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**Tracie Sales**

Program Manager

**Jen Drociak**

Watershed Coordinator

**Mariah Mitchell**

Program Assistant

N.H. Rivers Management and Protection Program

# N.H. Rivers Management Advisory Committee

April 11, 2019

The Honorable Martha Fuller Clark, Chair  
Senate Energy and Natural Resources Committee  
Legislative Office Building, Room 101  
Concord, NH 03301

**RE: HB 668** *relative to heating, agitating, and other devices in public waters.*

Dear Chair Fuller Clark and Members of the Committee:

The Rivers Management Advisory Committee (RMAC) is writing to express its support for House Bill 668, which prohibits the operation of aquatic heating, agitating, or other devices that prevent the formation of ice on any property other than that of the device owner.

The RMAC is concerned that as the use of heating and agitating devices becomes more common to protect private docks from ice in public river impoundments and lakes, these devices are also becoming a significant safety hazard and property rights issue. Since these devices inhibit or prevent the natural freezing of water to form ice, they can affect not only the device owner's property but also those of private and public abutters, which would restrict neighbors' access to or from the ice.

Water rights in New Hampshire allow riparian property owners the reasonable use of the waters in the public trust that abuts their property. Reasonable use is considered to be that which does not impede or circumvent access by other riparian property owners or the public. Therefore, a heating or agitating device can affect and limit access to the ice by neighboring properties, and would be contradictory to New Hampshire's water rights laws. Public access areas may also be affected by the use of these devices. The RMAC supports HB 668 as the use of these devices in public waters should never impact others' use of public waters.

The RMAC also supports the other provision of the bill, which clarifies signage requirements when ice prevention devices are in use. The improved signage combined with restricting the impact area if the devices will aid in identifying areas of thin (or no) ice, and in the safety of others on the ice.

The RMAC is a legislatively created body charged to work with the New Hampshire Department of Environmental Services (NHDES) to administer RSA 483, the Rivers Management and Protection Program. The Governor and Council appointed Committee is comprised of members from business, agriculture, hydroelectric, municipal government, water supply, conservation, recreation, fish and game, and historical interests. Among its other responsibilities, the RMAC is charged with reviewing legislation relevant to the Program and with advising the NHDES Commissioner on the merits of such legislation.

In conclusion, the RMAC supports HB 668 relative to heating, agitating, and other devices in public waters since it will not only aid in public safety but will also be consistent with New Hampshire water rights law by allowing adjacent property owners the ability to access the ice from their property.

Should you have any questions regarding our testimony, please feel free to contact me at 603.796.2615 or [MLT@naturesource.net](mailto:MLT@naturesource.net).

Sincerely,



Michele L. Tremblay  
RMAC Chair

cc: Rep. David Hout  
RMAC Representatives  
Robert R. Scott, Commissioner, NHDES  
Thomas O'Donovan, Director, Water Division, NHDES  
Ted Diers, Administrator, Watershed Mgmt. Bur., NHDES  
Tracie Sales, Rivers and Lakes Programs Manager, NHDES  
Local River Management Advisory Committee Chairs