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MLC

# State of New Hampshire

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

ROBERT L. QUINN  
COMMISSIONER OF SAFETY

March 10, 2020

His Excellency, Governor Christopher T. Sununu  
and the Honorable Council  
State House  
Concord, NH 03301

## Boat Moorings- OSSIPEE LAKE- THIRTY TWO MOORINGS

### Requested Action

To approve the permit application of **TOTEM POLE PARK ASSOCIATION** located on Ossipee Lake in Freedom, NH, as recommended by the Department of Safety, Division of State Police for a Congregate Mooring Field of thirty two (32) moorings under the authority of RSA 270:67. **Totem Pole Park Association** is requesting four (4) additional moorings to be added to the currently established twenty eight (28) moorings for a total of thirty two (32) moorings. **It is recommended that the application be approved for thirty two (32) moorings.**

### Explanation

The petitioner has presented sufficient proof to sustain the request for the addition of four (4) moorings to the twenty eight (28) existing moorings previously approved for a total of thirty two (32) moorings in a Congregate Mooring Field in accordance with RSA 270:67 and New Hampshire Code of Administrative Rules Saf-C 408.

Public Hearing held January 7, 2020.

Enclosed are the Application, Map and Public Hearing Report.

Respectfully submitted,

Robert L. Quinn  
Commissioner

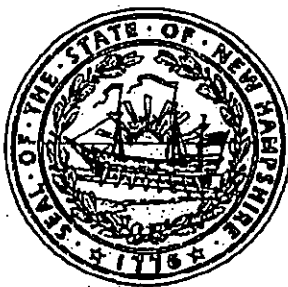
Enclosures

Application Number: \_\_\_\_\_

DECAL # \_\_\_\_\_

Permit Number: \_\_\_\_\_

Conditions: \_\_\_\_\_



# OF MOORINGS APPROVED \_\_\_\_\_

**FOR OFFICIAL USE ONLY**

**APPLICATION FOR A CONGREGATE MOORING FIELD PERMIT**

**Instructions:** This application should be used for all non-public mooring fields consisting of five or more moorings. The application must be completed in its entirety with all the required documentation. Mail the completed application to:

Department of Safety – Division of State Police  
Mooring Program  
31 Dock Road Gilford, NH 03249  
Telephone: 603-293-2037 Ext: #3

NEW HAMPSHIRE  
DIV. OF STATE POLICE

SEP 23 2019

MARINE PATROL

Applicant's name: TOTEM POLE PARK ASSOCIATION <sup>INITIAL</sup> \_\_\_\_\_

Shorefront property location: PEQUAWKET ROAD

Town/City: FREEDOM, NH Phone #: 603-539-4420 office

**NOTE:** The applicant must be the owner or leaseholder, such as the Association, Corporation, Camp, etc., of the shore front property accessing the mooring field.

Contact Person: RICHARD DANFORTH

Mailing Address: 377 OCEAN ROAD City: PORTSMOUTH State: NH Zip: 03801

Phone #: \_\_\_\_\_ Cell Phone #: 978-994-1690 E-Mail: crdanf@comcast.net

The proposed mooring field is located on Lake: OSSIPEE

The town/city tax lot number of the shore front property is: MAP 001A-001B LOTS 001-457

Number of moorings requested: 32 Applicant's shore frontage in feet: 800

The approximate area (size) of the mooring field in square feet: 37,800 FEET

The distance from shore to the furthest proposed mooring in feet is: 191'

The number of docks at the property: 3 The number of boat slips: 0 Is there a swim line? YES

Is there a swim raft at the property? NO What is the square footage of the raft? N/A

Does the applicant have title ownership to the shore front property? common space to 457 owners

Please describe the membership of the group that will have the use of the moorings. Include any membership requirements:

Must be a primary owner of NH Registered boat.  
Must be a member in good standing of  
condominium association.

Please explain how the moorings will be distributed within the group: Each year at the annual meeting, members may apply for mooring, drawing held at annual mtg. The first 28 numbers drawn are assigned a mooring. The rest may enter a share program/waiting list  
Please state all proposed charges for the use of the moorings: NOTE: (The law requires that charges for moorings shall not unreasonably exceed the cost of mooring installation and maintenance (RSA 270:67,II(d)).

\$10.00 Application fee for administrative fee / \$180.00 per year per mooring for maintenance and hardware replacement as well as mooring field start up and close down fees.

Please explain how the mooring users will get to and from the mooring field: \_\_\_\_\_

Moorings field in this area is shallow / most walk to boats / if not dinghy or canoes are used.

Please give an explanation of support facilities such as public or private restrooms and parking for automobiles and trailers:

There is ample parking at the shore front parking lot / Rest rooms are located at the snack bar approximately 300' from mooring field


Please describe the mooring buoys, including the color, shape, size and material: \_\_\_\_\_

Buoys are white vinyl 16" round balls with 5" orange balls attached to tenant lines.

Please describe the mooring anchors, including the material used and the weight: The mooring

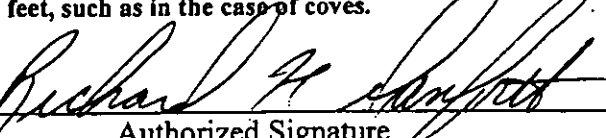
anchors are concrete blocks approx 12" x 25" x 36" weight approx 1,000 lbs with 5/8 chain & swivel to buoys.

I, the applicant, certify that the petitioner shall indemnify and hold harmless the state, its officers and employees from all claims, liabilities or penalties resulting from the acts or omissions of the petitioner in maintaining, managing or operating the mooring field:

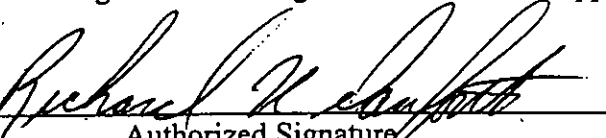
  
Authorized Signature

I, the applicant, certify that all abutters to the shore front property have been notified of this application by certified mail, (based on municipal tax data) return receipt requested, and have been provided copies of the application and grid map.

**NOTE: Abutters:** The record owner of land immediately adjacent to, and/or of any portion of land that is located within 300 feet of, the boundaries of the proposed mooring field, including properties adjacent to the water within 300 linear feet, such as in the case of coves.

  
Authorized Signature

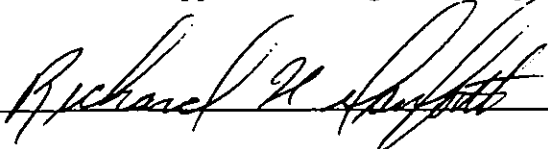
The applicant hereby gives permission for the director or his agents to enter the property for the purpose of performing a field investigation to review this application:

  
Authorized Signature

**NOTE:** This application may require a public hearing. The applicant and abutters will be notified as to the date, place and time of the hearing. The Department of Safety, Division of State Police will submit a recommendation to the Governor and Council who will approve or deny the application. The applicant and abutters will be notified in writing of the recommendation prior to the scheduled Governor and Council meeting.

Do not send any fee with this application. If approved, by Governor and Council, notification will be sent requesting the decal fee. Your annual mooring decal(s) will be forwarded to you upon receipt of payment of the current decal fee. Decals must be renewed annually and must be attached to each mooring above the waterline prior to using the moorings. **Perimeter lighting, if required, must be installed prior to use.**

I hereby certify that all statements on this application and all documentation supplied with this application are true. Supplying false information on this application will result in revocation of any permit issued and is punishable by imprisonment. This application is signed under penalty of unsworn falsification pursuant to RSA 641:3.

Authorized Signature:  Date: 9/19/19







Colonel Christopher J. Wagner  
Director

# State of New Hampshire

DEPARTMENT OF SAFETY

Robert L. Quinn, Commissioner of Safety

*Division of State Police*

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



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On Sept. 24, 2019 a formal mooring application notice went to Department of Environmental Services and Fish & Game.

The notice advised the above agencies that Totem Pole Association was applying for an additional four moorings.

Pursuant to RSA 270:64, III and RSA 270:64, I (c) Marine Patrol was seeking input from them. Part of the approval process requires that we consider if the moorings "may present an unreasonable adverse effect on the environment, including, but not limited to water quality, wildlife habitats, or natural areas."

I asked them to submit their responses to me no later than 10/22/2019.

DES and Fish & Game responded back and advised that they do not feel there is any significant impact as stipulated in RSA 270:64, I (c).

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Since 2017, NH State Police-Marine Patrol has been working with Totem Pole Association to ensure the best possible set up of their mooring field. Their Harbormaster, Richard Danforth, has been trying a couple of different ways to add four more moorings to their existing congregated field of 28.

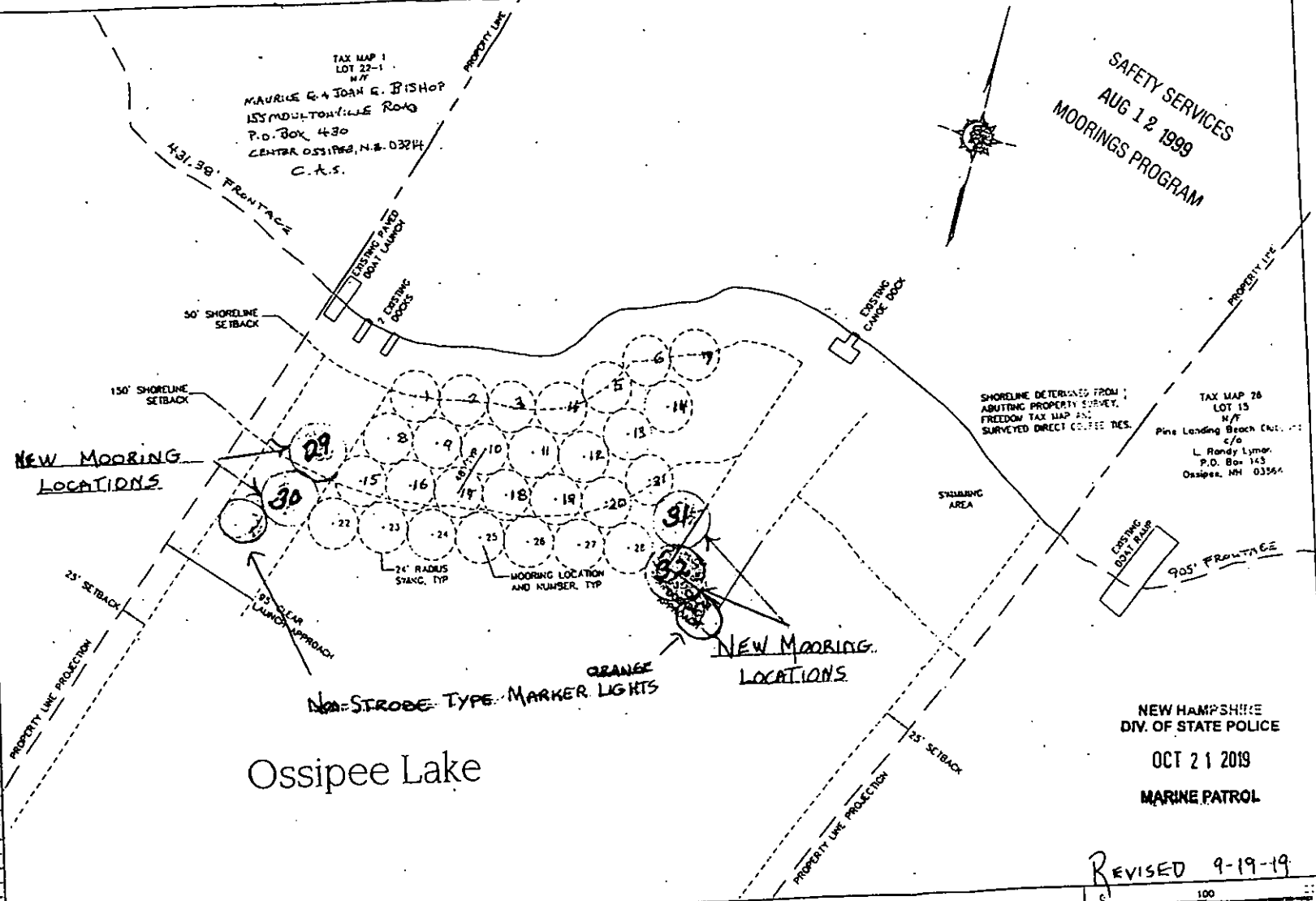
Sgt. Dave Ouellette and I met with Mr. Danforth on Friday, August 16, 2019 and agreed with his final proposed moorings map/set up.

*Mary-Jo Howe*

Mary-Jo Howe  
NH Moorings Supervisor

# Mooring Table

Number	Distance	Depth
1	50'	4.5'
2	50'	4.5'
3	50'	4.5'
4	50'	4.5'
5	50'	4.5'
6	50'	4.5'
7	50'	4.5'
8	93'	4.5'
9	91'	4.5'
10	93'	4.5'
11	91'	4.5'
12	98'	4.5'
13	98'	4.5'
14	98'	4.5'
15	150'	5.0'
16	132'	5.0'
17	135'	5.0'
18	145'	5.0'
19	133'	5.0'
20	146'	5.0'
21	145'	5.0'
22	182'	5.0'
23	180'	5.0'
24	180'	5.0'
25	176'	5.0'
26	174'	5.0'
27	177'	5.0'
28	184'	5.0'
29	184'	5.0'
30	184'	5.0'
31	145'	5.0'
32	191'	5.0'



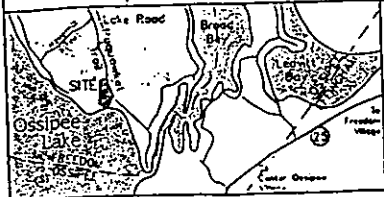
SAFETY SERVICES  
AUG 12 1998  
MOORINGS PROGRAM

SHORELINE DETERMINED FROM:  
ADJUTING PROPERTY SURVEY,  
FREEDOM TAX MAP AND  
SURVEYED DIRECT CORNER TIES.

TAX MAP 28  
LOT 15  
M/F  
Pine Landing Beach Club  
c/o  
L. Randy Lymar  
P.O. Box 143  
Ossepee, NH 03564

NEW HAMPSHIRE  
DIV. OF STATE POLICE  
OCT 21 2019  
MARINE PATROL

REVISED 9-19-19



Prepared by  
  
P.O. Box 440 Ossepee, NH 03864  
(603) 539-4118

Totem Pole Association  
Pequawket Road  
Freedom, New Hampshire

Congregate Mooring Field  
Mooring Requested - 28  
Shorefront - 809' 32

Contact:  
Richard Danforth  
377 OCEAN ROAD  
PORTSMOUTH, NH 03801  
Date: JULY 29, 1999  
Redistribute moorings along the shore...

DATE: 08/16/98, 10:44 AM





# State of New Hampshire

## Department of Safety

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

ROBERT L. QUINN  
COMMISSIONER

## Report and Recommendation

Petition in the Matter of:



### HISTORY:

The Department of Safety received a petition from Totem Pole Park Association requesting the establishment of four (4) additional moorings to an existing Congregate Mooring Field for a requested total of thirty two (32) moorings on Ossipee Lake located in Freedom, New Hampshire. The petition submitted presented the reasons for the requested Congregate Mooring Field supplemental moorings, and was assigned to and investigated by Ms. Mary Howe, Supervisor, Mooring Program, Division of Safety Services, Department of Safety.

Pursuant to RSA 541 a public hearing was held on Tuesday, January 7, 2020 at 1:00 p.m. and conducted at the New Hampshire Department of Safety, 33 Hazen Drive, Concord, New Hampshire. The scope of the hearing was to accept and consider public comment in accordance with RSA 270:67, RSA 270:68 and New Hampshire Code of Administrative Rules Saf-C 408 on the proposal. Mr. Christopher Casco, Administrator, Bureau of Hearings as designee of Robert L. Quinn, Commissioner, Department of Safety conducted the public hearing. Ms. Mary Howe, Moorings Supervisor, represented the N.H. State Police, Marine Patrol Division at the hearing.

### **OPENING REMARKS:**

The Notice of Hearing was read into the record. The petition, along with all supporting documents was displayed for review. Notification of the public hearing was published in The Union Leader on December 5, 2019.

Everyone present was informed:

- ➔ The public hearing is recorded; and
- ➔ The recording would 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;
- ➔ They could review the legal notice, along with the original petition and any other documents; and,
- ➔ How and where to submit written comment that must be received within ten calendar (10) days from the hearing date by the Department of Safety.

### **STATISTICS:**

One (1) person provided public comment at the hearing in favor of the petition. No one provided written comment on the petition which was received within the ten (10) days following the hearing. The hearing was closed to public comment at the conclusion of the business day on Monday, January 20, 2020.

### **EXHIBITS:**

- Response from Fish and Game to Request for Input
- Response from Department of Environmental Services to Request for Input
- Letter from Mary Howe

### SYNOPSIS OF TESTIMONY:

**Ms. Mary Howe** testified on behalf of the New Hampshire Marine Patrol. She provided notice of the petition to add 4 moorings to the Department of Environmental Services and the N.H. Fish and Game Department. Both agencies expressed no concerns. In addition, the Marine Patrol, Sgt. David Ouellette, conducted a site inspection on August 16, 2019. He determined that they had sufficient locations for the additional moorings. Furthermore, he agreed with the Petitioner's final proposal and map of the congregate mooring field. He stated, however, that 32 is the maximum that is appropriate at this site and no additional moorings should be added beyond 32. The Marine Patrol has worked with the Petitioner since 2017 to devise a plan to add moorings in an acceptable manner. This culminated with the map presented with the petition. Marine Patrol supports the additional moorings.

**Mr. Richard Danforth** appeared, representing Totem Pole Park Association (Petitioner). He testified in favor of the petition. There are no issues with the additional moorings which are marked as 29 through 32 on the map. They are acceptable to the Marine Patrol. They allow sufficient space in the mooring field and have proper water depth. The association currently has 457 unit owners for 28 moorings. They have a waiting list of owners who wish to have moorings. They were previously approved for 31 moorings but did not feel comfortable having that many moorings at that time. Therefore, they voluntarily stayed at 28 moorings until they felt ready for 32.

### SYNOPSIS OF LETTERS RECEIVED:

The department received no public comment.

### DISCUSSION:

In gathering findings of fact, the following is given consideration:

#### **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. . . ."

#### **RSA 270:60 Mooring of Boats on Public Waters**

- 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.

### **Selected Administrative Rule Definitions**

- Saf-C 401.04** "Congregate mooring field" means a mooring field dedicated to homogeneous use groups, such as, but not limited to clubs, associations and youth camps.
- Saf-C 408.05** Mooring Permit Application.
- Saf-C 408.07** Congregate Mooring Permit Application.
- Saf-C 401.16** "Mooring field" as defined in RSA 270:59, VII includes congregate and public mooring fields.

Pursuant to RSA 270:61 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. RSA 270:67 further defines designation of locations and other specific criteria to consider.

The number of people in attendance at the hearing and the number of persons recorded for or against the proposed petition are given weight in determining findings. Greater significance, however, is given to the specific information submitted for review by testimony and exhibits. In this case, no one testified against adding moorings. Also, the Marine Patrol worked closely with the Petitioner to devise an acceptable site map, and approves of the additional moorings. Such is strong evidence to support granting the petition. Moreover, the Petitioner previously had obtained approval for 31 moorings. Finally, the added moorings do not extend any further into the water, and they will be entirely in front of the Petitioner's property.

Consequently, the petitioner has provided sufficient evidence, by a preponderance of the evidence, to add 4 moorings to the existing Congregate Mooring Field. Both the Department of Environmental Services and Fish and Game responded to the request for input from Marine Patrol indicating that there is no significant impact as stipulated in RSA 270:64, I(c).

In addition, abutting property owners were notified and did not object to the additional moorings. Finally, there is no negative environmental or safety impact.

After carefully considering the exhibits, testimony and public comment presented, findings of fact are issued.

**FINDINGS OF FACT:**

1. That pursuant to RSA 270:67, Totem Pole Park Association, (Petitioner), petitioned the Department of Safety to conduct a public hearing seeking that an existing Congregate Mooring Field be updated to add 4 additional moorings to an approved mooring field.
2. That official notice for the hearing was published in a newspaper of statewide publication, The Union Leader, Manchester, NH on December 5, 2019. Prior notice was given to the Town of Freedom for Ossipee Lake. The public hearing notice was posted on the Department of Safety web site.
3. Abutting property owners were notified of the application for additional moorings and the hearing date and time.
4. That a public hearing was held on Tuesday, January 7, 2020 on the issue and conducted pursuant to RSA 541; RSA 270:67; RSA 270:68 and Administrative Rule Saf-C 408 at the New Hampshire Department of Safety, 33 Hazen Drive, Concord, NH.
5. That the petition seeks to allow adding four (4) moorings to an existing field of 28 moorings for a total of thirty two (32) moorings within the Congregate Mooring Field within the public water located in Ossipee Lake encompassing a described area as shown in Freedom Tax Map #001A-001B, Lots 001-457, located on the Petitioner's shorefront located on Pequawket Road in Freedom, New Hampshire.
6. That the effect which adopting or not adopting the petition would have upon the public safety is considered. There are four (4) additional moorings requested for a total of thirty two (32) congregated moorings. There is no negative impact on public safety because the mooring field will not be extended any further out into the water, and therefore, will not impede boat traffic. In addition, the mooring field is

entirely in front of the Petitioner's property and will not impact abutting property owners.

7. That public comment received in reference to recreational and scenic values indicated no negative impact. The moorings are needed so that more property owners will be able to have boats in front of their property. At this time, there is a waiting list for moorings.
8. That the Petitioner by testimony, application, and the chart/map submitted, has established sufficient data that the proposed addition to the congregate mooring field is in accordance with the law, and that adding 4 moorings will not have any negative impact on the environment, public safety, or abutting properties.
9. That the New Hampshire Department of Safety, Marine Patrol enforces the statutes and rules governing the public waters within Ossipee Lake in Freedom, New Hampshire, and navigational and moorings laws are enforced through that agency.
10. The petitioner has demonstrated a sufficient present need for 4 additional moorings.
11. The mooring field is properly maintained.
12. The Marine Patrol approved the 4 additional moorings after reviewing the plan and conducting a site inspection.
13. Both the NH Department of Environmental Services and Fish and Game indicated that the mooring field with 4 additional moorings will not have any significant impact.
14. The mooring field has support facilities at the snack bar approximately 300 feet from the mooring field.
15. Property owners access the moorings by either walking through the water, or using a dinghy or canoe.

The information submitted was thoroughly considered within the petition, along with the public commentary received.

**CONCLUSION:**

The Petitioner has presented sufficient proof to sustain the request for additional moorings in accordance with RSA 270:67, RSA 270:68 and New Hampshire Code of Administrative Rules Saf-C 408 on the proposal.

Therefore, for the reasons as set forth I advise the Petition be **permitted** based upon the Findings of Fact listed (*supra*).

Respectfully,

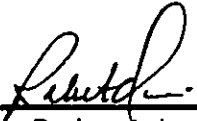
  
Christopher Casco, Administrator  
Bureau of Hearings

Date: 2/21/20

**RECOMMENDATION:** NEW HAMPSHIRE GOVERNOR AND COUNCIL

The evidence **demonstrates** that the petition is in the public interest fulfilling the purpose of law. There is sufficient proof that the petitioner has met the burden by a preponderance of the evidence showing cause that a "Congregate Mooring Field" be adopted pursuant to RSA 270:67, 270:68 and Administrative Rule Saf-C 408.

Respectfully,

  
\_\_\_\_\_  
Robert L. Quinn  
Commissioner of Safety

Petitioner Designee, Richard Danforth

Abutters as listed on site map

Town Clerk/Administrator  
Freedom, New Hampshire

CC: File

Colonel Christopher Wagner,  
Director  
Division of State Police  
Department of Safety

Mary Howe, Supervisor, Moorings  
Program  
Marine Patrol  
Department of Safety