



The State of New Hampshire  
**Department of Environmental Services**

Robert R. Scott, Commissioner

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August 7, 2023

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

**REQUESTED ACTION**

In accordance with RSA 482-A:17, the NH Department of Environmental Services (NHDES) Wetlands Bureau makes the following recommendations for consideration:

1. Grant to the Town of Tuftonboro, pursuant to RSA 482-A:17, the right to place fill in the bed of public waters in Lake Winnepesaukee in the Town of Tuftonboro as shown on the plan entitled "Plan to Accompany Petition for the Town of Tuftonboro to the State of New Hampshire Department of Environmental Services," dated July 6, 2023, recorded at Book 3729, Page 0048 of the Carroll County Registry of Deeds and as further described in the draft deed submitted herewith.
2. Execute the final version of the draft Deed and Grant of Right submitted herewith, in the manner required by RSA 482-A:17 (requiring the signatures of the Governor and all individual Executive Councilors, attested to by the Secretary of State), and authorize the N.H. Department of Environmental Services ("Department") to deliver such fully executed deed for recording in the Carroll County Registry of Deeds to the Town of Tuftonboro, care of John "Jay" Riff Esq., P.O. Box 229, 104 Main Street, Suite 4, Lancaster, N.H. 03584.

**EXPLANATION**

1. RSA 482-A:17 states, among other things that:

The governor and council, upon petition and only upon the recommendation of [NHDES], may, for just consideration, grant to an owner of shoreline on public waters the right to place fill in the bed of such pond before the owner's shoreline. ... If [NHDES] recommends that the petition be granted, in whole or in part, such recommendation shall include appropriate specifications and conditions necessary to the protection of public rights and to the protection of the rights and privileges of persons owning land in the vicinity of the area to be filled by the petitioner. The grant of the governor and council shall be evidenced by an instrument in writing, executed by the governor and council, attested by the secretary of state, and recorded in the county where the right is to be exercised.

[www.des.nh.gov](http://www.des.nh.gov)

29 Hazen Drive • PO Box 95 • Concord, NH 03302-0095  
 NHDES Main Line: (603) 271-3503 • Subsurface Fax: (603) 271-6683 • Wetlands Fax: (603) 271-6588  
 TDD Access: Relay NH 1 (800) 735-2964

2. In order to facilitate repairs to the existing Town wharf. Repairs will result in the placement of approximately 1,100 square feet of fill which will expand the existing perimeter of the wharf by approximately 6 to 8 inches on average.
3. NHDES has reviewed the request for a grant of right and recommends approval subject to the following conditions:
  - a. The premises described herein and shown on the Plan shall be maintained in a manner that meets the standards and requirements of NH RSA 483-B; and,
  - b. Appropriate permits under NH RSA 482-A shall be obtained for any work in the shore, wharf, or bulkhead where said premises meets Lake Winnepesaukee.
4. The Town suggests that the following be considered just consideration as defined by RSA 482-A:17:

The Town proposes that keeping the wharf open to the general public, such that the repairs and upgrades to be completed by the Town of Tuftonboro can be enjoyed by the general public pursuant to its March 2023 Warrant Article 2, be accepted as just consideration. The Town is very proud of its past history of keeping the wharf open to the general public. This stance on public access is somewhat unique when compared to other surrounding towns. In Tuftonboro, the use of the wharf by the general public has been allowed by the Town for as long as anyone can remember. For instance, a photo shows the MV Mount Washington coming in to dock at the Union Wharf in 1908.

The Town took the step this year to draft a warrant article re-affirming its commitment to keep the wharf open to the general public as a means of providing the State with evidence that this practice will continue and has a depth of support beyond that of the current selectboard. This shows the Town's enduring commitment to public access. If the project is approved, the public will be able to enjoy the repaired and upgraded facility.

There are many other public benefits the wharf has provided and will provide in the form of a mutual aid hub for fire rescue; a docking facility for a NH Fish and Game boat, and access to island residences in many towns.
5. The Town has submitted both a plan and a proposed deed. The proposed deed has been reviewed and approved by the N.H. Dept. of Administrative Services and the N.H. Dept. of Justice.
6. No comments were submitted by the Tuftonboro Conservation Commission regarding the project as proposed.
7. The Petitioner owns property, identified as Tuftonboro Tax Map 40 Lot 15, which is has frontage along Lake Winnepesaukee within Nineteen Mile Bay in Tuftonboro.

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8. NHDES finds that the fill shall not have an adverse environmental effect on Lake Winnepesaukee.
9. NHDES finds that the fill shall not have an adverse effect on the stability of abutting shorelines.
10. On February 10, 2022, a public hearing was held at the Tuftonboro Town House located at 247 Middle Road, Tuftonboro in accordance with RSA 482-A:17. The public hearing concluded with no written or verbal comment submitted to the record.

A copy of draft deed language for review and execution and a plan showing the area to be granted to the Town are enclosed for review by the Governor and the Executive Council in consideration of this request in accordance with RSA 482-A:17.

We respectfully request your approval of this item.



Robert R. Scott  
Commissioner



Return to:  
Law Office of John "Jay" Riff  
P.O. Box 229  
104 Main Street, Suite 4  
Lancaster, NH 03584

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SPACE ABOVE THE LINE RESERVED FOR RECORDING INFORMATION ONLY

**DEED AND GRANT OF RIGHT**  
**TO PLACE FILL IN PUBLIC WATERS (RSA 482-A:17)**

KNOW ALL PERSONS BY THESE PRESENTS that **THE STATE OF NEW HAMPSHIRE**, acting by and through its Governor and Executive Council pursuant to action taken on the date hereof (Agenda Item # \_\_\_\_\_), having an address of 107 North Main Street, Concord, New Hampshire 03301, does hereby approve the request of Petitioner Town of Tuftonboro for a grant of right to retain fill in public waters contiguous to said Petitioner's shoreline frontage along Lake Winnepesaukee, in the Town of Tuftonboro, Carroll County, New Hampshire, upon the recommendation of the New Hampshire Department of Environmental Services, and for just and valuable consideration paid to the State of New Hampshire, the receipt and sufficiency of which is hereby acknowledged, and pursuant to NH RSA 482-A:17 [Grant of Right] and the foregoing approval of the Governor and Executive Council on the date hereof, does hereby grant to the **TOWN OF TUFTONBORO**, having an address of 240 Middle Road, Center Tuftonboro, New Hampshire 03816, the right to retain fill placed in public waters forming 5,762 square feet of land contiguous to the Petitioner's shoreline frontage along Lake Winnepesaukee, in the Town of Tuftonboro, Carroll County, New Hampshire, the land created thereby being more particularly described as follows:

A certain tract or parcel of land created by placing and retaining fill in the public waters of Lake Winnepesaukee, said tract being commonly known as "Union Wharf," as shown on that certain Plan entitled "Plan to Accompany Petition for The Town of Tuftonboro to The State of New Hampshire Department of Environmental Services, Tax Map 40, Lot 5-15, Route 109, Tuftonboro, New Hampshire, Carroll County," dated April 18, 2023, prepared by Steven E. Heyliger P.L.L.C., to be recorded herewith in the Carroll County Registry of Deeds (the "Plan"), and being more particularly bounded and described as follows:

The point of beginning shall be where the Elevation reference line at 501.32 feet above sea level (NGVD 29), which crosses the Union Wharf boat ramp abutting the southerly side of said wharf, intersects with the southerly side of said wharf, all as shown on said Plan;

Thence from the point of beginning, all at an Elevation of 501.32 feet above sea level (NGVD 29):

S 49° 11' 10" W for 1.45 feet, more or less, to a point;  
S 33° 34' 10" W for 4.18 feet, more or less, to a point;  
S 40° 52' 54" W for 2.75 feet, more or less, to a point;  
S 43° 22' 34" W for 3.03 feet, more or less, to a point;  
S 50° 18' 33" W for 8.30 feet, more or less, to a point;  
S 37° 30' 42" W for 9.81 feet, more or less, to a point;  
S 56° 29' 13" W for 195.40 feet, more or less, to a point;  
N 34° 51' 26" W for 25.61 feet, more or less, to a point;  
N 54° 32' 37" E for 150.01 feet, more or less, to a point;  
N 56° 07' 03" E for 20.12 feet, more or less, to a point;  
N 67° 41' 10" E for 1.15 feet, more or less, to a rebar that is located S 67° 41' 10" W 4.3 feet from a drill hole; and  
N 79° 51' 10" E for 59.24 feet, more or less, to the point of beginning.

This Deed and Grant of Right is made upon the following conditions recommended by the New Hampshire Department of Environmental Services in its Requested Action letter to the Governor and Executive Council dated \_\_\_\_\_, 2023: that by accepting and recording this Deed and Grant of Right in said Registry, the Town of Tuftonboro, for itself and for each of its successors and assigns, covenants and agrees to maintain the premises described herein and shown on the Plan in a manner that meets the standards and requirements of NH RSA 483-B, and to obtain appropriate permits under NH RSA 482-A for any work in the shore, wharf, or bulkhead where said premises meets Lake Winnepesaukee.

This Deed and Grant of Right in and to the premises described herein is conveyed subject to any easements, liens, restrictions, and encumbrances of record.

Pursuant to 78-B:2, 1, this transfer is excepted from the real estate transfer tax imposed by NH RSA 78-B:1.

This Deed and Grant of Right is exempt from the LCHIP surcharge pursuant to NH RSA 478:17-g, II(a).

Executed this \_\_\_\_ day of \_\_\_\_\_ 2023.

STATE OF NEW HAMPSHIRE  
By and through its  
Governor and Executive Council

By: \_\_\_\_\_  
Christopher T. Sununu, Governor

By: \_\_\_\_\_  
Joseph D. Kenney, Councilor

By: \_\_\_\_\_  
Cinde Warrington, Councilor

Attest: \_\_\_\_\_  
David M. Scanlan  
Secretary of State

By: \_\_\_\_\_  
Janet Stevens, Councilor

By: \_\_\_\_\_  
Theodore L. Gatsas, Councilor

By: \_\_\_\_\_  
David K. Wheeler, Councilor

State of New Hampshire  
County of Merrimack

This instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_ 2023, by Christopher T. Sununu, as the duly authorized Governor of the State of New Hampshire, and by Joseph D. Kenney, Cinde Warrington, Janet Stevens, Theodore L. Gatsas, and David K. Wheeler, as the duly authorized Executive Councilors of the State of New Hampshire.

\_\_\_\_\_  
Notary Public/ Justice of the Peace  
Print Name: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_