VERMONT

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July 29, 2015

Daniel R. Sharpe
782 East Shore Lane
Hinesburg, VT 05461

[Via email to: SHARPED@bsk.com]

RE: Petition for amended rule for Lake Iroquois under the Vermont Use of Public Waters Rules

Dear Mr. Sharpe:

On April 30, 2015, the Department of Environmental Conservation (the Department) received a petition to amend the Vermont Use of Public Waters Rules, Appendix A – Lake-Specific Rules Regulating The Use of Public Waters (the UPW Rules). The petition asks the Department to prohibit operation of vessels powered by internal combustion engines exceeding 25 horsepower, except vessels registered in Vermont in 2014 in the name of a person who also owns lakefront property on Lake Iroquois in 2014 as long as such person continuously maintains registration on the excepted vessel and title on the lakefront property.

Pursuant to 10 V.S.A. § 1424, the UPW Rules govern the use of public waters in Vermont, and establish a number of general management rules to protect normal uses on all lakes, ponds, and reservoirs. The UPW Rules also provide procedures for the review of petitions seeking the adoption of lake-specific rules (found within Appendix A). In general, these procedures attempt to avoid, where possible, and resolve, when necessary, conflicts among uses of public waters in a comprehensive and integrated manner. These procedures are specified in UPW Rule 2 and UPW Rule 3.7.

The Department has reviewed your petition for administrative completeness and adherence to the UPW Rules. The Department has identified a number of deficiencies in your petition that require your attention prior to further consideration. Please find a summary of these deficiencies below.

UPW Rule 3.7 requires that a petition identify all normal uses affected by the petition and include a statement as to why the petition complies with the applicable provisions of Section 2 of these rules. UPW Rule 3.7(a). It also requires petitioners to describe those actions that the petitioners have taken to review the concerns prompting the petition with local officials and users of the body of water in question. UPW Rule 3.7(b). The UPW Rules are considered to be a conflict resolution tool intended to encourage lake users to take steps to resolve use conflicts prior to submitting a petition for a rule change.

The present petition does not comply with the foregoing requirements, and therefore, is not administratively complete. The Department would also like to highlight relevant sections of the UPW Rules that the petitioner should take into consideration when complying with the requirements of UPW Rule 3.7:

- UPW Rule 2.6 requires the Department to manage use conflicts "in a manner that provides for all normal uses to the greatest extent possible."
- UPW Rule 2.7 requires the Department to manage use conflicts "using the least restrictive approach practicable that adequately addresses the conflicts."
- UPW Rule 2.8 specifies that a new rule must be uniform and consistent with existing regulations when the proposed rule addresses an issue common to more than one body of water.

- UPW Rule 2.9 requires the Department, when resolving conflicts involving the operation of vessels, to give priority "to managing the manner in which vessels are used or operated, such as by imposing speed limits or separating conflicting uses by designating specific times or places where various uses are allowed."
- UPW Rule 2.10 stipulates that when the Department determines that regulation is necessary to resolve conflicting uses, the Department must give priority to separating the uses by designating times or places where the uses are allowed.

We would like to discuss your petition and the contents of this letter with you. Please contact Matthew Probasco at 802-490-6133 or via email at matthew.probasco@state.vt.us to schedule a meeting, or to answer questions you may have.

Best regards,

Perry Thomas
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Perry Thomas, Manager
Lakes & Ponds Management and Protection Program
Watershed Management Division

Cc: Jane Marinsky
Roger & Judy Crouse
Susan Donnis
David Kaminsky
Steve Lidle & Nancy Wright
Joanna & William C Wright, Jr.
Town of Hinesburg
Town of Williston
Town of St. George
Chittenden County Regional Planning Commission
Vermont State Police
Lake Iroquois Association
Lake Iroquois Recreation District
Lake Iroquois Boaters Association
Lake Iroquois Campers Association
South West Shore Campers Association
Wood Run Road Association
Pine Shore Association