

Orr&Reno

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VIA HAND-DELIVERY

New Hampshire Department of Agriculture
Division of Pesticide Control
25 Capitol Street, Second Floor
Concord, NH 03301

**Re: *Request for Public Hearing and Opposition to Pesticide Use,
Big Island Pond Corp.***

This firm represents a coalition of lakefront property owners on Big Island Pond as well as other interested members of the public. See attached Petition (incl. 130 signatories).

I am writing to **request a public hearing** concerning the use of pesticides on Big Island Pond for the control of certain invasive species. **In addition, or in the alternative** if the Division decides not to hold a hearing, I am requesting that the Division consider the additional comment, information and procedures discussed below before making a final determination on the request to apply pesticide in the pristine waters of the Big Island Pond.

Members of our coalition received a notice, dated June 6, 2022, by mail on or about June 10, 2022. The notice provided that “[t]hose wishing to comment on the proposed application may contact the New Hampshire Department of Agriculture, Division of Pesticide Control to request a public hearing. Comments must be received in writing within 15 days of receipt of this notice.” These comments are therefore timely.¹

Pursuant to the notice, this letter constitutes a request for additional investigation, a thorough review of potential alternatives, and a public hearing. I submit the following comment for the consideration of the Division, subject to further supplemental comment and material at or before the public hearing:

¹ Administrators for the Division confirmed to resident Cindy Lanouette that comment could be submitted within 15 days of the receipt of the letter, which was on June 10, 2022. However, I have endeavored to meet the original deadline in an abundance of caution.

- Similar chemical pesticide control measures to address the spread of invasive plants were attempted in 2021.
- The 2001 pesticide application resulted in substantial detrimental impacts, including a massive, visible fish-death incident and subsequent cyanobacteria bloom. I enclose photographs of the shocking fish-kill from last year's pesticide application.
- Although the chemical pesticides used are marketed as safe for lake fauna, that is clearly not the case. Even if the death of fish is difficult to directly tie to the poison—which is not clear, despite the manufacturer's contrary assertions—the result of killing so much vegetative growth is the depletion of oxygen in the water. These pesticides are indiscriminate in nature, killing all plant life, not merely the invasive species of legitimate concern. The loss of all the plant life causes fish to suffocate and creates blooms of cyanobacteria, an organism that—by definition—thrives in low-oxygen environments.
- Cyanobacteria is a threat to all users of the lake for recreation and hygiene/sanitation purposes. The death of the plants directly leads to cyanobacteria.
- Before any decision is made to apply pesticide in Big Island Pond, the Division should:
 - Perform or require an independent professional review of last year's treatment using herbicide to determine whether additional herbicide treatments are safe and appropriate—nothing that kills the number of fish that died in 2021 should be approved again;
 - Conduct an avoidance (what other options are available)-minimization (how can this option's impact be minimized)-natural functions (what will the anticipated impact be) analysis, including a good faith assessment of lower impact alternatives such as the mechanical pulling of invasive weed such as naiad and milfoil;²
 - Notify all abutters and the public concerning exactly where the next treatment is intended to take place, rather than simply approving a permit that permits treatment at any time, without notice, on wide and undefined swaths of the lake.

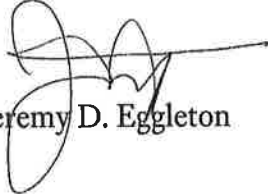
² C&D Underwater Maintenance, New Milford Connecticut, deploys an environmentally friendly invasive weed harvester for approximately \$4,000 per day that successfully pulls milfoil, fanwort and naiad. Given that the proposed cost of the herbicide treatment exceeds \$32,000, eight days of non-toxic mechanical removal is both cost-effective and lower impact. C&D is performing invasive removal on Little Island Pond in nearby Pelham, N.H. in August. At minimum, all parties should defer action on this permit until they have had an opportunity to observe the mechanical treatment by C&D and consider whether it represents a compelling alternative given its cost-effectiveness and lack of toxic side effects.

For these reasons, as well as others, the coalition opposes the decision of Big Island Pond Corporation, the local lake association, to seek application of these pesticides. Big Island Pond Corp. does not speak for all abutting/littoral property owners, nor does it have exclusive authority to make decisions regarding the lake, which is a public water body, or "great pond," by law.

The coalition further disputes that Big Island Pond Corp. had the authority to request the pesticide treatment due to internal governance issues including, without limitation, the use of proxy votes. While that is an internal governance matter, I point it out to underscore that the decision to apply pesticides remains disputed by substantial numbers of littoral property owners and other users of the public waters of the lake.

The coalition and its individual members reserve the right to submit other and additional comment, material, testimony, exhibits and evidence in opposition to the proposed pesticide application at a public hearing on that matter.

Yours very truly,



Jeremy D. Eggleton