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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

July 6, 2022

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

Boat Moorings- LAKE OSSIPEE- 5 ADDITIONAL MOORINGS

Requested Action

To approve the permit application of Ossipee Bluffs Association located on Lake Ossipee in Ossipee, NH, as recommended by the Department of Safety, Division of State Police Marine Patrol to add 5 moorings to a Congregate Mooring Field of (17) moorings under the authority of RSA 270:67. The Department recommends approval of the application for twenty-two (22) moorings.

Explanation

The petitioner has presented sufficient proof to sustain the request to add five (5) moorings to a Congregate Mooring Field in accordance with RSA 270:67 and New Hampshire Code of Administrative Rules Saf-C 408.

Public Hearing held May 26, 2022.

Enclosed are the Application, Map and Public Hearing Report with exhibits.

Respectfully submitted,

Robert L. Quinn

Enclosures

	Application Number:	. DECAL #				
	Permit Number:					
	Conditions:					
		· · · · · · · · · · · · · · · · · · ·				
	FOR OFFICIAL USE ONLY	# OF MOORINGS APPROVED				
	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 DIV. OF STATE POLICE					
	Moorings Program 31 Dock Road, Gilford, NH 03249 JAN 2 4 2022					
	Telephone: 603- 293-2037 Ext 3	MARINE PATROL				
	Applicant's name: Ossipee Bluffs Association (
	Shorefront property location: One mile east of Rte 16 in Center Oscipee in					
	the cove known as Bradford Cove on the western shore of Ossipere Lake.					
	Town/City: Center Ossipee Phone #: (603) 651-1237 (Maring Secretary)					
* MHSP- Milotrol agrees to	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: Mike Gendron					
	Mailing Address: 22 Teague Drive City: Salen State: NH Zip: 03079					
	Phone #: <u>898-1287</u> Cell Phone #: (603) 401-0312 Email: Migendron & Ogmail. Com					
	The proposed mooring field is located on Lake: Ossipee					
	The proposed mooring need is located on Lake: <u>OSTPEE</u> The town/city tax lot number of the shore front property is: <u>Lot 12 Map 39</u> Number of moorings requested: <u>26 (1 add!)</u> Applicant's shore frontage in feet: <u>1055</u> Number of mooring requested: <u>26 (1 add!)</u> Applicant's shore frontage in feet: <u>1055</u> The approximate area (size) of the mooring field in square feet: <u>40000 including transit channel</u> from boat basin					
	Number of moorings requested. 26 (9 add/) Applicant's shore frontage in feet: 1055					
99 woor	The approximate area (size) of the mooring field in square feet: 40,000 including transit channel for boat					
	The distance from shore to the furthest proposed mooring in feet is: $\partial \partial \delta'$					
	The number of docks at the property: <u>15</u> The number of boat slips: <u>29</u> Is there a swim line? <u>$\sqrt{E_5}$</u>					
	Is there a swim raft at the property? $\frac{No}{N}$ What is the square footage of the raft? $\frac{N/A}{N}$					
	Does the applicant have title ownership to the shore front property? 125					
	DSSS 19 (Rev. 11-16)					

Encl (1)

:

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

community consisting of 107 house lots. Chureschip of a primte peach front and a sociated boat access to/we of r.Wdc.S docks and moorings

Please explain how the moorings will be distributed within the group: Moorings are distributed

ownership Waiting 70 Seniori Current acurding 110 sure Pncla

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).

which has been Moonna Charge 15 Season. ter years. here is no increase harge tor over discussed at this time Denci

Please explain how the mooring users will get to and from the mooring field: <u>Members have the option</u> of walking forimming to their mooring or utilizing a donated dirphy that resides on the shore. There is also a logding dock for member to <u>bad /unluad pacengers and gear</u>.

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

are installed during the boating season (May-C passenger vehicles however there is in rufficient room avai must noturn trailer to their property after gunching Trailers (O Nembers Please describe the mooring buoys, including the color, shape, size and material: White round diameter made of hard plastic Materia Th a androx reflective Stripe

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

<u>Cement</u> block 400 lbs. 30 × 30 × 6 Weighing NX.

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:

gnature

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:

d Signature

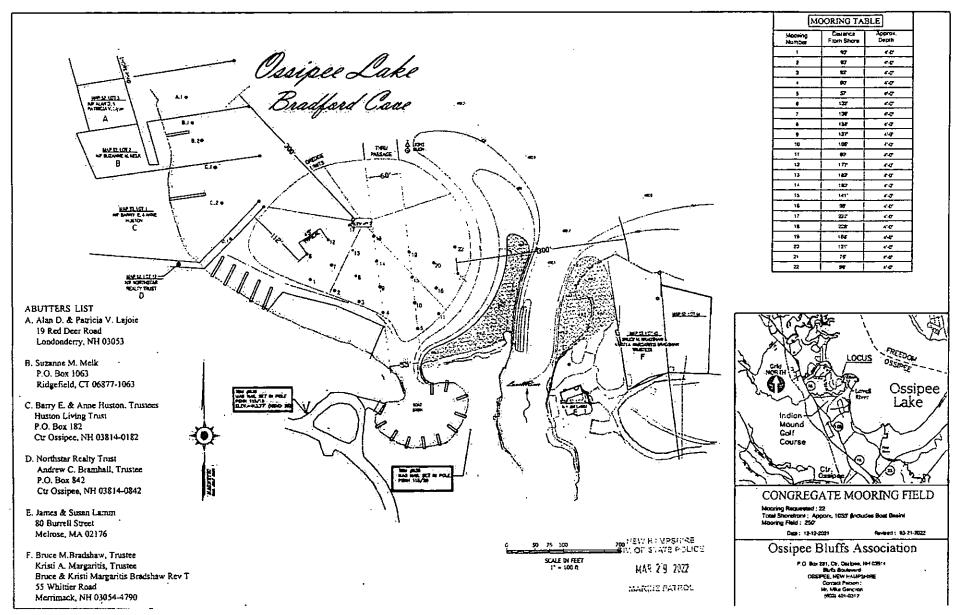
NOTE: This application may require a public hearing. The applicant and abutters will be notified as to the date, place and time of the hearing. The Department of Safety, Division of State Police will submit a recommendation to the Governor and Council who will approve or deny the application. The applicant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

1/4/22 Date:



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State of new Hampshire

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

ROBERT L. QUINN COMMISSIONER

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Petition in the Matter of:



HISTORY:

The Department of Safety received a petition from Ossipee Bluffs Association. Ossipee Bluffs Association is requesting the approval of five (5) additional moorings to a congregate mooring field of seventeen (17) moorings on Lake Ossipee located in Ossipee, New Hampshire. The petition submitted presented the reasons for the requested additional moorings in a <u>Congregate Mooring Field</u>. Analysis was assigned to and investigated by Ms. Mary-Jo Howe, Supervisor, Mooring Program, Division of State Police, Marine Patrol, Department of Safety.

Pursuant to <u>RSA 541</u> a public hearing was held on Thursday, May 26, 2022 at 10:00 a.m. at the Department of Safety, 33 Hazen Drive, Concord, New Hampshire. The scope of the hearing was to allow and consider public comment in accordance with <u>RSA 270:67</u>, <u>RSA 270:68</u> and New Hampshire Code of Administrative Rules <u>Saf-C 408</u> (et seq.) on the petition.

Christopher Casko, Administrator, Bureau of Hearings conducted the public hearing as designee of Robert L. Quinn, Commissioner, Department of Safety.

OPENING REMARKS:

The <u>Notice of Hearing</u> was read into the record. The petition, along with all supporting documents was available for review. Notification of the public hearing was published in The Union Leader on May 6, 2022, a newspaper with statewide circulation.

Everyone present was informed:

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

STATISTICS:

One (1) person spoke at the forum provided for public comment representing Marine Patrol. One (1) person spoke on behalf of the petitioner, in favor of the petition. No one spoke against the petition.

EXHIBITS:

- 1. Response from Department of Environmental Services to Mooring Application Notice
- 2. Response from Fish and Game to Mooring Application Notice
- 3. Letter from Lt. Crystal McLain
- 4. New Hampshire Natural Heritage Bureau NHB DataCheck Results Letter

SYNOPSIS OF TESTIMONY:

Mary Jo Howe testified on behalf of the Marine Patrol. She sent notification to the Department of Environmental Services and Fish and Game. Both responded that the additional moorings will have no adverse impact on the environment. In addition, Lt. McLain of the Marine Patrol reviewed the proposal and found that the 5 moorings will not interfere with navigation or present any safety issues. The original request for 9 moorings was not approved by Marine Patrol because it would extend moorings too far into the water. Therefore, the petitioner revised the request to 5 moorings. Any future expansion, however, will not be appropriate on the site. She is of the opinion that 22 moorings at the location is appropriate.

Mike Gendron spoke on behalf of the petitioner. The association owns 107 lots of single-family homes. Their property is located ¼ of a mile from Route 16, a major thoroughfare. They improved the water in front of the property with a \$600,000 remediation project to improve the water flow. This project also created more room for the mooring field.

The association awards moorings based on seniority of ownership. They have 50 residents on the waiting list for moorings. They have portable toilets for the season. There are dinghies at the beach and due to the water depth, people can wade out to their moored vessels.

LEGAL ANALYSIS:

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,

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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 Rules

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 delineates designation of locations and other specific criteria to consider.

LEGAL ANALYSIS ~ DISCUSSION:

The department scheduled a public hearing based upon a petition to add five moorings to an existing congregate mooring field of 17 moorings. The Marine Patrol, Lt. McLain, reviewed the proposed additional moorings and approved them. Moreover, both Fish and Game and the Department of Environmental Services responded that the 5 new moorings will not have a negative impact on the environment.

The association has 107 property owners with 50 on a mooring waiting list with 17 current moorings. They have a need for additional moorings. They have improved the site and it can accommodate 5 additional moorings. All abutters were notified and no one objected to the moorings. There is no negative impact on navigation, and therefore, additional moorings do not present a safety problem. Consequently, the petitioner has proven sufficient need for 5 moorings for a total of 22 congregate moorings.

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Finally, the association consulted with the New Hampshire Natural Heritage Bureau. A check of their database records indicated that no rare, threatened, or endangered species in the area would be impacted by the addition of 5 moorings.

, After carefully considering the exhibits, testimony and public comment presented, <u>Findings of Fact</u> are issued (*Infra*).

FINDINGS OF FACT:

- 1. That Ossipee Bluffs Association submitted an application to add 5 moorings to an existing Congregate Mooring Field of 17 moorings for a total of 22 moorings on Lake Ossipee in Center Ossipee, N.H.
- 2. That pursuant to RSA 270:62,VI, Ossipee Bluffs Association requested the Department of Safety to conduct a public hearing seeking approval of 5 additional moorings in a Congregate Mooring field.
- 3. That the department provided official notification for the hearing in a newspaper of statewide publication, The Union Leader, Manchester, New Hampshire on May 6, 2022.
- 4. The department posted the petition, hearing notice, and map of the location on its web site starting on May 4, 2022.
- 5. The petitioner notified all abutting property owners by certified mail.
- That a public hearing was scheduled on Thursday, May 26, 2022 at 10:00 AM on the issue and conducted pursuant to <u>RSA 541</u>; <u>RSA 270:67</u>; <u>RSA 270:68</u> and Administrative Rule <u>Saf-C 408</u> at the Department of Safety, Concord, New Hampshire.
- 7. No public comment was received in reference to the scope of review within RSA 270:67, RSA 270:68, and Saf-C 408.
- 8. That Ossipee Bluffs Association proved by the application and the chart/map, sufficient data that the proposed additional 5 moorings to the congregate mooring field of 17 moorings be approved.

- 9. That the New Hampshire Department of Safety, Division of State Police, Marine Patrol, enforces the statutes and rules governing the public waters within Lake Ossipee in Ossipee, New Hampshire; and, navigational and moorings laws are enforced through that agency. The Marine Patrol recommends approval of the moorings, but no further expansion of moorings at the site will be allowed.
- 10. 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 because it has no negative impact on public safety, navigation or the environment.
- 11. The association has adequate support facilities for the mooring field.

The department thoroughly considered the information within the Petition, along with testimony and exhibits at the public hearing taking into consideration the lack of public commentary received against the petition. Therefore, this fact-finder respectfully recommends supporting the Petition based upon the <u>Findings of Fact</u> listed (*Supra*) and that you reach the following <u>Conclusion</u>.

CONCLUSION OF LAW:

Ossipee Bluffs Association has presented sufficient proof to sustain the request for an additional 5 moorings in a Congregate Moorings Field of 17 moorings for 22 moorings in accordance with <u>RSA</u> 270:67, <u>RSA</u> 270:68 and New Hampshire Code of Administrative Rules <u>Saf-C 408</u>.

Respectfully submitted,

/S/

Christopher Casko, Administrator Bureau of Hearings Department of Safety

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RECOMMENDATION: NEW HAMPSHIRE GOVERNOR AND COUNCIL

The evidence <u>demonstrates</u> 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 5 additional moorings in a <u>Congregate Mooring Field</u> of 17 moorings for a total of 22 moorings be adopted pursuant to <u>RSA</u> <u>270:67, RSA 270:68</u> and Administrative Rule <u>Saf-C 408</u>.

Very truly yours,

Robert L. Quinn, Commissioner Department of Safety

Date of Recommendation: July 6, 2022

Mary-Jo Howe Division of State Police Marine Patrol Department of Safety

Ossipee Bluffs Association Michael Gendron Colonel Nathan Noyes Division of State Police

CC: File

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DEPARTMENT OF SAFETY

Division of State Police - Moorings 31 Dock Road Gilford, NH 03249 Telephone: (603) 293-2037 ext. 3 Fax: (603) 293-0096



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MOORING APPLICATION NOTICE

- TO: Department of Environmental Services DATE: 03/16/2022 Water Division Rene Pelletier, Environmental Programs Administrator
- FROM: Mary-Jo Howe, Coordinator Moorings Program

SUBJECT: Congregate Mooring Application

APPLICANT: Ossipee Bluffs Association

BODY OF WATER: Ossipee Lake

Please respond no later than: 04/14/2022

Ossipee Bluffs Association is applying to add to their Congregate Mooring Field Permit. Currently they have 17 moorings. They are requesting an additional 9 moorings. Their total would be 26 moorings.

Pursuant to RSA 270:64, III, and RSA 270:64, I(c), the Division is seeking input from your Agency regarding this application. Part of the approval process requires that the Division 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."

If you have any input specific to this, please submit your comments to this office no later than the respond date.

 $X_{\rm c}$ This Agency does not feel there is any significant impact as stipulated in RSA 270:64, I(c).

____ Attached please find this Agency's position regarding the impact of this application.

Signed by: ROC PEILETIER DIrector, WHTER DWISION NHTES 271-0677. Name Title Agency Phone

If we do not receive a response to this inquiry, we will conclude that there is no objection or concern. Thank you for your consideration.

Mary-Jo Howe NH Marine Patrol - Gilford Coordinator, Moorings Program Mary.Howe@dos.nh.gov

Enclosures: Application and Map.

DEPARTMENT OF SAFETY

Division of State Police - Moorings 31 Dock Road Gilford, NH 03249 Tclephone: (603) 293-2037 Ext. 3 Fax: (603) 293-0096



MOORING APPLICATION NOTICE

TO: Fish & Game Department DATE: 03/16/2022 Garret Graaskamp, P.G. Coordinator Statewide Public Boat Access Program

FROM: Mary-Jo Howe, Coordinator - Moorings Program

SUBJ: Congregate Mooring Application

APPLICANT: Ossipee Bluffs Association

BODY OF WATER: Ossipee Lake

Please respond no later than: 04/14/2022

Ossipee Bluffs Association currently has 17 approved moorings and they are requesting an additional 9 moorings. Their total would be 26 moorings.

Pursuant to RSA 270:64,III, and RSA 270:64,I(c), the Division is seeking input from your Agency regarding this application. Part of the approval process requires that the Division 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."

If you have any input specific to this, please submit your comments to this office no later than the respond date.

X This Agency does not feel there is any significant impact as stipulated in RSA 270:64, I(c).

____ Attached please find this Agency's position regarding the impact of this application.

Signed by: Nameth Huly	Coordinat	or SPBARugam	NHIT	271-1748
Name	Title	Agency		Phone

If we do not receive a response to this inquiry, we will conclude that there is no objection or concern. Thank you for your consideration.

Mary-Jo Howe NH Marine Patrol - Gilford Coordinator, Moorings Program Mary.Howe@dos.nh.gov

Enclosures: Application and Map



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

Colonel Nathan A. Noyes Director

> The New Hampshire State Police-Marine Patrol reviewed the proposed mooring additions to Ossipee Bluffs Association. Initially they were requesting an additional nine moorings to their already permitted 17 moorings. After review, moorings placed beyond 228 feet from shore both affects navigation and the use of public waters by others. Therefore, the State would support a maximum of 22 moorings.

Based upon the proposed location of the new five moorings, it is believed that there are no adverse impacts on navigation or the use of the waters by other members of the public.

Finally, it should be noted that Marine Patrol believes that any future expansion beyond the pending submittal would have an impact on navigation and abutters travelling on Ossipee Lake in the area of Ossipee Bluffs. It is unlikely that Marine Patrol would support an increase in moorings in this area.

Respectfully,

Cinptal Mi Lain

Crystal McLain Lieutenant NH State Police-Marine Patrol

To: Michael Gendron Po Box 281 Ossipee, NH 03814

From: NH Natural Heritage Bureau

Date: 4/1/2022 (This letter is valid through 4/1/2023)

Re: Review by NH Natural Heritage Bureau of request dated 4/1/2022

Permit Type: NH State Police-Marine Patrol Mooring Permit

NHB ID: NHB22-1276

Applicant: Michael Gendron

Location: Ossipee Tax Map: 052, Tax Lot: 027 Address: Bluffs Blvd., Ossipee, NH 03814

Proj. Description: We currently have a congregate mooring field of 17 moorings and would like to increase the mooring field to 22 moorings. The mooring field would be substantially the same size. To accommodate the new moorings, we would utilize the space more efficiently by narrowing a boat channel and placing moorings closer to a peninsula that was reconstructed three years ago as part of a remediation project at the mouth of the Lovell River. No large equipment would be needed. Five new mooring footings would be lowered into place from a pontoon boat. We hope to complete the project in Spring of 2022.

The NH Natural Heritage database has been checked for records of rare species and exemplary natural communities near the area mapped below. The species considered include those listed as Threatened or Endangered by either the state of New Hampshire or the federal government. We currently have no recorded occurrences for sensitive species near this project area.

A negative result (no record in our database) does not mean that a sensitive species is not present. Our data can only tell you of known occurrences, based on information gathered by qualified biologists and reported to our office. However, many areas have never been surveyed, or have only been surveyed for certain species. An on-site survey would provide better information on what species and communities are indeed present.

Based on the information submitted, no further consultation with the NH Fish and Game Department pursuant to Fis 1004 is required.



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MAP OF PROJECT BOUNDARIES FOR: NHB22-1276



Department of Natural and Cultural Resources Division of Forests and Lands (603) 271-2214 fax: 271-6488 DNCR/NHB 172 Pembroke Rd. Concord NH 03301



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