or to boats docked along the shoreline.

Matthew Cohan While my preferred approach to controlling unruly behavior in our cove would be to have the Marine Patrol adequately enforce current rules/law, given that the Marine Patrol has not been able to accomplish this in recent years, my family and I support the existence of a No Wake Zone in our cove, Senter Cove, in Moultonborough. Yes, it takes longer for us to get in and out of our cove with our power boat, but last summer our family (including our young children and our guests) greatly enjoyed being able to safely traverse the waters in our cove on our kayaks and pedal boat as well as being able to safely swim to and from the nearby lake raft. It is also nice that the cove is also quieter without the wake boats blaring loud music in our cove periodically as in recent years.

Allissa Cooper My family has owned property on Senter Cove since before I was born. We have witnessed the steady escalation of speeding boat and jet-ski traffic, which has endangered both swimmers and wildlife in this once quiet cove. The No Wake Zone enacted last summer has drastically improved safety for the many families living on the cove, as well as alleviated shore erosion and lessened the abuse on the residents' private property. Before the No Wake Zone came into effect, boats in Senter Cove tended to have little respect for the 150' rule, cutting too close to one another even when one boat towed a water-skier. The No Wake Zone has thus been an extremely effective way to ensure the safety of everyone who enjoys swimming or boating on Senter Cove. The extra yards of no wake have seemed to us such a small cost with an enormous benefit: a peaceful part of lake where we can trust that our children and others' will swim unharmed.

Jesse Cooper Just over 30 years ago, my family bought a rustic cottage in a small cove of Lake Winnepesaukee with a beautiful lake-front yard, dock, and small sandy beach for me to play on (I was a year old). Today, I have a 15 month old little girl who loves playing on the same yard and beach (and another little one on the way). For me, there is nothing more special than the feelings I get watching my child play on the same yard and beach that I did as a kid. However, one thing has definitely changed over the last 30 years...The lake has become more populated with heavy increases in boat traffic, jet skis / Sea Doos, Canoes, Kayaks, etc... Most of the time this great, but when the "toys" mentioned above are in one small cove (Senter Cove) at the same time my child, her cousins, and the rest of our family are playing in the water, swimming past the dock, it becomes dangerous....Well, it was dangerous until the Department of Safety enacted a "No Wake Zone" in our cove last year.

This enactment made an obvious change. Boat traffic did not disappear. It simply seemed more respectful of the environment (less beach erosion), more aware of people in the water, and less abuse to residents docks and boats.

Although the personal property of the residents in Senter Cove is important to consider (it's costly not to), it's not nearly as important as the safety of the children and adults who swim and play in Senter Cove. Boat traffic in Senter Cove has no choice but to pass within 150 feet of one another. The No-Wake-Zone makes it safe for everyone to enjoy Senter Cove together. Without it, the Department of Safety leaves discretion to be determined by each individual. This simply can not be the safest solution. Please maintain the ruling you set last year and keep the No Wake Zone in Senter Cove for ever!!!

Phil Cooper The No-Wake Zone here in our cove has been a godsend. No longer do we have to deal with the exaggerated waves from wake-boats breaking up our docks, eroding our shorelines, and endangering our children and grandchildren who want to kayak, canoe, and swim in this narrow cove.

Randi Cooper I (Randi Cooper) grew up on this cove and have watched the excessive high speed boat wakes disturb wildlife and erode the beaches. Now, we are raising our family on the very same lot. Our three-year old, Aidan, gets very excited to swim out to the raft with his cousins (8 and 10 years old), because he wants to be a "big boy". We envision our daughter, Izzy (Isabelle), joining "the kids" out on the raft next summer. Currently, we feel safe allowing Aidan to swim out to the raft since there is a no wake zone in place. Allowing young children to swim out to the raft would not be safe if the no wake zone was to be rescinded. The waves from boats that speed in and out of the cove make the raft extremely unsteady. In addition, the boats speed right past our raft, with little regard for the law mandating 150 feet. This neglect and disregard for the law and others makes it extremely unsafe for us to swim and enjoy the cove. We are requesting that you keep Senter Cove a No Wake Zone, as long term residents of the cove, but also as concerned parents.

Tasha Cooper and Jamie Mair Our family has been enjoying the lake since 1981 but within the past decade or so the boat traffic has become increasingly heavy, corroding our shorelines, endangering our children and ruining the peaceful nature of the cove. However, all this has changed in the past year since the no-wake zone ruling was enacted. I can remember when the Windward Harbor was built and how the increased boat traffic affected the peaceful cove. In fact, I can remember as a young girl being knocked unconscious when a boat cut in front of my father's boat while I was water-skiing in the cove. Now, my husband and I are parents of young children who love to swim around the raft in front of our dock amongst other lake-based activities. However, in past years this made me extremely nervous as boats and jet skis would whip past very closely without noticing their heads bobbing in the water. Additionally, my husband, while training for triathlons, would swim across the cove to the boathouse with me kayaking next to him so those same careless boaters and jet skiers would at least have a larger visual reference to avoid while they zoomed in and out and around the cove. Believe me, I love the speed of boats and at first I too thought it would be a pain to have to go at no-wake speed in and out of the cove. I also wanted to use the cove to teach my own kids to water-ski and worried about going out into the broads where the water is unprotected. However, our bay is far too small to have more than one boat skiing around it. The extra minute or so it takes to come in and out of the cove is not a big deal. Not when you think of the larger consequences of the safety of our loved ones and protection of our shores.

We've enjoyed and benefited from the more relaxed nature of the cove since the no-wake zone has been enacted. There's far less noise pollution, less environmental impact, more water based recreation like swimming, paddle boarding, and kayaking. There's really no good reason to remove the no-wake zone in Senter Cove. Kids are happier and safer. If the wildlife could speak, they'd probably tell you that they're happier and safer. Mother Nature would assuredly tell you she's happier and safer through our efforts. It appears to me the only people that would want to rescind the current regulations are people that don't care for those things and are only concerned about themselves. Please let Senter Cove remain the peaceful and beautiful and safe area it has become and keep the no wake zone regulations in place.

James Coughlin, Jr. I am strongly against changing the No Wake Zone in Senter Cove, Moultonborough, NH. I cannot attend the meeting on June 24th. Since there has been a no wake zone in the cove I have seen less erosion on the shores and beaches. The safety issue and speed of the boats is critical and keeping this cove as a no wake zone will allow this to continue to protect the property owners, public and wildlife.

Harvey Creem I have a home at [redacted] in Moultonborough. My property is a few homes back from the water. We enjoy the tranquility of Senter Cove and the safety afforded by the no-wake zone. Our grandchildren are able to use the cove without extreme concern of boats coming by at high speed. I strongly favor retaining the no-wake zone.

Bill Gelormini supports keeping the no wake zone

Barry and Sharon Haight We have lived at Windward Harbor since 1989. For 20 years each summer we have been subjected to fast and loud power boats with music blaring pulling water-skiers as early as 7 a.m. as well as throughout the day. When we have gone down to our beach during the day and our kids have been on the swim platform while we are on our beach we have had concerns over the fast

boats, wakes and water-skiers. When I used to take our Zuma daysailor out I did not appreciate the wakes created by non-resident water-skiers in the cove; and again, during our end-of-day relaxation time on our deck we have been bombarded by loud music and engine noise. And the wakes cause more shoreline/beach erosion.

The persons responsible for the loud noise and the wakes do not live on our cove. We personally do not mind the extra few minutes it takes us to get to the open water by our boat or wave runner. There is no good reason to change the current no-wake limits on Senter Cove. I now sleep better, am not concerned about the safety of kids and now grandkids swimming off our platform, and Happy Hour is more peaceful and relaxing. So please do not change the no-wake restrictions on Senter Cove.

Doreen and Peter Hare Thank you for the opportunity of expressing our continuing concern regarding the need to maintain the existing "No Wake Zone" in Senter Cove on Lake Winnepesaukee in Moultonborough. This "No Wake Zone" must be maintained for a variety of most important reasons. Personal safety is number one as this small cove has at least 60 homes that share the waterfront with resultant watercraft of all sizes and types that number well over 100.

Water skiing activities and jet skis have in recent years abused existing Department of Safety – Marine Patrol rules and regulations. In fact, abuse of the existing No Wake Zone has been seen already in this early summer season. Just because Senter Cove has no recently recorded dangerous activity is no reason to deny safety needs for this "No Wake Zone".

As continuous land owners in this cove for over 50 years, we have seen the number of water craft multiply many fold which has resulted in damage to boats and their docks with rocking from excessive waves from speeding boats. During periods in which the lake has been at high - and not even flood stage, these same high waves have caused erosion to abutting lakefront shorelines. Certainly too, this wave activity has been detrimental to the substructure of the 100 year old historic Swallow Boathouse whose understructure has recently been reconstructed at considerable expense, to the Windward Harbor Association home owners. Thank you for your consideration of our continuing concerns regarding the need for the continuation of the "No Wake Zone" in Senter Cove.

Dudley Hare, Jr. My name is Dudley Hare, Jr. and I am writing to strongly support the continued designation of Senter Cove as a no wake zone. I have been on the cove for over sixty years and have watched its development from a pristine body of water with no houses, no boats, and no marker buoys to a highly developed and wonderful center of human activity. Several hundred residents along its shores, over 100 boats and a center for a broad range of water based activities including power boating, water skiing, PWC use, sailing, canoeing, kayaking, snorkeling and of course, swimming. Through the 1980s the cove could sustain all of these activities safely. I enjoyed them all. About 15 years ago we passed the point where the increasing presence of high speed boats including PWCs and the safety of swimmers and slow speed boats were seriously at odds. Since then there have been reported serious incidents and easily observable near collisions on a regular basis. This small cove simply cannot be safely used by high numbers of high speed boats and swimmers or slow moving boats. To maintain all these activities together simply puts lives at risk. We fortunately have had an excellent test of the tremendous value of the NWZ designation during the summer of 2010. Throughout the summer the use of the cove by children, sunfish sailors, canoes, kayakers and swimmers all gradually increased. It was peaceful, slow moving and safe – precisely the environment that residents and the state should seek to encourage and maintain. Our trial run has clearly demonstrated that the cove can be a place that can be used by children and adults without feeling you are putting your life in someone else's hands. The state would be negligent to end the NWZ designation.

It has been very clear that a significant number of vehicles at speed do not "follow existing laws" for boaters. As an example I have observed on a number of occasions speed boats with skiers pass inside the swimming floats anchored about 200 feet from the beach - and take great joy in doing it. As a former water safety instructor I cannot conceive of a more dangerous practice. To say these activities can be handled by law enforcement is impossible: the Marine Patrol might visit the cove several times per week for 5-10 minutes.

I cannot help but comment on the new petitioner's participation on this issue. In reaching the decision to implement the NWZ the current petitioners missed the public notice of the original petition, they missed the first hearing, they missed the second hearing, they missed the third hearing, and they missed the appeal process outlined in the decision. They decided one year later to take action. The

earlier process was well known in the community and multiple opportunities were available for those opposed to NWZ to make their feelings known. This only suggests that this current effort is not serious, is too little, too late and is being carried out after a correct decision was made by the state using a thorough and inclusive process. Please save lives. Keep the No Wake Zone.

Lawrence and Dianne Hughes We are writing you in support of preserving the No-Wake Zone in Senter Cove, Moultonborough, New Hampshire. We recently purchased a home in the cove and were influenced by the fact that it was located in a safe no-wake zone where swimming, kayaking and canoeing could be enjoyed safely by both adults and children. We also felt that our investment would be protected from shoreline erosion and damage to our docks and provide a safe environment for the beautiful loons we observed.

Although we own power boats and jet skis, we feel the lake is certainly large enough that we can enjoy them outside of the cove without compromising the safety and enjoyment of others.

Ken and Judy Johnson and Kenneth E. Johnson, President, Windward Harbor Association

The no wake zone in Senter Cove has been a tremendous improvement to safety in the cove, the preservation of the Windward Harbor historic boat house and the erosion of the shore and beach area. Senter Cove is a relatively small cove with a narrow entrance (about 600 ft between markers). The cove is home to several Associations with beach access and numerous waterfront homes. Consequently there is a variety of boat traffic in the cove from wake type ski boats and large power boats to canoes, kayaks, and paddle boats. Many of the canoes, kayaks and paddle boats are piloted by young children going from the shore to Wallace Island. To remove the no wake zone and allow wake boats and power boats to come into the cove at high speed would be very dangerous to our children and grandchildren on the small craft. Prior to the no wake zone several of our residents in Windward Harbor complained of near misses and power boats coming close to them and to the swim rafts at high speed. These near misses were reported by people in power boats and small craft and on the beach.

The cove is home to the Windward Harbor Boat house, a historic building that was constructed in 1910+/- . The Boat house is situated in a corner of the cove protected from the normal waves caused by storms and wind from the northwest. However the waves caused by wake boats and large power boats crash into the boat house and cause excessive wear especially when the water is high in the spring. Those same waves contribute to erosion of our shoreline and damage to docks and boats.

It takes about 3 minutes to travel from the end of the cove at no wake speed to the entrance of the cove. This is certainly not a long period of time to give up providing a safe environment for our residents and their children. I personally own and use a 26 foot power boat and a jet ski and I am more than willing to travel to the entrance of the cove at no wake speed to improve the safety and environment in the cove. The Windward Harbor Association strongly supports the no wake zone and requests that the petition to remove it be denied.

For the Windward Harbor Association,
Kenneth E. Johnson President

Kenneth and Cheryl Kahn We respectfully request that the No Wake Zone be maintained in Senter Cove, Moultonborough. We would like to comment on several of the points raised in the petition under consideration on Friday, June 24. Regarding the comment made by the petitioner concerning wind-driven white caps causing more damage to the historic Swallow boat house than boat wake, the white caps from the SW or NW wind do not reach the Swallow Boathouse because it is located in the lee side of Swallow Point. However, wakes generated by boats within the cove itself, do indeed strike the boat house.

Regarding the comment that no marine violations had been cited prior to the NO WAKE zone being instituted, prior to the NO WAKE we had called the marine patrol on numerous occasions, however since the Marine Patrol cannot possibly be everywhere at once, by the time they arrived the offender had left.

Regarding the comment that the original petition to create the NO WAKE zone only had 25 signatures vs. the petition to rescind having 54 signatures, the fact is that anyone can get any number of signatures for a petition. Only 5 of the addresses on the petition you are considering today are directly on the cove and in fact, many of those signatures are from areas a considerable distance away from the cove, i.e. Shaker Jerry, Tamwood, Sticks and Stones, Woodrin, Krainewood and Oak Ridge. While those with cove access get to enjoy its benefits, they do not have to endure the downside of boat wake damage and marine violation issues we had observed prior to NO WAKE being established.

There are close to 100 homes that have deeded access to Senter Cove. Each home bordering on the cove has a dock and there are marinas, moorings, and swim platforms in the cove. Since the advent of personal watercraft, most of those 100 homes now have more than one water craft. This makes for

hundreds of motorized watercraft residing in the cove as well as kayakers, canoes, paddle boats and others boats coming in and out of the cove for sightseeing during the summer season. Before NO WAKE was instituted we additionally had numerous wake boarders and water skiers coming into the cove. All this makes for a great deal of congestion and coming and going in a small area.

This is a heavily congested 34- acre cove in a 44,000-acre lake. I would implore the State to maintain the NO WAKE zone in Senter Cove. It is a quality of life issue, a safety issue, and an erosion of property issue.

Norman and Paula Lesser We strongly support No Wake zones in bays and coves - and, therefore, support the continuation of the No Wake zone in Senter Cove. Our quality of life and the value of our property are dependent on maintaining our State's natural resources - of which lakes, and the wild-life lakes support, are a primary component. Having lived on Lake Winnepesaukee for over twenty years, I am aware that the wakes created by high-powered motorboats and personal watercraft erode embankments severely - well in excess of the occasional storms or windy weather. While the adverse impact of these wakes occurs in many shoreline areas, the more confined the body of water, the greater the damage.

Ray and Joanne Ray We have had a home in Senter Cove for over 33 years. We are writing in support of the petition to keep Senter Cove designated as a "No Wake Zone". We have had serious erosion along our waterfront, and it is a great concern to ourselves and our children and grandchildren, who come up on a regular basis. We ask that the hearing board preserve the Senter Cove No Wake Zone to keep it safe, allow wildlife into Senter Cove and protect our waterfront properties.

Steve and Sue Lucia We are writing in support of the petition to keep Senter Cove designated as a "No Wake Zone". We have had serious erosion along our waterfront. I have children and the their safety is of special concern due to excessive high speed boat waves. The wildlife is finally coming back to our cove. We have loons along the shoreline. My parents have had serious erosion to the shoreline. We ask that you the hearing board preserves the Senter Cove No Wake Zone to keep it safe, allow wildlife into Senter Cove and protect our waterfront properties.

Jean Malone My name is Jean Melone and I have lived in Senter Cove for over 40 years. Having enjoyed the thrill of water-skiing in our cove in the past, when there were fewer boats with less power, I am now thrilled that there is a no/wake rule now in the cove. I now have several grandchildren who enjoy going out on kayaks, canoes, or just floating around, and, they can do these things because of the no/wake zone. The ones that want to water-ski don't have far to go to enjoy this sport, as we are not far from open water. I implore you to keep the no/wake zone in Senter Cove before there is a tragic accident involving young children.

Dick and Su Mansur I am writing this email in support of the establishment of a no wake zone in Senter Cove. My wife and have resided on Swallow Point since 1983. During 2005 we purchased a slip at the Meredith Yacht Club {MYC}, and moved our boat {a 34 foot Sea Ray 300SD Cruiser} from Senter Cove to the MYC., In part, the reason for this move was because we became concerned with a growing safety issue due to high speed water skiing, and the lack of boating safety and courtesy by many of those operating craft within this area. Please grant a permanent No Wake Zone at Senter Cove from Swallow Point diagonally to Wallace Island.

Doug and Nancy McIninch I have been on Senter Cove (Windward Harbor), waterfront property owner since 1984. In the following 27 years, the imposition of a No Wake Zone for Senter Cove has been the singular most important step in water safety and wave damage control. I can not speak too forcefully about what the No Wake Zone has done to improve every aspect of life and safety on the Cove.

In the early eighties, the pressure on this part of the "Lake" was just starting to grow. Boats became progressively larger and the owners seemed to be less experienced/safe. Water skiers sought it's calmer waters but they tended to be courteous and not all that incessant. That usage started to change in the Nineties as the area became more built up, Jet ski's became popular, and Wake Boarding was growing.

The past five years saw a dramatic increase in use of the Cove for Wake Boarding and Jet Ski use. Jet Skis came into the Cove for high speed circles and wake jumping. Once located here they would endlessly circle often sweeping past docks, swim rafts and beaches. Increasingly, there was disregard for other craft or people on the water. Conditions became unsafe when "the few" ignored the rules safety of others. Marine Patrol is ill equipped to patrol every part of the lake and cannot adequately respond to reckless operators in Senter Cove. Jet Skiing is an entertainment that both my wife and I enjoy. However, there is plenty of lake out there for this fun.

The recent increase in Wake Boarding has created another kind of problem. A number of families have adopted Senter Cove as their favorite Wake Board spot. They could be counted for at least two or three hour long daily visits to run their loops and practice their tricks. Some are quite good but unfortunately as the younger members of the family started operating without supervision the situation degenerated to unsafe for others. Wake Boarding, by definition necessitates nice "wakes". Those wakes sweep around the Cove and are quite destructive to the shoreline and boats tied to docks. In broader expanses of the Lake, the wakes have sufficient scope to dissipate before striking fixed objects-shore or docks. This is not true in Senter Cove due to it's relatively small area.

The intelligent site of the Windward Boat house serves to fully protect it from most weather driven waves and our prevailing NW wind pattern.. That is why it has survived for over 100 years. The Boathouse and our docks are not protected from wake driven waves. Only with Wake Boats and water-skiers do I see my boat and others rock 45 degrees and slam into the dock. This is destructive to the boats and is rapidly loosening our dock posts and pilings. The only times our Boathouse structure "groans and creaks" on its cribs is with high speed boat wakes.

To my observation the numbers of boats for water skiers and Wake Boarders that have an arrogant and disdainful attitude towards others and property has been growing. For these hot shots, canoes, kayaks, rafts, swimmers and 'inflatables' seem fair game as they sweep too close on their endless circles. Safe passage rules and concern for others soon disappear as they pursue their "right" to use the Cove. When called upon, Marine Patrol responds, usually within an hour and offender "visits" with the patrol are observed but we have no way of knowing if citations are actually given for conduct the officer didn't personally observe.

The advent of the No Wake Zone has dramatically changed the use of the Cove. Now, everyone" is using the Cove. It is now safe for parents to let their children raft, swim, swim, float, paddle, and just enjoy the whole Cove. Adults also do the same. The advent of the No Wake Zone in this limited cove is sole reason for this to return.

As there is plenty "lake" for the other activities, the continued retention of this protection for man and property is essential.

Kendall and Brenden Moynahan My husband and I own a property on Swallow Point Road in Moultonborough. Please accept this letter from us in support of the no wake zone for Senter Cove for the following reasons: Environment- there is erosion along the shorefront caused by large waves in the small cove. In addition, beach fronts, natural shoreline bush and tree areas have been detrimentally affected by the continuous bombardment of sizable waves caused by speeding boat waves

The traffic in the cove has increased greatly due to water skiers, etc, using our cove. This has also caused safety issues - too many boats speeding around in such a small area. It is impossible for anyway to swim into the cove due to the traffic.

The boat traffic has also affected the wildlife - pushing the loons to the shore line and disrupting the bass (no nests are here due to turbulence). And one final point, the Kona Boathouse is a historic landmark and the no wake has protected the boathouse from further damage.

Jean and Tom Murphy We are strongly in favor of preserving the No Wake Zone in Senter Cove. The No Wake Zone has resulted in a big improvement in the safety and quality of life around the cove. Please use this e mail as our proxy to vote in favor of keeping the No Wake Zone in Senter Cove.

Bill and Cynthia Rafferty We wrote to support the creation of the Senter Cove no wake zone last year and with its enactment /enforcement, have thoroughly enjoyed the ABSENCE of racing personal water craft and juiced up ski boats with radios blasting. In the short time that it has been in place, the beauty and I believe safety of the cove has improved. Children and other swimmers are safer and more canoes and kayaks are enjoying the cove in harmony with the wildlife and sparing it the otherwise

additional environmental stress from wakes and fossil based exhaust emissions. Wildlife is more present and with the NO WAKE zone, the beauty and serenity of the cove can be enjoyed by all, rather than only by the few inconsiderate "ham-heads" racing without about with no concern for others! Worse yet, it's clear that these obnoxious offenders don't even maintain residences on the cove. So, they'd rather disturb the folks of Senter Cove than their own neighbors and shorelines! Certainly, it's a big enough lake with enough suitable waters that Senter Cove can be spared the noise, disruption, erosion, boat traffic and displacement of wildlife that rescinding the existing no wake zone would impose. We own a power boat and a wave runner and love tearing around responsibly as much as anyone, but continue to be more than willing to observe the no wake provision of Senter Cove for the greater good of our neighbors, it's shoreline and the environment. We hope and trust that you take the collective sacrifice of all the supporters of the no wake zone into consideration in the Board's ruling.

Pat and Jerry Rice We were pleased that last years' No Wake Zone went into effect. Now we hear that it may be rescinded. This would be a huge mistake. There is too much small boat traffic and even swimmers in the cove for fast boating in this small cove. The throat is narrow and in years past we've had to stop for wake boarding boats to zoom by us, often only 25-50 ft. off our bow. There were also numerous jet skis coming into ur cove from who knows where that seem to respect no boating laws whatsoever. The No Wake Zone changed that, for the better. Please do not allow this common sense law to be rescinded. The lake is large enough for those who desire higher speeds to do it where it does not endanger others.

George and Silvia Serrano Retaining the No Wake Zone restriction is vitally important to the health of the shoreline, to the well-being of wildlife, to the safety of boaters, as well as to the peace and tranquility of our neighborhood. As the rear area of the Cove is only 650ft x 500ft, it does not provide sufficient space for the wakes to dissipate or for the abatement of engine noise. Consequently, the wakes slam into the shore, eroding the shoreline and its plant life, destroying fish and loon habitats, as well as damaging the historic Kona Boathouse. In addition to frightening wildlife away, the reverberating noise of running engines in such a confined area, is a maddening invasion of our privacy.

The Cove is simply too small to allow for the safe operation of motorized watercraft. Given that such watercraft is not allowed within 100 feet of shore, it is limited to an area that is no more than 300 feet wide. In the absence of the No Wake Zone restriction, this tiny area would become extremely hazardous to swimmers, kayaks, canoes, floats, and sailboats, all competing for the same space.

The wisdom of the current No Wake Zone restriction is evident. We fervently request that the Cove, its remaining wildlife, and its residents not be subjected to the hell which prevailed prior to the restriction.

Henry and Jean Spindler We are owners of three units at Windward Harbor located at the closed end of Senter Cove. Two of our units, [# and # redacted] are quite close to the water's edge. Over the years we have had a front row seat to the shenanigans of some boaters, jet skiers, and water skiers from our porch and deck. The boats have traveled at unsafe speeds while towing skiers and seem to want to create the biggest wakes possible. This was particularly worrisome because those people in canoes and kayaks had to try to avoid these wakes, even as they dissipated; and swimmers off our beach were intimidated by the unsafe actions of the large watercraft. In addition, the waves caused by the speed of the boats and jet skis could not help but impact the shoreline in such a small cove. Our beach has shrunk over the years from this problem, and trees along the waters edge have been losing their root systems.

Windward Harbor has always requested that its residents use no wake speed when entering and leaving the cove for the above reasons and also to protect the boats and docks on the Swallow Point side of the cove. It has never been a hardship since the cove is so small; and, for the young people, waterskiing is much better in the larger lake areas beyond. The summer of 2010 brought peace and serenity to our area. We loved it, the loons loved it, and we are sure the majority of homeowners along the shore of the cove loved it. Please DO NOT TAKE AWAY OUR NO WAKE ZONE!

Carol Spracklin We have been residents of Windward harbor for 27 years. Since the no wake zone has been in place in Senter Cove, the whole area has taken on a quieter, more relaxed tone. Do we miss water skiing and showing off to those on the shore? Of course, but we certainly do not want to trade

the calm waters for a fleeting moment. We now happily take our skiing and tubing activities to the open water. Our whole family unanimously supports the retention of the no-wake zone throughout Senter Cove.

Eleanor Stoddard Most of us who buy real estate on lakes in New Hampshire do it to enjoy the beautiful nature and surroundings of the lakes. Maintaining the no wake zone in our small Senter Cove area is critical to maintaining that calmness that is prevalent in the north part of the lake, as well as the safety and protection of our property lines, our small children who play at the water's edge, as well as the pair of loons which frequent the cove. Please do the right thing and not bow to the boat dealers and marinas who encourage fast, loud and annoying boats to disrupt what is a treasure here in New Hampshire.

Edward Sutcliffe I have lived in Senter Cove for 33 plus years. Environmentally there is serious erosion- We have experienced erosion all along over shoreline. This is being caused by large boat waves in such a small confined cove area. Beach fronts, natural shoreline bush and tree areas and boats moored or tied to three different community docking systems have been detrimentally affected by the continuous bombardment of sizable waves caused by speeding boat waves. Greatly increased boat traffic in this small cove the past ten years of water skiers, jet skiers and motor boaters coming from more distant areas.

Safety- as it relates to the relative tightness of the cove and the danger of motorized watercraft coming every single angle at every speed, often endangering sailboats, swim float, canoes and kayaks trying to utilize this same cove area.

Wildlife- Loons were driven from the cove as boat traffic increased and now loons are coming to the shore line. Bald Eagles, mating pair, roost around Cove often(nest at Blueberry Island). Smallmouth bass and pickerel are here; but before, bass left nests before the spawn due to turbulence.

Kona Boathouse is a historic landmark and the no wake has protected the boathouse from further damage.

Jaquiline Sutcliffe The No-Wake Zone here for Senter Cove, enacted June 2010, has been a Godsend. Our Cove is only 1200' long, including shallows & rafts, less than 600' at the entrance between the red and black markers. No longer do we have to deal with the exaggerated waves from wake-boats and other ski-boats eroding our shorelines, weakening our docks, and, most importantly, endangering our children, our grandchildren, and ourselves, who might simply want to kayak, canoe, and swim in this small Cove.

Here are some of the reasons to keep the no wake zone for Senter Cove:

Environmentally there is serious erosion- along the shorefront that is caused by large boat waves in such a small confined cove area. Beach fronts, natural shoreline bush and tree areas and boats moored or tied to three different community docking systems have been detrimentally affected by the continuous bombardment of sizable waves caused by speeding boat waves Greatly increased boat traffic in this small cove the past ten years of water skiers, jet skiers and motor boaters coming from more distant areas.

Safety- as it relates to the relative tightness of the cove and the danger of motorized watercraft coming every single angle at every speed, often endangering sailboats, swim float, canoes and kayaks trying to utilize this same cove area.

Wildlife- Loons were driven from the cove as boat traffic increased and now loons are coming to the shore line. Bald Eagles, mating pair, roost around Cove often(nest at Blueberry Island). Smallmouth bass and pickerel are here; but before, bass left nests before the spawn due to turbulence.

Kona Boathouse is a historic landmark and the no wake has protected the boathouse from further damage.

Andy Tucker I am in support of maintaining the No Wake Zone in Senter Cove in Lake Winnepesaukee for the following reasons:

Environmentally there is serious erosion- along the shorefront that is caused by large boat waves in such a small confined cove area. Beach fronts, natural shoreline bush and tree areas and boats moored or tied to three different community docking systems have been detrimentally affected by the continuous bombardment of sizable waves caused by speeding boat waves; greatly increased boat traffic in this small cove the past ten years of water skiers, jet skiers and motor boaters coming from more distant areas.

Safety- as it relates to the relative tightness of the cove and the danger of motorized watercraft coming every single angle at every speed, often endangering sailboats, swim float, canoes and kayaks trying to utilize this same cove area.

Wildlife- Loons were driven from the cove as boat traffic increased and now loons are coming to the shore line. Bald Eagles, mating pair, roost around Cove often(nest at Blueberry Island). Smallmouth bass and pickerel are here; but before, bass left nests before the spawn due to turbulence.

Kona Boathouse is a historic landmark and the no wake has protected the boathouse from further damage.

Gary and Karen VanDoren We have been on Senter Cove at [redacted] for 33 years. During this time period we have seen erosion of our shoreline causing the loss of three large trees into the lake. Each year we observe the continued erosion of four additional trees and blueberry bushes.

The high speed u-turns made in Senter Cove create higher wakes which weaken our docks. High waves are also made by the large cruisers that tour our cove to view the historic Kona Boat House.

Of greater concern is the safety of individuals who swim, kayak, canoe & sail in our cove. High wakes present a dangerous situation for swimmers & these small crafts. We hope you will give serious consideration to the shoreline erosion and safety issues we have brought forth in this letter.

Harry Vogel, Loon Preservation Committee I am writing to express the Loon Preservation Committee's support of the no wake zone within Senter Cove on Lake Winnepesaukee, and opposition to efforts to rescind the no-wake zone. Senter Cove is a well-known nursery area for a resident loon pair and its chicks.

The Loon Preservation Committee has employed seasonal field biologists on lakes throughout the state each year since 1976. These biologists monitor New Hampshire's loon population; manage loons by providing nesting rafts, and signs placed around active nests; and educate lake users about loons and their needs.

Loons are listed as a threatened species in New Hampshire, and the loon population of the state remains significantly below its historical levels. LPC's intensive management of loons has more than doubled the state-wide population since 1976; however, loons in New Hampshire face significant challenges.

Loons are listed as a threatened species in New Hampshire, and the loon population of the state remains significantly below its historical levels. LPC's intensive management of loons has ignored than tripled the state-wide population since 1976; however, loons in New Hampshire face significant challenges. Collisions with boats and personal watercraft account for 12% of known causes of adult loon deaths in the state. They account for 22% of known causes of chick deaths. Newly-hatched loon chicks are small, darkly colored, and too buoyant to dive. Therefore, chicks are not easily seen by boaters and cannot escape a fast-approaching boat.

Loon deaths as a result of collisions with boats or personal watercraft can also affect the reproductive success of loons. Studies of banded loons have revealed an 86% reduction in nesting in a loon territory the year after the death of the female of a territorial pair and a 42% reduction after the death of the male. Mortality and reduced productivity as a result of boat and personal watercraft collisions are clearly impacting New Hampshire's loons.

Boating is one of many factors that influence the survival and breeding success of loons on Lake Winnepesaukee. Loon populations on Winnepesaukee have experienced greater declines in overall population and reproductive success than in other areas of the state, as evidenced by the following statistics derived from data recently (2005-2009) collected by LPC staff, members and volunteers:

- The loon population on Winnepesaukee has declined from an estimated historical level of 30 to 40 pairs, to an average of fewer than 24 pairs.
- Nesting loons on Winnepesaukee have hatched only 0.67 chicks per nesting pair per year, 25% fewer than state-wide averages.
- Once hatched, there is a 69% chance that a loon chick on Winnepesaukee will survive to fledge, 9% less than the state-wide average. Collisions with fast-moving boats and personal watercraft are a leading cause of loon chick mortality on Winnepesaukee.

Loons on Winnepesaukee have fledged only 0.28 chicks per territorial pair per year, 39% below the state-wide average. In 2010, only three loon chicks were fledged from the entire lake. This reproductive success rate is significantly less than the number indicated in loon population models as necessary to maintain a viable loon population on the lake.

Loons and other wildlife contribute to the spirit that makes our lakes special to New Hampshire's residents and visitors. It would be a shame to lose the very qualities that have attracted both loons and people to our lakes. For the reasons stated above, LPC opposes efforts to repeal the no-wake zone in Senter Cove on Lake Winnepesaukee.

Kathy and Richard Whiteside This letter is written in support of maintaining the "no wake" zone in Senter Cove; in other words we want the "no wake" zone to remain in Senter Cove where we purchased our Windward Harbor home last year in large measure for the safe family atmosphere that it

affords. As you know the cove contains an historic boathouse and several marinas and various other docks, along with a number of swimming rafts.

During the summer months there is constant movement of boats in and out of the cove. To our knowledge, in the summer of 2010 there were no violations of the "no wake" restriction which provided the community exactly what it was looking for: a fun-filled and safe season. Additionally, the "no wake" zone helps to preserve the lake and its surrounding land from further erosion.

We are quite frankly surprised that after your having made this decision, and we presume after much community input and thoughtful consideration by those charged with the decision, that there would be any window of opportunity for reconsideration. Knowing Moultonborough and the State of New Hampshire both to be entities that make decisions only after thorough research and community input, it is hard to imagine that this would again be on the docket for consideration. Please include our names along with the long list of others standing in strong support of maintaining the "no wake" zone in Senter Cove.

DISCUSSION:

In gathering findings of fact, the following is considered:

RSA 270:1, II Declaration of Policy

"In the interest of maintaining the residential, recreational and scenic values which New Hampshire public waters provide to residents of the state and to the promotion of our tourist industry, and in light of the fact that competing uses for the enjoyment of these waters, if not regulated for the benefit of all users, may diminish the value to be derived from them, it is hereby declared that the public waters of New Hampshire shall be maintained and regulated in such way as to provide for the safe and mutual enjoyment of a variety of uses, both from the shore and from water-borne conveyances. Such provisions shall take into consideration the following: the variety of special uses appropriate to our lakes, public safety, protection of environment, and water quality, and the continued nurture of New Hampshire's threatened and endangered species."

RSA 270:12 Operating Restrictions.

The commissioner of safety shall, after receiving a petition signed by 25 or more residents or property owners of each affected town or towns in which a lake, pond or river is located and after notice and hearing, at which it appears that the public interest requires, adopt rules under RSA 541-A governing the maximum horsepower of boat engines and outboard motors or prescribe maximum speed limits for the operation of such boats or outboard motors applicable to or upon all or any portion of the public waters of this state. The commissioner of safety shall, in like manner and after notice and hearing, prohibit the use of motorboats and outboard motors on bodies of public water having an area of 35 acres or less; provided that said prohibition shall not be construed as affecting the bodies of water covered by RSA 270:75-109. Hearings under this section shall be held in the vicinity of the body of water under consideration during the months of June, July, August and September following the date of the petition.

RSA 270-D: 2 General Rules for Vessels Operating on Water.

"...Vessels shall be operated at headway speed only, while passing under all bridges. VI. (a) To provide full visibility and control and to prevent their wake from being thrown into or causing excessive rocking to other boats, barges, water skiers, aquaplanes or other boats, rafts or floats, all vessels shall maintain headway speed when within 150 feet from: (1) Rafts, floats, swimmers; (2) Permitted swimming areas; (3) Shore; (4) Docks; (5) Mooring fields; (6) Other vessels. . . ."

Saf-C 409.01 Request for Hearing.

(a) Any group of 25 or more persons, any association having not less than 25 members, or any governmental subdivision or agency may, pursuant to RSA 270:12, petition the commissioner for a hearing to determine whether a problem exists which could be alleviated by the adoption, in accordance with RSA 541-A, of the following types of rules:

(1) Governing the maximum horsepower of boat engines and outboard motors on all or any portion of the public waters of the state;

- (2) Prescribing maximum speed limits for the operation of boats on all or any portion of the public waters of the state; or
 - (3) Prohibiting the use of motor boats and outboard motors on public waters having an area of 35 acres or less, except any body of water covered by RSA 270.
- (b) Pursuant to RSA 270:12, this rule shall not apply to those bodies of water covered by RSA 270:75-109.

Saf-C 409.04 Criteria for Review.

- (a) The commissioner shall, after the hearing, adopt rules of the type authorized by RSA 270:12 if it appears that, consistent with RSA 270:1, II, the rule shall provide for the safe and mutual enjoyment of a variety of uses, taking into consideration the factors in (b) below.
- (b) In determining whether to adopt such rules the commissioner shall consider the following:
- (1) The size of the body of water or portion thereof for which rulemaking action is being considered;
 - (2) The effect which adopting or not adopting the rule(s) would have upon:
 - a. Public safety;
 - b. The maintenance of residential, recreational, and scenic values;
 - c. The variety of uses of such body of water or portion thereof;
 - d. The environment and water quality; and
 - e. Threatened and endangered species.
 - (3) The number of people affected, either directly or indirectly, by adopting or not adopting the rule(s); and
 - (4) The availability and practicality of enforcement of the rule(s).

The number of people in attendance at the hearing and the numbers of persons recorded for or against the proposed petition are given weight in determining findings; however, greater weight is given to the authority of law establishing factors which shall be considered in formulating a ruling basing upon the statutes and administrative rules (*Supra*).

The petitioners presented information through the statements within their Petition along with testimony, supporting PowerPoint presentation, and assertions of support received before, during or after the public hearing. The first two speakers Mr. Kinney for the petitioners, followed by Ms. Cooper speaking against the petition, provided detailed presentations supporting the main objective of each viewpoint and line of reasoning for me to consider. I will not provide a protracted analysis at this juncture, as public comment and supporting emails and letters are a matter of record along with the audio-recording.

The petitioners assert that many abutters and landowners within Senter Cove were not notified of the 2009 public hearing. Since the implementation of a No Wake Zone in 2010, the quality of and customary use for all who water-ski, along with increasing the time to travel within Senter Cove, is worse. The petitioners, using contrasting statistics and statements from those provided to the Department of Safety in 2009, argue to remove the No Wake Zone. Persons contend that evidence by commentary or by data submitted and considered by the Commissioner of Safety at the 2009 public hearing was flawed and have provided revised details and information for consideration. After reading all of the commentary, I recognize a 'thread of commonality' among those in favor of this petition centering on the activity of water-skiing.

The Petitioners and persons providing commentary supporting the petition have provided a number of statements with statistical information such as the size of the cove and measurements provided within Exhibit A. The arguments discuss issues including that the size of the cove should allow for mutual enjoyment of a variety of uses and that water-skiing was a familiar activity. In addition, persons have listed memories of family enjoyment while teaching children to water-ski and watching them practice from their shorefronts. The inability to water-ski within Senter Cove after years of families historically doing so is missed. There is no record of boating accidents, and some speakers maintaining not even close encounters. A number of the comments argue that maintenance of shorefronts by the owners is a task that is necessary on an ongoing basis and is an expectation of shorefront ownership. They say that waves and the resulting loss of shorefront are caused by natural weather conditions and cannot be chiefly attributed to boats.

Other statements seeking that the petition be accepted include, but are not limited to, the lake chart showing thirty-eight areas on Lake Winnepesaukee smaller than Senter Cove allowing water-skiing; forcing boats to bypass Senter Cove. This is causing more boats to operate in an area outside the buoy marker; the commenter(s) arguing that this is more hazardous than allowing boats to travel in and out of the cove. The cove is unique because of the sandy beaches to teach skiing; the public policy is generally to provide for a variety of uses; however, a No Wake Zone restricts uses. Petitioners dispute that there is any environmental damages to shorelines and property caused by boats; commentary indicating no

significant evidence of erosion in the previous thirty plus years. In addition, most of the shore is rocky on the southern coast, natural sand on the eastern side and the cove is windy, and the waves are large from storms. A person commenting in favor of the petition said that when the cove gets busy the wildlife move away from the cove, they go to nesting spots and other feeding areas, when the cove gets quieter the wildlife returns. I also noted the enforcement aspects pointed-out that complaints should be reported, rather than add regulations; but if it is a safety issue, suggesting taking pictures and sending them to law enforcement, or posting the pictures to a website.

Persons speaking against the Petition generally provided opinions comparable to the public comments received in 2009 along with commentary emphasizing the positive changes observed since the No Wake Zone went into effect in 2010. Some comments included persons noting that about fifteen years ago Senter Cove passed the point where the increasing presence of high-speed boats and the safety of swimmers and slow-speed boats were seriously at odds, indicating since then there have been reported serious incidents and easily observable near collisions on a regular basis. The carrying capacity of Senter Cove has been reached, and the State must look at the contributory affects. Person(s) against argue with many lakefront beaches, swim platforms, lake access, docking and moorings in the area, there is considerable use of the water by all the families, both permanent residents and summer residents. Many have canoes, kayaks and also swimmers in the cove. Since the No Wake Zone was placed in the cove people are able to use the lake, giving an example of swimmers crossing the cove. The danger feared prior to the No Wake Zone included the danger of motorized watercraft coming from many angles at varying speeds, often endangering sailboats, swim floats, canoes and kayaks trying to utilize the same cove area. The No Wake Zone has provided a veil of safety for children using the cove and for adults who enjoy kayaking, paddle boarding, canoeing and just taking a swim to the historic boathouse. In addition, removing the no wake zone and allowing wake boats and powerboats to come into the cove at high speed would be dangerous to children and grandchildren on small craft. Another person commented that prior to the No Wake Zone several residents in Windward Harbor complained of near misses and powerboats coming to close to them and to the swim rafts at high speed.

Supplementary comments discussed maintenance issues, arguing Senter Cove is used by five communities and the numbers of users have increased. Water-skiing makes waves and doing so within the cove creates surge.

Environmentally, large boat waves/wakes are causing serious erosion along the shorefront and additionally to beach fronts, natural shoreline and bush and tree areas. Boats moored or tied to three different community docking systems have been detrimentally affected by the continuous bombardment of sizable waves/wakes caused by speeding boats. The waves from a recent storm did not affect the boathouse, because of its location on the leeward side of Swallow Point. However, wakes generated by boats within the cove itself, do strike the boathouse. The boathouse is a historic landmark and the no wake zone has protected the boathouse from further damage. Persons state that Senter Cove has environmentally started to return to what the cove was years ago; the quality and clarity of the water has improved; the shoreline erosion has diminished; loons driven from the cove as boat traffic increased are coming back to the shoreline along with other animals such as smallmouth bass, pickerel, muskrats, and other wildlife.

On the subject of enforcement, persons complained that before Marine Patrol arrived the people in the boat, or the watercraft complained of had left; however, the No Wake Zone enacted last summer has improved safety for the many families living on the cove, as well as alleviated shore erosion and lessened the abuse on the residents' private property. The commentary indicates that before the No Wake Zone came into effect, boats in Senter Cove tended to have little respect for the 150' rule, cutting too close to one another even when one boat towed a water-skier. The No Wake Zone has been an effective way to ensure the safety of everyone who enjoys swimming or boating on Senter Cove.

As the Commissioner of Safety, I have carefully studied the listed statute(s) and rule(s) having authority for this petition. I recognize and give great weight to the instructive language found within RSA 270:1.11 (*Supra*); this passage speaks unmistakably to the Declaration of Policy our legislature has placed within the statute.

My designee remarked that although there is a separation of opinion many at the public commentary hearing were willing to share the number of years they have lived along the shoreline and enjoy with their families the water activities within Senter Cove. My analysis of the commentary reveals a shared affectionate and respect of Senter Cove.

The Commissioner designee provided general and instructive information to the Petitioners, when returning their initial petition. The information and instruction is not advice. The letter and brochure explained the reason for not scheduling the request. Much of the instruction is located on the Department of Safety website, or within the laws found at the State of New Hampshire Legislature website.

With few exceptions, the Petitioners and persons speaking in favor of the petition focused on the inability to water-ski since the No Wake Zone was implemented. The fact finder was asked not to allow emotion to rule the outcome, but carefully follow the law and consider facts submitted. In many of the written testimonials and the causes brought forward for consideration for the current petition those in favor argue that the public comments for the 2009 hearing (the prior hearing) are untrue and/or without legal foundation. As part of the instruction mentioned earlier, this forum for public comment on June 24, 2011 is not an appeal of the earlier decision. In 2009, separate Petitioners requested a No Wake Zone for reasons including watercraft violations that were occurring and enforcement efforts that they argued did not help to abate them as listed within Saf-C 409:04. They included, but were not limited to, arguments focused on the speed of watercraft within the cove causing wakes contributing to safety concerns and damaging wakes affecting shorefronts and environment habitat. Many of the persons from the 2009 hearing also submitted updated comments at the current hearing arguing to maintain a status quo. Understanding this, I have carefully reviewed the contrasting content in my fact-finding task.

The testimonials, both for and against, are an important part of the fact-finding review process and given weight as applicable. The measurements and size of the body of water and numbers of people affected as presented by the speakers do vary; however, not to such a degree that I can judge the information as being false or misleading; the same holds true as I review the written comments from many people. In addition, I address notification of the public hearing and who may provide public comment. RSA 270:1,II (in part) says ... *"In the interest of maintaining the residential, recreational and scenic values which New Hampshire public waters provide to residents of the state ..."* (emphasis added). My understanding is that the residents of the State of New Hampshire are notified and that users of the body of water under evaluation may provide comment. There is a preponderance of information submitted showing that there are many residents or vacationers living along the shoreline, near Senter Cove, or who are concerned residents of the State. They all, for the variety of uses listed, are concerned about the effect which adopting a rule to remove the current No Wake Zone will have on: public safety; maintenance of residential, recreational and scenic values; the variety of uses within Senter Cove; environment and water quality; threatened and endangered species; the number of people affected either directly or indirectly; and the availability and practicality of enforcement. Water-skiing/wakeboard-related activities and the speed of watercraft are only some of the many ways to enjoy this cove; however, these uses have negative affects on the cove.

Before the No Wake Zone, enforcement efforts to provide safety with such watercraft reported as non-conforming to safe-boating laws was not enough. As an analogy, comparing boating law to roadway speed limitation, a buoy that demands a speed of "no wake" is comparable to a roadway sign for vehicles. A speed limit sign requires drivers to observe the posted limit and to travel at a safe rate whether there is an enforcement officer present or not. This not only provides protection for the drivers and for those with whom they share the roadway, but also to safeguard surroundings along the road such as a residential area. This same signage for Senter Cove is also expected to be honored whether there is an enforcement officer present or not. The notations in the commentary suggest for the most part, the buoy now in place has been successful. This petition, if granted, will return waterskiing/wakeboard-related activities and the speed of watercraft to Senter Cove, which has demonstrated a recognizable correlation to lessening public safety while sharing the water with other uses within the cove. In addition, if allowed, there is reasonable evidence that removal of the No Wake Zone will increase the maintenance of residential, recreational and scenic values, due to the erosion from watercraft-caused wakes as opposed to the decrease shown since the rule was enacted. There is persuasive commentary showing that the variety of uses reveal a diversity within Senter Cove including, but not limited, to boating, fishing, swimming, enjoying wildlife habitat, the scenery of the cove, and the historical boathouse along with showing that the No Wake Zone has in general improved environment and water quality. I have determined that the availability of Marine Patrol personnel and practicality of enforcement to monitor

Senter Cove, one of many coves within Lake Winnepesaukee, for the purpose of waterskiing/wakeboard-related activities and the speed of watercraft will not be adequate.

After carefully reviewing and considering all of the evidence and testimony received, in conjunction with the law, and what the petition seeks to accomplish, please refer to my findings (*infra*).

FINDINGS OF FACT:

1. That pursuant to RSA 270:12, fifty-four (54) people petitioned the Commissioner of the Department of Safety to conduct a public hearing to regulate motor boat usage in the area of Senter Cove located within Lake Winnepesaukee in Moultonborough, New Hampshire.
2. Official notice for the hearing was published in a newspaper of statewide circulation, The Union Leader, Manchester, NH on June 10, 2011. In addition, notification was sent to the town officials of Moultonborough. Press releases were disseminated to the general media and the Notice of Hearing was posted on the Department of Safety website at: <http://www.nh.gov/safety/divisions/hearings/compendium/watercraft/index.html>
3. The petition seeks to adopt a rule to remove the No Wake Zone (speed restriction) in Senter Cove located within the Town of Moultonborough, New Hampshire.
4. A public hearing was scheduled on Friday, June 24, 2011 and conducted pursuant to RSA 541, RSA 270:12 and Administrative Rule Saf-C 409 at the Moultonborough Town Office Complex, 6 Harbor Road, Moultonborough, New Hampshire.
5. That the size of the body of water or portion thereof for which rulemaking action is considered; the Petitioners providing a width of Senter Cove in two locations as 975 Feet and as 470 Feet; as opposed to measurements by the 2009 Petitioners as 975 Feet and 1,400 Feet. Although the measurements are unlike, the general figures are sufficient for determining the other contributing factors to consider.
6. Public comment was received generally regarding public safety that shows public safety is a concern and the removal of the No Wake Zone will not be in the best interest of safety;
7. Public comment was received generally regarding the maintenance of residential, recreational, and scenic values with a showing that the wave action attributable to unnatural factors, chiefly motorized watercraft at speeds resulting in wakes are contributing to the deterioration of shorelines, damage to docks, boats and the historic boathouse.
8. Public comment was received generally regarding the variety of uses of such body of water or portion thereof showing a diversity including use of motorized and non-motorized watercraft, swimming, and fishing;
9. Public comment was received generally regarding the environment and water quality, with commentary on favorable aspects of the upturn in water quality since the No Wake Zone was implemented;
10. Public comment was received generally regarding threatened and endangered species. Instead of the species leaving because of water-skiing/wakeboard-related activity and high-speed watercraft and returning after the activity ended that those species have remained in the cove since implementing a No Wake Zone after June 24, 2010.
11. Public comment was received generally regarding the number of people affected, either directly or indirectly, by adopting or not adopting the rule(s) with no specific numbers of people or households, but an indication revealing an increase in use attributable to more recent association members with ownership of watercraft and towns surrounding Moultonborough.
12. The current law requiring the slowing speed of watercraft as defined within RSA 270-D:2 does not presently provide adequate safety for swimmers, the persons using small non-motorized

vessels, all described motorboats, Personal Watercraft, and the lake's wildlife ecosystem, requiring a prohibition for the speed of watercraft over headway speed (RSA 270-D:1, VI) in Senter Cove.

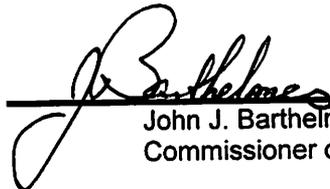
13. The New Hampshire Marine Patrol Bureau enforces the law governing the public waters within Senter Cove in Moultonborough, New Hampshire, and navigational laws are enforced through that agency by the Department of Safety. Public comment was received generally regarding the availability and practicality of enforcement of the rule(s). The issue of observed violations of safe boating laws is divided, however marine patrol officers are unable to follow through with any conclusion without observing the incident(s) or having a specific boat registration description. With the largest lake to patrol, with too few enforcement officers the practicality of concentrating enforcement in Senter Cove is not presently possible.

CONCLUSION OF LAW:

Pursuant to RSA 270:12 (as amended effective 6/24/2011) and the New Hampshire Code of Administrative Rules, Saf-C 409, the information submitted was thoroughly considered within the petition, along with the public commentary received. The evidence demonstrates that the petition is not in the public interest and shall not fulfill the purpose of law. There is adequate proof that the No Wake Zone encompassing Senter Cove in Moultonborough, New Hampshire, Saf-C 402.88 (aw) effective June 24, 2010 shall remain.

DISPOSITION:

The Petition seeking to eliminate a No Wake Zone in the area known as "Senter Cove" on Lake Winnepesaukee in the Town of Moultonborough is denied.



John J. Barthelmes
Commissioner of Safety

RSA 541:3 Motion for Rehearing.

"Within 30 days after any order or decision has been made by the commission, any party to the action or proceeding before the commission, or any person directly affected thereby, may apply for a rehearing in respect to any matter determined in the action or proceeding, or covered or included in the order, specifying in the motion all grounds for rehearing, and the commission may grant such rehearing if in its opinion good reason for the rehearing is stated in the motion."

I certify that a copy of the Decision and Order has been forwarded to the below named via first-class mail or electronic mailing (as applicable).



C. N. Duclos, Commissioner Designee

Date of mailing: August 9, 2011

Petitioner's Designee
Mr. Sean Kinney **VIA EMAIL**
(To be distributed to petitioners)

Town Administrator **VIA EMAIL**
Moultonborough, New Hampshire
:

Director Robert Quinn,
Division of State Police
Department of Safety

Director David Barrett,
Division of Safety Services
Department of Safety

CC: File

The Decision and Order shall be uploaded to the Department of Safety Website and remain for seven days. After that time, a synopsis of the decision shall replace this Order and Decision, Go to: <http://www.nh.gov/safety/divisions/hearings/compendium/watercraft/Watercraft2011.html>

The original documents shall be available and may be reviewed or copies obtained through the Department of Safety. You may contact this department, calling or writing for an appointment to review or request copies in accord with Saf-C 203.14 Fee Schedule and Pre-Hearing Access.

Telephone (603) 271-3486

Email Safety-hearings@dos.nh.gov

Department of Safety, Bureau of Hearings
33 Hazen Drive,
Concord, New Hampshire 03305