



**State of New Hampshire**  
**Department of Safety**

James H. Hayes Safety Building, 33 Hazen Drive, Concord, NH 03305

**JOHN J. BARTHELMES**  
**COMMISSIONER**

## **Report of the Hearings Examiner**

**In the Matter of:**

**Petition to Require Mooring Permits**

**Pleasant Lake**  
**Located within the towns of**  
**Deerfield and Northwood, New**  
**Hampshire**

### **HISTORY:**

The Department of Safety received a petition signed by at least twenty-five (25) residents and/or property owners ("Petition" or "Petitioners") from each of the towns of Deerfield and/or Northwood, New Hampshire. The Petitioners requested the establishment of RSA 270:61-a Petitions to Require Permits: Hearings on Pleasant Lake. This petition seeks that there be a hearing to regulate moorings pursuant to RSA 270:61-a. The Petition, submitted on August 16, 2016, offered the reasons for the requested public hearing. Thereafter, based upon the Petition meeting the legal requirements under the law, a hearing was scheduled.

Pursuant to RSA 541-A, a public hearing was held on Thursday, October 6, 2016 at 2:30 p.m., at the Deerfield Community Church, 15 Church Street, Deerfield, New Hampshire. The scope of the hearing was to allow and consider public comment in accordance with RSA 270:61-a and administrative rule Saf-C 412 on the Petitioner's application.

Christopher Casco, Administrator, Bureau of Hearings, conducted the public hearing as designee on behalf of John J. Barthelmes, Commissioner, Department of Safety.

**OPENING REMARKS:**

Everyone present was informed of the following:

- The Notice of Hearing was read to the persons in attendance;
- the petition and all supporting documents were available for review;
- the public hearing is recorded;
- the recording shall be preserved for seventy-five (75) days along with an explanation of the procedure by which to receive a copy of the recording;
- the opportunity to sign the appropriate "sign-up sheet" to present comment on the petition;
- the notification of public hearing was published in The Union Leader on September 21, 2016 and a reproduction of the posting from the newspaper's web site was available for review;
- the public may review the legal notice, along with the original petition and any other documents; and,
- how and where to submit written comment which must be received by the Department of Safety within seven (7) calendar days following the hearing.

**STATISTICS:**

- (24) people testified at the public commentary hearing. Seventeen (17) were in favor and seven (7) were against the petition.
- (10) sources of public commentary have been received. All have been received within seven (7) calendar days following the hearing. (7) comments were in favor of the petition with (3) opposed to the petition.
- The hearing was closed to public comment at the close of the business day, Friday, October 14, 2016.

**OFFICIAL NOTICE:**

- Petition for the requirement of mooring permits on Pleasant Lake.
- Newspaper published announcement of public hearing.

## EXHIBITS:

- 1: A presentation by Mr. Knox Turner consisting of photographs and slides

## SYNOPSIS OF TESTIMONY:

**Knox Turner** is in favor of the petition and spoke on behalf of the Petitioners. He presented documents for the fact-finder, explaining the rationale for mooring permits and displayed a Power point presentation. He summarized the petition and described its main points. The unregulated mooring problem has persisted for several years. In August, 2015, there were approximately 24 moorings. In 2016, there were 12 to 15 moorings with a high of 17. The moorings have an impact on the land. The Pleasant Lake Preservation Association consulted with individuals involved with a mooring petition granted for Bow Lake in Northwood.

The mooring field that exists is supported by a single parking area with limited available spaces. In addition, the access road for the lake is Gulf Road, which is very narrow. It is the only way in or out. There are approximately 250 residences on Gulf Road, and therefore, many competing interests for the area. The petition outlined 7 areas of concern: public safety- insufficient distances between moored boats to accommodate changing weather conditions. Next, moorings have moved from the shoreline and into boat navigation zones. Moreover, moored boats restrict the space for boats waiting to launch as well as restricting the area when boats wait to leave the lake from the launch. Also, boats are too close to shore and within a few feet of the dam. Next, boats have broken loose from moorings, and oftentimes, shorefront property owners have pursued and taken the boats to prevent property damage. Thereafter, the boats are not claimed in a timely manner by the owners. Moreover, the current large mooring field has no oversight, and is in a small area near the boat launch. Finally, there is insufficient parking for the boat owners in the mooring field who compete with those launching boats and using the beach, which has resulted in parking along Gulf Road which is insufficient. This parking impedes the flow of traffic on Gulf Road, particularly on weekends.

**Mike Reynolds** spoke against the petition. He has a mooring on the lake. He emphasized that the lake is public water owned by the people of NH. Shorefront property owners do not have any greater rights to the water. There have been approximately 10 moorings in the area for the last 10 years. Some moorings are new within the last 2 years. He uses Marine Patrol guidelines for his mooring. He has a 19 foot boat and uses a 4 foot leader for the mooring. Many property owners have moorings and any of them could break loose. He obtained his mooring from a neighbor who had it previously. This mooring field has been there for approximately 25 years and he has had his since 2006.

The illegal parking on Gulf Road is not necessarily done by mooring owners. Other users of the lake may be responsible. There is no verifiable proof that mooring owners are causing parking problems. Removing the field will cause more congestion because all of those boat owners will be required to launch their boats. He feels that the petition was filed in order to make Pleasant Lake exclusive and to deny access to non-property owners.

**Jonathan Leer** spoke in favor of the petition. The mooring field is a safety issue for swimmers. There is a congestion problem in the area. Boats break loose which is a hazard. There is a parking problem and no parking signs are vandalized.

**Nancy Coe** spoke against the petition. The moorings have nothing to do with the safety problems. There are other ways to address the problems.

**Ken Turner** is in favor of the petition. He has rescued boats that have broken from moorings. The Marine Patrol is unable to respond quickly enough to help rescue boats.

**Dave Coe** spoke against the petition. The boat launch is subpar and there are more people in the area of the launch. There are often vehicles blocking the road on a summer day which could impede the response to a fire in the area.

**Scott Knightly** is in favor. Fish and Game is policing the parking spaces but people fight over the spaces. There is a parking issue on Route 107 and Gulf Road. The petitioners are willing to sacrifice moorings in exchange for enhanced safety. Boats have sunk in storms which introduces gas and oil into the water.

**David Tucker** is opposed to the petition. He is against having to pay the state a fee for having a mooring.

**John Crowley** is in favor. There is congestion. Property owners have boats moored in a haphazard manner and needs better control.

**Chris Coombs** spoke against the petition. The mooring field may not be the cause of the problems that the petition seeks to address. The quality of life will not be impacted by granting the petition. If individuals work together to have proper moorings, that will solve the problem. If all people followed existing rules, the problem would be solved. Safety will not be enhanced by granting the petition.

**Stu Hodgton** is in favor. Moorings have increased without regulation. This is the only solution to the problems.

**Charles Henry** spoke in favor. He is a 75 year seasonal resident on the lake. Safety on Gulf Road needs to be addressed.

**Paul Asselin** spoke in favor of the petition.

**Michael Beaudoin** spoke in favor of the petition. There are safety issues near the boat launch where the mooring field is located. There are swimmers who use the area near the boat launch. He described an incident where a swimmer went right behind his boat

while he was launching and he feared he nearly ran the man over. The man had come from a boat in the field.

**Ann Viar** is in favor of the petition. There is no fueling station or facility to pump out waste to support moored boats.

**Bruce Seller** spoke in favor. The road is narrow with limited parking. There is pollution and erosion.

**John Sellar** is in favor. He has a pontoon boat and has trouble navigating due to congestion.

**Holly Martin** spoke in favor of the petition. She described an incident of a loose boat that landed on her neighbors' dock. The mooring field is dangerous for swimmers.

**Preston Thorsen** spoke in favor.

**Pamela English** spoke in favor. Not all mooring holders are respectful.

**Liz Longfellow** is in favor of the petition. The parking area is full on weekends.

**Gary Anderson** is in favor. The parking area caused many problems. It is an unpopular job for police officers to deal with enforcing the parking restrictions on Gulf Road.

**Tom O'Brien** from the NH Lakes Association spoke on behalf of that organization in favor of the petition. The association worked to enact the law under which the petition was filed. All individuals do not have the same access to the water. The only way to limit access is to limit capacity.

#### **SYNOPSIS OF PUBLIC COMMENT RECEIVED:**

##### **OPPOSED**

**Nancy Coe** is opposed to the petition.

**Chris Coombs** is opposed to the petition.

**Michael Reynolds** is opposed to the petition.

The opponents all spoke at the hearing and expressed similar concerns. Their position is that the problems identified are not caused by the moorings. In fact, they feel that the mooring field is far enough away from the boat launch and dam so as to not cause any problems. They argue that the mooring field is a benefit because otherwise, all of these boaters would have to launch every time thereby increasing traffic and vehicles at the launch. They feel that the mooring field enhances safety. It was also

suggested that the State establish and regulate a limited mooring field on Pleasant Lake in front of the State owned property. This space could accommodate 6 moorings.

### **IN FAVOR**

**Avis Rosenfeld** is in favor of the petition. He offered suggestions in support of his comments.

**Omni Irish** is in favor of the petition.

**Ann Scholz** is in favor of the petition.

**Stephen Scholz** is in favor of the petition.

**Lynda Iverson-Sellar** is in favor of the petition.

**Knox Turner** (submitted 2 emails) is in favor of the petition.

The proponents, like those against, expressed similar views to those spoken about at the public hearing. They wrote about the limited parking available and the congestion on Route 107 and Gulf Road due to parking. One person suggested limiting the number of moorings and awarding them by lottery. Many of the boats are moored close together and they shift with wind and are in danger of colliding. Without regulation, a dangerous situation persists. The unregulated mooring field near the boat launch impedes the boat launch. It is more difficult for boats to be removed at the end of the day. Moreover, as it grows, the field has been extending out into the lake, thus impeding navigation of boats on the lake. Also, people swim from their boats in the mooring field, among operating boats, which creates a safety issue. The problems from the mooring field near the dam and boat launch have been increasing for the past 10 years. This is a small lake unable to accommodate the increased number of boats from the moorings.

Moreover, the parking lot at the boat launch is intended for day users, not for those having permanent moorings. The mooring users take spaces away from day users. As a result, there is illegal parking on the narrow access road. Granting the petition will preserve the ecological integrity of the lake. The increased number of boats due to moorings results in greater strain on the small lake.

### **LEGAL ANALYSIS:**

In gathering findings of fact, the following laws and rules are given consideration, and reproduced in relevant part:

**RSA 270:1 Declaration of Policy. –**

- I. In the interest of public safety and the protection of property, it shall be the duty of the commissioner of safety, in all cases not provided for by the United States inspection laws and in all cases in which inspections are not regularly made thereunder, to provide for the inspection on any public waters of the state of all commercial and private boats and the machinery, appliances, and equipment thereof, such inspections to be performed by said commissioner of safety or his duly authorized representative. Said commissioner of safety shall also supervise the safety of navigation and the establishment of aids to navigation, and all lights and buoys maintained at public expense on the inland waters of the state shall be under the jurisdiction of said commissioner of safety. Said commissioner of safety shall make such alterations and improvements in existing lights and buoys as may be desirable, place additional lights and buoys where required to promote the safety of navigation, remove obstructions tending to impede navigation, and maintain all lights and buoys under its jurisdiction.
- II. 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 270:60 Statement of Intent. –**

- I. The general court finds that:
  - (a) Water is a public resource held in trust by the state and that the state maintains jurisdiction to control the use of public waters for the greatest public benefit; and
  - (b) The public waters are a significant asset which enhance the well-being and lifestyle of the state's citizens, benefit the state's substantial tourist industry and the environment, and are a habitat for many fish and wildlife; and
  - (c) That undue proliferation of moorings is detrimental to the integrity of the state's waters and the public's enjoyment thereof.
- II. The general court intends to establish through this subdivision a means of regulating the usage of moorings on public waters. Existing moorings may be permitted in their existing locations, provided such moorings comply with the provisions of this subdivision.
- III. The general court does not intend, by passage of this legislation, to convey to, create for, or recognize any rights of shorefront property owners.

**RSA 270:61 Mooring Permit Required; Limitations. –**

- I. Any person erecting, installing, maintaining, or exercising control over a mooring on Lake Winnepesaukee; Lake Winnisquam; Squam Lakes; Newfound Lake; Ossipee Lake; and Lake Sunapee shall obtain a mooring permit from the division as provided in this subdivision.
- II. Any person applying for a mooring permit shall:
  - (a) Demonstrate to the satisfaction of the director that a need for the mooring exists:
    - (1) Either by furnishing the director with proof of a boat registration for each mooring requested, or for persons owning boats not requiring registration, proof of boat ownership for each mooring requested; or by showing that circumstances exist which require that a mooring be available for intermittent or temporary use; and
    - (2) By verifying that no other viable and safe alternative exists for securing the boat in question; and
  - (b) Show to the satisfaction of the director that he has legal access over land to such mooring; and
  - (c) Show to the satisfaction of the director that such mooring will not be sold or leased except as provided in RSA 270:67; and
  - (d) Furnish any additional information required by the director to determine that a proposed mooring meets the requirements of this subdivision.
- III. Unless a special exception is granted under RSA 270:65, or a mooring field or mooring area has been permitted under RSA 270:67 or 270:68, no more than one mooring shall be permitted adjacent to any shorefront property. This limitation shall apply regardless of the uses or permitted uses, number of owners or others with legal access, or type of ownership of that property, and shall not be construed to exempt any applicant from meeting all of the requirements of this subdivision.
- IV. After July 1, 1989, the director or the director's agents shall remove or cause the removal of any mooring, and any boat that may be moored to it, on the lakes cited in paragraph I if it does not have the appropriate decal. Such removal shall be without the right to a prior hearing and at the expense of the owner of the mooring pursuant to RSA 270:66, IV.
- V. It shall be illegal for a permittee, without approval of the division, to move or cause to be moved a mooring that has been approved in a particular location by the division.
- VI. The department shall not deny a mooring permit to any person, or place any limitations on the type of craft permitted at a mooring, when reasonable need exists, there is no opposition from abutters, there is no evidence that the mooring will interfere with navigation, and the mooring is in compliance with RSA 270:64.
- VII. An owner of shorefront property separated from the main water body by a manmade structure shall be granted a permit for a mooring on the main body of water if the need for the mooring is established and if the conditions of RSA 270:64, I are met.

**RSA 270:61-a Petitions to Require Permits: Hearings.**

- I. 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 the use of mooring permits, amend the rules adopted under this subdivision to require mooring permits on the body of water. The provisions of this subdivision and associated rules shall then apply to such water body.

II. The commissioner of safety shall hold a public hearing to determine whether to grant a petition submitted under paragraph I. In determining whether to grant the petition, the commissioner shall take into consideration the following factors:

- (a) The size of the body of water
- (b) Public safety
- (c) The maintenance of residential, recreational, and scenic values
- (d) The variety of uses of the body of water
- (e) The environment and water quality
- (f) Threatened and endangered species
- (g) The number of people affected, either directly or indirectly
- (h) The availability of moorings to the non-shorefront owning public

II. The commissioner of safety shall schedule the public hearing at a date and time which provides interested individuals with sufficient notice, and at a location in the vicinity of the body of water under consideration. If mooring permits are required under this section, the effective date of such requirement shall be no earlier than October 1 of any given year.

#### **270:67 Public and Congregate Mooring Fields; Permit Required. –**

##### **Public Mooring Fields.**

(a) The division of state police shall identify suitable locations for public mooring fields and prioritize the need for the development of such sites. In determining said locations the division of state police shall recommend each location size and the configuration of each public mooring field. Further, it shall be determined by the division of state police that adequate access exists to serve the needs of the users of the public mooring field. Said site proposal shall then be transmitted to the respective political subdivision or subdivisions in which the proposed mooring field is to be located, where a public hearing on said site proposal may be conducted by the division of state police. The division of state police shall review all recommendations received and submit their final site proposal to governor and council for approval. All such recommendations shall be consistent with any existing master plans, zoning ordinances, wetlands conservation district ordinances, and capital improvement programs of the adjacent municipality.

(b) The division shall issue a permit to any applicant for a mooring in a public mooring field who fulfills the mooring requirements in this subdivision subsequent to approval under subparagraph (a).

(c) Each public mooring field applicant shall be assessed a fee of \$25 which shall be deposited in the navigation safety fund established under RSA 270-E:6-a.

(d) No mooring shall be sold or leased except as provided in this section.

##### **II. Congregate Mooring Fields.**

(a) The division of state police may identify suitable locations for congregate mooring fields. In determining said locations the division of state police shall recommend each location size and the configuration of each congregate mooring field. Further, it shall be determined by the division of state police that adequate access exists

to serve the needs of the users of the congregate mooring field. Said site proposal shall then be transmitted to the respective political subdivision or subdivisions in which the proposed mooring field is to be located, where a public hearing on said proposal may be conducted by the division of state police. The division of state police shall review all recommendations received and submit their final proposal to governor and council for approval. All such recommendations shall be consistent with any existing master plans, zoning ordinances, wetlands conservation district ordinances, and capital improvement programs of the adjacent municipality.

(b) Subsequent to approval by the governor and council, the division shall issue a permit to any applicant for a congregate mooring field who shows that:

(1) The location and size of the congregate mooring field meet the criteria established pursuant to RSA 270:71; and

(2) Adequate access exists to serve the needs of the users of the congregate mooring field; and

(3) The congregate mooring field will comply with the provisions of RSA 270:64; and

(4) No mooring shall be sold or leased except as provided in this section.

(c) Each congregate mooring field permitted by the director shall be assessed an annual mooring fee of \$25 for each mooring installed in the congregate mooring field which shall be deposited in the navigation safety fund established under RSA 270-E:6-a.

(d) Operators in charge of maintaining congregate mooring fields may charge no more for the use of a mooring than an amount which reasonably covers the costs of mooring installations and maintenance. Said charges shall be reported to the division of state police who shall submit an annual report to the governor and council and the general court on all congregate mooring fields.

III. Notwithstanding RSA 270:61, III, small mooring sites may be established without the approval of governor and council, but subject to the approval of the division. Such sites shall be only for the use of motels, cottages, condominiums, other rental property, or homogeneous use group.

### **Selected Administrative Rules**

#### **Saf-C 412 PETITIONS TO REQUIRE PERMITS HEARINGS**

**Saf-C 412.01** Request for Hearing. Any group of 25 or more residents or property owners of each affected town or town in which a lake, pond, or river is located, pursuant to RSA 270:61-a, may petition the commissioner for a hearing to determine whether the public interest requires the use of mooring permits.

**Saf-C 412.02** Scheduling of Hearing. The commissioner shall schedule a hearing within a reasonable period of time, but in no event more than 60 calendar days after the date he received the request. The commissioner shall provide at least 7 calendar days advance notice of the hearing. The hearing shall be held in a town in which the body of water under consideration is located, or in a contiguous town.

**Saf-C 412.03** Conduct of Hearing.

(a) The commissioner or his designee shall conduct the hearing as follows:

- (1) The commissioner/designee shall explain the purpose of the hearing, including:
  - a. The request made by the petitioners; and
  - b. The commissioner's authority under RSA 270:61-a to make rules regarding the requirement of mooring permits on the body of water;
- (2) The commissioner/designee shall state that written comments shall also be accepted and considered. The commissioner/designee shall provide the address to which written comments may be sent and the date by which comments shall be received in order to be considered. Such date shall be 7 calendar days after the date of the hearing;
- (3) The commissioner/designee shall request that all persons who wish to speak at the hearing sign a sign-up sheet provided by the commissioner/designee. This shall not bar any late arrivals from speaking if they do desire;
- (4) The order in which persons speak shall be the same order in which their names appear on the sign-up sheet provided, however, that persons who wish to speak out of order shall be allowed to do so unless there is an objection by another speaker; and
- (5) After all speakers have been heard, the commissioner/designee shall:
  - a. Establish a date by which the commissioner shall make a determination on whether to adopt rules pursuant to the authority granted by RSA 270:61-a;
  - b. State the means by which interested persons shall be informed of the commissioner's determination; and
  - c. Inform those present at the hearing that another opportunity for public comment will be possible, under RSA 541-A, if any rulemaking action is taken.

**Saf-C 412.04 Criteria for Review.**

- (a) The commissioner shall, after the hearing, adopt rules of the type authorized by RSA 270:61-a if it appears that, consistent with RSA 270:61-a, the public interest requires the use of mooring permits on the body of water.
- (b) In determining whether to adopt such rules the commissioner shall consider the factors set forth in RSA 270:61-a.

**LEGAL ANALYSIS ~ DISCUSSION:**

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 significance is given to the specific laws that govern the practice of mooring presently in other lakes within the State and the variety of uses by the public of

Pleasant Lake within the towns of Deerfield and Northwood. This fact-finder has carefully read the content of each submission measuring the discussed commentary with the scope of review listed within the published law and rules (*Supra*). In addition, this fact-finder considers the number of people each public comment represents.

The exhibits and public comments by reference to those exhibits at the hearing, along with all commentary submitted to the fact-finder after the hearing, provided more detailed information in reference to the size and configuration of the area being considered. The persons speaking or writing are a diverse group, with most either owning homes and/or land along the shoreline or non-waterfront property within the towns who otherwise do not have the ability to keep boats on the lake. The cause for concern is a mooring field near the boat launch and dam. Some people have maintained moorings in that area for a long time. The public comment and the many submitted documents for commentary received before the October 14 deadline presented valid arguments both for and against the petition. Clearly, the Pleasant Lake Preservation Association committed a substantial amount of time and careful research to support its petition. On the other hand, the opponents understand many of these concerns but suggest that the moorings are not the cause of the problems. If the petition is granted, they will lose their moorings and be compelled to launch their boats every time they intend to use them.

The Commissioner of Safety must weigh the language of the law, (*Supra*) while bearing in mind the Petition submitted, along with the information to be considered specifically under the authority of the legislature, explicitly RSA 270:61-a. Because this petition requests review of a law that will influence the entire lake, this fact-finder reviews within RSA 270:1 the language for deliberation speaking to competing uses for the enjoyment of the waters; regulating that use for the benefit of all users, keeping in mind what may diminish the value to be derived from them.

In addition, 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. This law, and the others this fact-finder has listed, places the responsibility on the Commissioner of Safety to consider: 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. It illustrates to this fact-finder that the objective of RSA 270:61 and RSA 270:61-a is to recognize the cumulative effect of boats being moored (placed) or scattered without any guidelines, regulations or parameters and, therefore, requiring specific and appropriate regulation. The law requires a complex balancing test of competing interests. As the opponents pointed out, most lakes that require mooring permits are larger than Pleasant Lake. For example, Bow Lake, the most recent body of water added to the list of those that require mooring permits, is 1,160 acres while Pleasant Lake is 479 acres.<sup>1</sup>

New Hampshire law, RSA 270:61-a is a statute that authorizes the Commissioner of Safety to add lakes to the those presently named within RSA 270:61

---

<sup>1</sup> In the Matter of: Petition to Require Mooring Permits on Bow Lake, 1/13/10, John J. Barthelmes, Commissioner.

that require mooring permits after a petition is submitted seeking review by public hearing and if granted, adopting an administrative rule. The other clarification is RSA 270:61-a (h); the availability of moorings to the non-shorefront owning public. There is a boat launch and supporting parking area that allows non-shorefront property owners to gain boat access, although if the petition is granted, they will be unable to maintain their moorings as they do currently. Granting the petition, however, will not prevent them from accessing the lake. This law does not take the place of, or supersede RSA 270:61, although it makes clear the intent of the legislature. However, to allow access without permission to private, or public lands for the purpose of either launching or going to/from a moored boat is not logical or legally recognized. RSA 270:61 was passed in 1987. The Mooring Supervisor, who is charged with reviewing and recommending placement and numbers of moorings throughout the State has, since the laws' implementation, provided the ability to non-shorefront property owners the opportunity to have a mooring for their use. This fact-finder is convinced that this practice meets the intent of RSA 270:61-a (h) and may assist those who currently have moorings to continue to have moorings, and the public generally, and continue to allow access Pleasant Lake.

Moreover, there is an application process for a Public Mooring Field. Once applied for and permitted, each town may have an approved Public Mooring Field with a preferred location along with an appropriate size and number of controlled moorings in accordance with RSA 270:67. Accepting the petition shall introduce an administrative ruling to support safety to navigation in this lake. Therefore, there is a public alternative for moorings if the petition is granted as being appropriate under the law.

Finally, it is instructive to review the decision in the hearing involving Bow Lake in Northwood and Strafford. The Commissioner of Safety granted the petition, thereby requiring mooring permits. The Commissioner granted the petition because moorings had crowded a public boat launch, extended out far into the lake which made navigation difficult and unsafe, and due to safety concerns from swimmers around the moorings and boats breaking from the moorings. Moreover, parking in the area of the moorings was problematic, as it is on Pleasant Lake. See In the Matter of: Petition to Require Mooring Permits on Bow Lake, 1/13/10, John J. Barthelmes, Commissioner and Saf-C 408.01. Many of the same reasons for mooring permits exist on Pleasant Lake, and therefore, the Bow Lake case supports granting the petition.

After carefully considering all of the evidence, exhibits, testimony and all public comment presented, Findings of Fact are issued.

**FINDINGS OF FACT:**

1. That pursuant to RSA 270:61-a, at least 25 residents and or property owners in

the towns of Deerfield and Northwood submitted a petition requesting the establishment of mooring permits on Pleasant Lake. Thirty eight (38) people signed as petitioners from Deerfield. Fifty one (51) people signed as petitioners from Northwood, for a total of 89 petitioners.

2. At the hearing, forty one people appeared in support of the petition, with 7 who appeared against the petition.
3. That the petition, submitted on August 16, 2016, offered specific reasons for the requested establishment of mooring permits and asked for a public hearing requesting that the Department of Safety conduct a public hearing.
4. That official notification for the public hearing was published in a newspaper of statewide circulation, The Union Leader, Manchester, New Hampshire on September 21, 2016.
5. The petition and hearing notice were posted on the Department of Safety web site beginning on September 19, 2016.
6. That a public hearing was scheduled on Thursday, October 6, 2016 at 2:30PM on the issue and conducted pursuant to RSA 541; RSA 270:61-a; and Administrative Rule, Saf-C 412 at the Deerfield Community Church located at 15 Church Street in Deerfield, New Hampshire.
7. That public comment was received and evaluated in reference to the scope of review within RSA 270:61-a including:
  - (a) The size of the body of water
  - (b) Public safety
  - (c) The maintenance of residential, recreational, and scenic values
  - (d) The variety of uses of the body of water
  - (e) The environment and water quality
  - (f) Threatened and endangered species
  - (g) The number of people affected, either directly or indirectly
  - (h) The availability of moorings to the non-shorefront owning public
8. That although RSA 270:60 through and including RSA 270:68 along with New Hampshire Code of Administrative Rules, Saf-C 408 (*et seq.*) defines and regulates the practice of mooring of boats, and RSA 270:67 further delineates designation of locations and other specific criteria to consider, this petition is solely to review criteria contained in RSA 270:61-a, and Administrative Rule, Saf-C 412.
9. That Administrative Rule, Saf-C 412, was adopted September 14, 2009 and effective on September 15, 2009.
10. That Pleasant Lake is approximately 479 acres in size.
11. Pleasant Lake has one public boat launch with public parking.

12. That Pleasant Lake has had unregulated moorings that have existed for the past 25 years but which have increased drastically. For example, in August 2015, there were approximately 24 moorings. In 2016, there were typically 12 to 15 boats on moorings, with a high of 17 that year. Therefore, the proliferation of moorings warrants regulation.
13. Moorings are scattered throughout the lake without regulations governing the spacing of moorings and how they are to be secured in the water which has resulted in boats breaking from the moorings which threatens public safety.
14. That moorings within Pleasant Lake present a number of navigational and safety issues including that moorings have extended into the waterway which impedes navigation, particularly at night.
15. With the increase in size of the mooring field, boats are too close to the dam and boats threaten to collide with the dam due to low water level and inadequate anchoring for moorings.
16. That moorings are impeding access to the public boat launch and it is difficult for boats to be retrieved at the end of a boating day due to the large number of boats in the field in the area of the boat launch which makes maneuvering boats around the launch difficult.
17. That moorings are also compromising public safety due to people swimming to and from moorings.
18. That the effect which adopting or not adopting the petition would have upon the public safety is considered. There is sufficient information to support the request provided for consideration due to the increasing number of scattered boats in the unregulated mooring field in the area of the boat launch, which area is also used by swimmers on a small lake.
19. That the New Hampshire Department of Safety, Division of State Police, Marine Patrol Unit enforces the statutes and rules governing the public waters within Pleasant Lake, in Deerfield and Northwood, New Hampshire. The present navigational laws and any future moorings laws shall be enforced through that agency's Mooring Program and Marine Patrol.
20. The proliferation of moorings on Pleasant Lake and their increase in number on a small lake compromises the maintenance of residential, recreational, and scenic values.
21. Balancing the competing interests of a variety of uses of the water which includes those individuals who have had moorings on Pleasant Lake for many years weighs in favor of granting the petition because their access to the lake will remain through use of the public boat launch and the public mooring process.
22. There is availability of moorings to the non-shorefront owning public through the public mooring and application process with the New Hampshire Marine Patrol.

23. The environment and water quality will be enhanced by requiring mooring permits by limiting the number of boats remaining in the water for extended periods of time. In the past, boats have capsized and broken from moorings which may threaten the environment due to the possibility of spilled gasoline, oil or other contaminants.
24. The Petitioner demonstrated that unregulated moorings have an adverse impact on many people on the lake and the public in general in that 89 people signed in support of the petition, all residents or property owners.

**ANALYSIS CONCLUSION OF LAW:**

The public interest requires the use of mooring permits. The petition for the requirement to have RSA 270:61-a implemented shall present a positive result on public safety and the maintenance of residential, recreational, and scenic values. In addition, petitions for moorings will present a positive result on the environment, the variety of uses of the body of water including the environment and water quality, threatened and endangered species, the number of people affected, either directly or indirectly, and the availability of moorings to the non-shorefront owning public on Pleasant Lake.

The information submitted was thoroughly taken into account within the petitioner's application; public testimony; and exhibits together with taking into consideration the public written and oral commentary submitted. Having done so, this fact-finder recommends granting the Petition based upon these Findings of Fact; (*Supra*) and, that you reach the following Conclusion of Law.

I recommend that the following Conclusion of Law and Disposition be approved based upon the Findings of Fact listed within this report.

Respectfully submitted,



---

Christopher Casco, Administrator  
Department of Safety  
Bureau of Hearing



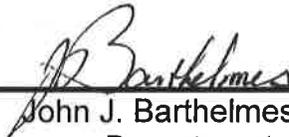
**CONCLUSION OF LAW:**

The Petitioners have presented satisfactory proof to sustain their request for the establishment requiring permits for moorings on Pleasant Lake in Deerfield and Northwood in accordance with RSA 270:61-a; and Administrative Rule, Saf-C 412.

**ORDER AND DISPOSITION:**

The evidence demonstrates that the Petition is in the public interest fulfilling the purpose of law. There is sufficient proof that the Petitioners have met their burden, by a preponderance of the evidence, showing cause that a requirement to have mooring permits on Pleasant Lake in Deerfield and Northwood New Hampshire be adopted pursuant to RSA 270:61-a; and Administrative Rule, Saf-C 412. Rulemaking shall commence forthwith to implement this order to propose including Pleasant Lake in Saf-C 408.01. The effective date of such requirement shall be no earlier than October 1, 2017.

**So Ordered.**



---

John J. Barthelmes, Commissioner  
Department of Safety

**Date:**

12/1/16

**APPEAL:**

Please be advised of the right to appeal the decision of the Commissioner of Safety. An interested party may apply for a rehearing within thirty days pursuant to RSA 541:3; and, if denied, may then appeal by petition to the New Hampshire Supreme Court within thirty days pursuant to RSA 541:6.

---

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

**Date of mailing:** 12/1/16



---

Christopher Casco, Administrator  
Department of Safety  
Bureau of Hearings

**cc:** Captain Timothy Dunleavy  
Division of State Police  
Marine Patrol Unit  
Department of Safety

Moorings Supervisor  
Division of State Police  
Marine Patrol Unit  
Department of Safety

Petitioner Designee(s)

Mr. Knox Turner

*(To be distributed to co-petitioners)*

Town of Deerfield  
Town of Northwood  
File