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# Public Access Plan

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## for New Hampshire's Lakes, Ponds, and Rivers

November 1991

New Hampshire Office of State Planning



**Public Access Plan**  
*for New Hampshire's*  
**Lakes, Ponds, and Rivers**

STATE OF NEW HAMPSHIRE  
Judd Gregg, Governor

OFFICE OF STATE PLANNING  
Jeffrey H. Taylor, Director

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## Preface

The Public Access Advisory Committee (PAAC) would like to thank the Office of State Planning and staff of the various state agencies that served on the Council on Resources and Development (CORD) Subcommittee. This report benefitted greatly from the diligence and contributions of these individuals.

There are, however, several public access-related concerns that have come to the attention of the PAAC that, while not strictly within Governor Gregg's charge, are of great concern to New Hampshire residents. These public concerns were voiced throughout the development of the Plan. It is the belief of the PAAC that recommendations contained in this Plan will not be fully carried out unless the following issues are addressed.

First and foremost, there is a high level of frustration on the part of the public regarding surface water usage and public access expansion. Part of this concern stems from the public's perception that the administration and enforcement of existing boating safety/water quality laws is inadequate. As a result, there is a very real concern that until present laws and rules are enforced, the state should be cautious with respect to expanding public access. Underscoring this argument is the recognition that enforcement agencies, especially the Division of Marine Services, do not appear to be adequately funded. The determination of adequate levels of funding was not possible since the PAAC was unable to determine the source or actual level of available Division funding due to the Department of Safety's budget format.

Reciprocity in boating registrations is another area of concern. At first glance, reciprocity appears to be a very logical step for

the state to take. There are, however, some unanticipated results. Most importantly, boaters coming into the state now have no contact with New Hampshire Safety officials. Out-of-state boaters cannot be contacted and provided printed material relative to rules, statutes, or informational material regarding safety, aquatic weed controls, or availability of public access. As a result, boating lake/river users will become less informed about New Hampshire's water resource-related issues and concerns. There is also no fair or rational mechanism for raising revenues for public access sites if a key client group cannot be contacted.

It is clear that there is a growing concern over boating safety, and the increase in boating activity. The PAAC recommends that the establishment of a Safe Boating Commission be considered. The Commission could, among other things, study the need for speed/horsepower limits and boat size limits, and could look into adequate funding needs and the possibility of licensing boaters.

A final issue of concern is the illegal dumping of wastes from boat and recreational vehicle holding tanks into storm sewers located at a rest area or park. Legislation should be considered that would require the sealing of holding tanks and that would make reseals available only at proper dumping stations.

Resolving the above concerns is key to a successful long-range program for providing new public accesses. The PAAC hopes the Administration and the Legislature will take note of these issues and consider appropriate action.

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# Acknowledgments

This Public Access Plan for New Hampshire's Lakes, Ponds, and Rivers was prepared by the Office of State Planning through its Recreation Planning Program. A sincere thank you is extended to members of the Public Access Advisory Committee and the CORD Subcommittee whose cooperative work, expertise, and commitment provided the guidance needed to develop this Plan. Individual members of both Committees are acknowledged in the introductory chapter of this Plan.

A special acknowledgement is extended to members of the general public who participated in the five public informational meetings held across the state. Their concerns and ideas regarding public access helped strengthen this Plan.

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# Definitions

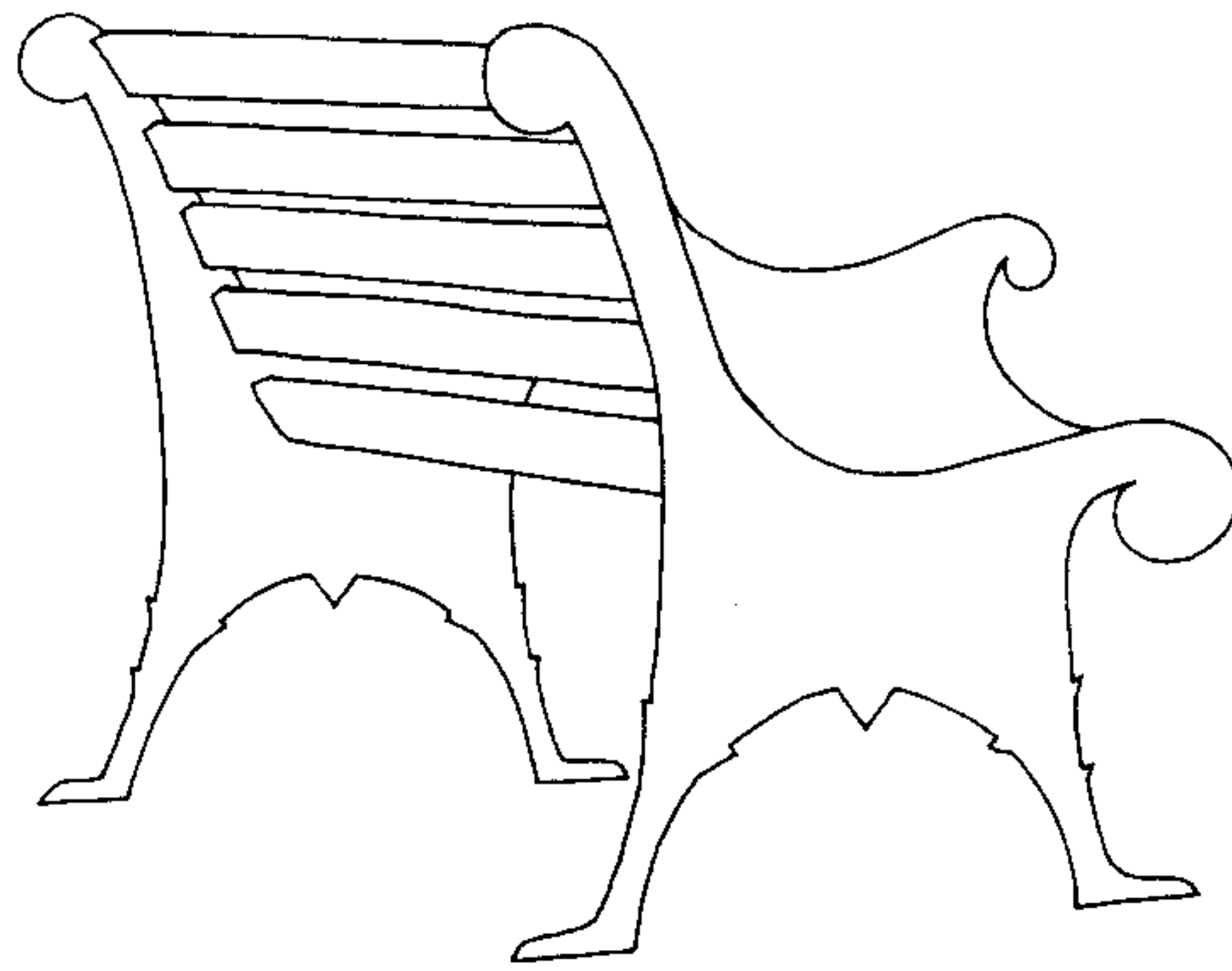
For purposes of this report, the following definitions are used when discussing "public" and "other" access. These definitions are included here to aid the reader in following and understanding the plan's text and recommendations.

**Public Access:** Legal passage to any of the public waters of the state by way of designated contiguous land owned or controlled by a state agency, assuring that all members of the public have access to and use of the public waters for recreation purposes (Definition per RSA 271:20-a).

**Other Access:** Legal passage by way of designated land owned or controlled by a public entity (e.g. federal, municipal) or private entity (e.g. commercial, private nonprofit, individual landowner) for the purpose of providing active or passive recreational opportunities and/or use of the public waters of the state, and where such legal passage may or may not involve a fee.

**Water Body:** As used in Chapters 3 and 4, refers to a lake, pond, bay of a larger lake, or river section under review for public access sites.





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## Chapter 1 - Introduction

### Plan Authorization

On March 10, 1989, Governor Gregg expressed his deep concern about the lack of public access to New Hampshire's lakes, ponds, and rivers through a memorandum forwarded to the Director of the Office of State Planning (OSP). In the memorandum (Appendix A), the Governor asked the Director to ". . . direct the Council on Resources and Development to submit a Public Access Plan . . . by December 31, 1989." The plan was to ". . . include, but not be limited to boat launch access (trailer and car top), parks, marinas/mooring fields, beaches, and other facilities directly related to water-oriented recreation." In addition, the components of the plan were to ". . . include an inventory of existing access facilities, pertinent standards and criteria to assess adequacy, and recommended strategies identifying priorities, costs, potential sources of funding and responsible implementing agencies." Finally, an evaluation of ". . . environmental factors and socio-economic impacts associated with the recommended improvements. . ." were to be addressed in the plan.

The Governor's memorandum also recommended creating a Council on Resources and Development (CORD) Subcommittee (comprised of state agency personnel), and a public advisory committee (comprised of representatives from private, nonprofit

groups having an expressed interest in the issue of public access) to work cooperatively in developing a public access plan. In response to the Governor's request, both a CORD Subcommittee and a Public Access Advisory Committee (PAAC) were established consisting of the following respective agencies/organizations:

#### **CORD Subcommittee Members:**

Office of State Planning, *David G. Scott*

Dept. of Resources and Economic Development, *Malcolm H. Thomas*

Fish and Game Department,  
*Richard J. Tichko*

Dept. of Transportation,  
*Neil D. MacPherson*

Dept. of Environmental Services,  
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Dept. of Safety, *Steve McLoy*

#### **Public Access Advisory Committee Members:**

NH Wildlife Federation,  
*John Gryval, Jr., Chair*

The Audubon Society of New Hampshire,  
*Jeff Fair*

NH Association of Conservation Commissions, *Marjory Swope*

Lakes Region Planning Commission,  
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Nashua Regional Planning Commission,  
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Trout Unlimited, *Maurice Raiche*

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Marine Dealers Association, *Joan LaPlante*

New Hampshire Lakes Legislative Coali-  
tion, *Patricia Goodridge*

Society for the Protection of New Hamp-  
shire Forests, *Malcolm Chase*

Governor's Commission on Disability,  
*Ray Conley*

## Plan Development

In an effort to provide a timely response to the Governor's request, the Office of State Planning (OSP) developed a public access plan outline which was submitted to and accepted by the Council on Resources and Development (CORD) on June 1, 1989. OSP determined that resources needed to complete a major portion of the plan would be available during the period from January through June of 1990.

In January 1990, OSP issued a preliminary draft report titled Public Access for New Hampshire. The draft report, whose purpose was to serve as a foundation for the CORD Subcommittee and Public Access Advisory Committee (PAAC), was based primarily on public access-related work already completed or underway at the time of the Governor's request. This preliminary draft was distributed to both the PAAC and the CORD Subcommittee, and to state agencies for review and comment. Preliminary draft review comments, continuous advice and assistance from the PAAC, and public comments received from five public informational meetings held state-wide produced this Public Access Plan for New Hampshire's Lakes, Ponds, and Rivers.

This Plan is not the state's first attempt to deal with public access to the state's public waters. In fact, information from previous comprehensive planning efforts on this subject, (i.e. New Hampshire Water Bodies and Public Access Points - Report #4, 1964; New Hampshire Public Water Bodies and Public Access Points - Report #12, Part II, 1965) has been incorporated into this document. Other reports which provided valuable information include: Lakes and Great Ponds Report 1984-1985, Volume I, II, and Appendix; New Hampshire Outdoors 1988-1993, and the Squam Lakes Watershed Plan. The above-mentioned public access-related reports are discussed in more detail in Chapter 2.

## Plan Goals

Pursuant to the Governor's request, this Plan examines public access in broader terms than previous efforts by looking not only at boat-related facilities such as launches, marinas, mooring fields, docks, and carry-in launch sites, but also parks, beaches, trails or walk-in sites, picnic areas, and scenic access. For purposes of providing these types of public accesses to New Hampshire's waters, the following goals are incorporated into this Plan:

- 1. To prepare a recommended plan for providing public access to state waters.** The plan should include a long-range methodology for establishing priorities and provisions for the operation and maintenance of these public access facilities.
- 2. To provide and improve year-round public access to state waters.** Plan preparation should include land acquisition, construction, operation, upgrade, and/or maintenance of facilities as well as the provision of the variety of types of access required for different kinds and intensities of use.
- 3. To provide and improve year-round water access to persons with disabling conditions.** The method of providing such access



should ensure that handicap-accessible amenities and facilities are incorporated throughout the development process, from the initial planning stage to site design and construction.

4. **To provide needed public access facilities and support services for boaters.** Support facilities should include parking, launch facilities, docks, mooring fields, aquatic weed control stations, toilets, and signage. Support services should include maintenance, supervision, and enforcement.
5. **To provide needed public access facilities and support services for nonboaters.** Support facilities should include parking, picnic areas, swimming beaches, trails, toilets, and signage. Support services should include maintenance, supervision, and enforcement.
6. **To identify, analyze, and minimize the potential for adverse environmental impacts and socio-economic conflicts resulting from public access development.** Protection strategies should incorporate water body assessments, feasibility analyses, and site analyses which include environmental assessments.
7. **To minimize abutter conflicts, particularly in areas where active recreation occurs in close proximity to residential areas.** The approach to minimizing such conflicts should base site design proposals on developed criteria and specific site requirements.
8. **To clearly define the role of the public, private for-profit, and private not-for-profit providers of access to public waters.**
9. **To identify existing funding sources and all conditions associated with these sources, and to identify and develop new, unrestricted, nonlapsing funding alternatives that can stand**

**alone, enhance, and/or supplement existing funding mechanisms.**

10. **To develop a strategy for prioritizing the use of funds to ensure coordinated and efficient use of available and potential funding.** Such a strategy should use the most recent determinations of demand and need as a basis for prioritizing immediate Public Access Program efforts, while long-term funding priorities should be based on a completed statewide public access inventory, and a statewide needs assessment.

### **Access Defined**

Over the years, "public access" has been viewed in several ways. Generally, determining what public access is has depended upon whether the focus was on providing an access facility controlled by a public entity, or providing access to state waters regardless of who controlled the physical access point. These two approaches have been and continue to be used in New Hampshire to provide access to public waters. The government role (federal, state, and local) in providing access, as well as the role of the private sector (for-profit and nonprofit) in providing private recreational facilities and conservation lands, are well established. To some extent, however, these co-existing roles of the public and private sectors in providing access have led to some disagreement as to what the term "public access" means and/or should mean.

**For purposes of this report, access to public waters will be categorized in the following way: "Public Access" (state owned and/or controlled) and "Other Access" (federally, municipally, commercially, or privately owned).**

Previous efforts have been made to define public access. The 1965 report New Hampshire Public Water Bodies and Public Access



Points - Report #12, Part II, defined a public access point as:

"...a location owned or controlled by a public agency designed to allow the public legal passage to a body of water."

More recently, the Council on Resources and Development (CORD) adopted a resolution at their May 28, 1987 meeting which defined public access (Appendix B). Recognizing that the problem of defining public access constituted a "common problem in the field of natural resources" and that adopting a common definition of public access was in the best interest of the state, CORD adopted the following definition as part of their operating rules:

"Public access to public waters means legal passage to any public waters of the State by way of designated contiguous land owned or controlled by the adopting state agency assuring that all members of the public should have access to and use of the public waters for recreational purposes."

This CORD definition was eventually included as an amendment to RSA 271 (Appendix C) during the 1990 Legislative Session (Chapter 177, Laws of 1990).

The above mentioned definitions focus on the role of government, primarily state agencies, in providing public access. There is no question that the state has had and needs to continue to have the major role in expanding public access opportunities. However, as mentioned above, the private sector has also contributed significantly towards the public's ability to access the state's public waters. From developing marinas, launching facilities, mooring fields, campgrounds, and swimming areas to acquiring open space and recreational lands, the private sector's role must be recognized in any plan that is examining ways to improve access. **To acknowledge the co-existing roles of government and the private sector, the Public Access Plan for New Hamp-**

**shire's Lakes, Ponds, and Rivers uses the following access definitions:**

**Public Access:** refers to the RSA 271:20-a definition which states: "Public access to public waters means legal passage to any of the public waters of the state by way of designated contiguous land owned or controlled by a state agency, assuring that all members of the public shall have access to and use of the public waters for recreational purposes."

**Other Access:** refers to legal passage by way of designated land owned or controlled by a public entity (e.g. federal, municipal) or private entity (e.g. commercial, private nonprofit, individual landowner) for the purpose of providing active or passive recreational opportunities and/or use of the public waters of the state, and where such legal passage may or may not involve a fee.

Before beginning a discussion on public waters or defining public and private rights to these waters, a general explanation of the various types of laws that exist might be helpful. Laws which govern our daily lives consist of two types: those imposed by Congress, a state legislature, a local unit of government, or an agency of government and those imposed by a court. If a law is established by Congress, it is termed a public law; if by a state legislature, it is a statute; if by a lesser unit of government, it is an ordinance. If an agency imposes a legal responsibility, it is by promulgation of a rule or regulation, and this action must be specifically authorized by a public law, statute, or ordinance. If law is established by a court, it



is by judicial decision. Laws based on custom, usage, and judicial decisions are known as the common law.

## Public Waters Defined

By common law and statute (RSA 271:20), all of New Hampshire's natural bodies of fresh water situated entirely in the state and having an area of 10 acres or more--known as great ponds--are state-owned public waters, and are held in trust by the state for public use. The state's title to great ponds extends to the natural mean high water mark of the water body; that is, the mark exclusive of increases or decreases caused by man-made impoundments or by the dredging or lowering of a natural outlet. There are some exceptions, however, such as Goose Pond in Canaan or Lake Winnepesaukee where the state acquired ownership to land (or bottom) above the natural mean high water mark in conjunction with dams. RSA 271:20 also provides that no corporation or individual is allowed to exercise, in any body of public water, rights or privileges which are not common to all of New Hampshire's citizens. Although this is generally true in that one member of the general public cannot claim any greater right in public water than any other member of the general public, littoral owners (those who own land bordering on great ponds) and riparian owners (those owning land through which a natural stream flows or whose land is touched by a natural stream) are given greater rights at common law to use the water in front of their property than is granted to the general population.

As noted in the Lakes and Great Ponds Report 1984-1985, Volume 2, there are approximately 780 lakes and ponds which fall into this category with a total surface area of over 160,000 acres, a little less than three percent of the state's surface area. Presently, more than 500 of the state's great ponds have no public access. Many of these are small water bodies, but about 100 are 100 acres or more in size.

Public waters include not only great ponds, but also navigable waterways, tidal areas, and the ocean. Under RSA 271:9, navigable streams and waters are defined as "...those which are used, or are susceptible of being used in their ordinary condition, as highways for commerce, over which trade or travel is or may be conducted in the present customary modes of trade or travel on water...". However, navigability is not the sole test for determining whether a river is public. In the case of St. Regis Paper Co. v. Water Resources Board, 92 NH 164 (1942), the NH Supreme Court suggests that when a river or stream is capable, in its natural state, of providing some useful service to the public because of its existence as such, it is public water.

Another definition of public waters specifically pertains to public utilities. RSA 371:17 states that whenever any public utility finds it necessary to construct a pipeline, cable, line of poles or towers etc. "...over, under or across any of the public waters of this state,...it shall petition the commission for a license to construct and maintain the same." Under this section, public waters are defined as "...all ponds of more than 10 acres, tidewater bodies, and such streams or portions thereof as the commission may prescribe."

Finally, it is clear from the 1889 case of Concord Mfg. Co. v. Robertson, 66 NH 1, that tidewaters are considered public waters in New Hampshire. In this case, the NH Supreme Court ruled that "Tidewaters...are public waters."

## Public Rights to Access

Any plan aimed at protecting and expanding public access to New Hampshire's public waters must be developed within the legal framework which defines public and private rights to public waters. The rights of the public to use the surface waters of the state come from a combination of common law (law based on custom, usage, and judicial decisions) and statutory law (laws authorized by statute).



## Common Law Provisions

One common law provision that has become an accepted method of establishing and expanding public rights to public waters is the Public Trust Doctrine. This doctrine essentially recognizes that the government (state and federal) holds and administers such natural resources as coastal and inland waters for the proper use and enjoyment of all citizens. This doctrine also exacts a stewardship responsibility on the part of government for the control and management of these natural resources. It is a well-established principle that the State of New Hampshire holds title to the bed, and public trust rights in the waters, of all great ponds (natural water bodies ten acres or more in size) up to the natural mean high-water level (Hartford v. Gilmanton, 101 NH 424, (1958)). The state also holds public trust rights in the waters of navigable rivers and other water bodies capable of public use (Connecticut River Co. v. Olcott Falls Co., 65 NH 290 (1889) and St. Regis Paper Co. v. Water Resources Board, 92 NH 164 (1942)).

As the trustee and holder of public water use rights, the state may use sovereign powers to protect both public and private interests in its waters. Historically, the interests protected under the Public Trust Doctrine have dealt primarily with the common right to use public waters for navigation and fishing. However (as discussed in the 8/2/89 Attorney General's opinion concerning Loon Mountain Ski Area South Mountain Expansion Project), other interests--such as the use of public waters for swimming and other forms of recreation, and the control of waters to provide for water storage and to protect water quality/public health--are also protected. Because it is flexible, the Public Trust Doctrine can respond to the changing needs and interests of the public whose resources it protects. Public trust interests may extend to the preservation of waters in their natural state to promote wildlife habitat, scenic beauty, and scientific study. Finally, public trust interests are also measured in light of future needs, not just present-day demands

on any given resource. In addition to sovereign powers, the state also has police powers which it can use to regulate state waters, both public and private.

The state's exercise of the public trust over great ponds 10 acres and larger, is not a statutory creation. The historical basis for the state's ownership of water bodies greater than 10 acres was established in New Hampshire by the 1889 case of Concord Manufacturing Co. v. Robinson, 66 NH 1, but the ten-acre concept predated that case by many years. Originally, RSA 271:20 defined public waters as "all natural bodies of fresh water having an area of 20 acres or more...", while RSA 271:21 affirmed that the state was not abandoning or waiving any of its rights "...in fresh water ponds containing between 10 and 20 acres." In 1977, the NH Legislature amended RSA 271:20 by replacing "20 acres" with "10 acres", and repealing RSA 271:21. The 1977 amendment did no more than formally declare the state's intent to exercise the full scope of its public trust ownership over great ponds which, before 1977, it limited to ponds greater than 20 acres.

More recently under Chapter 177 (Laws of 1990), RSA 271:20 was amended further to read that all natural fresh water bodies of 10 acres or more "...situated entirely in the state...are state-owned public waters...; provided...the state retains its existing jurisdiction over those bodies of water located on the borders of the state over which it has exercised such jurisdiction." Public water use interests have also been expanded by the state through river dredging, canal construction, harbor improvements, and the creation of new lakes through dam construction.

The state has also expanded the public's ability to exercise its water use rights by building new access roads to lake, stream, or other as yet inaccessible shore areas; by purchasing easements for rights of entry across private land to enable the public to reach a public water body; and by using eminent domain powers to acquire particular tracts of land and waters, the ownership of which the state deems to be in the public's interest.



Over the years, the NH Supreme Court has upheld the public's right to access public waters. In the case of Whitcher v. State, 87 NH 405 (1935), the New Hampshire Supreme Court ruled that any member of the public "may exercise a common law right to boat, bathe, fish, fowl, skate and cut ice in and on its public waters." However, the NH Supreme Court has also made it clear that littoral property owners (i.e. those owning seashore or lakeshore property), and riparian owners (i.e. those owning land through which a natural stream flows or whose land is touched by a natural stream) have water use rights which may not be common to all citizens.

In Sundell v. Town of New London, 119 NH 839 (1979), the NH Supreme Court ruled that although waters of great ponds are public waters, littoral owners have private property rights which are separate from, independent of, and more extensive than the public's rights. While littoral owners have more extensive rights in public waters than the general public, they have no right to build, make land by fill, or erect structures into the waters in front of their property so as to unreasonably interfere with the paramount rights of the public (State v. Stafford Co., 99 NH 92 (1954)). In the case of Gillis v. Chase, 67 NH 161 (1891), the NH Supreme Court defined the rights of riparian owners by stating that each riparian owner had the right to a "...just and reasonable use of the water as it passes through and along his land..." as long as he did not unreasonably interfere with the rights of other riparian owners. Whether a given water use is reasonable depends on the specific facts and circumstances involved, including the nature of the public/private interests affected and the impact of the proposed water use on those interests (Concord Mfg. Co. v. Robertson, 66 NH 1 (1889)).

### **Statutory Provisions**

In addition to common law doctrines, there are several statutory provisions which relate to the acquisition, expansion, and pro-

tection of access to public waters in New Hampshire.

#### **□ *Layout of Highways to Public Waters (RSA 230:63)***

Under this statute, the Governor and Council (G&C), upon petition from citizens, may conduct public hearings to "...determine whether there is occasion for the laying out of highway..." to the public water body named in the petition. This public hearing may be conducted by the G&C or, as has been the case over the years, by a three-person commission appointed by the G&C. If the required "occasion" for such a "highway" is found, the commission then determines the highway's location, purchases the land, and lays out the right-of-way. Under RSA 230:70, such a highway is deemed a class V highway and is to be maintained by the municipality, unless the G&C determine otherwise. In recent years, the G&C has deemed these roads as class VI highways, and has at times restricted their use to canoe, car top, and walk-in access. It should be noted that any highway (or portion thereof) to public waters laid out by a commission appointed by the G&C cannot be discontinued except with the consent of the G&C (RSA 231:43).

#### **□ *Rights-of-Way to Recreational Waters (RSA 230:72-73)***

Establishes a "Right-of-Way Board" consisting of four state department heads most directly concerned with water resources and recreation (i.e. Directors of the Division of Parks and Recreation and Division of Water Resources, Executive Director of the Fish and Game Department, and Commissioner of Transportation, or their designees). The function of this "Right-of-Way Board" is to ensure that "Any transaction by any state agency or department to acquire or dispose of any land, real estate, or easement which leads to or is adjacent to any impoundment of water, stream, lake, pond or any other body of water shall provide for the acquisition or retention of a right-of-way to any such water commensurate with its potential for boating, bathing, fishing, or other recreational use...".



The Board investigates such transactions, and makes recommendations to the Governor and Council for the acquisition or retention of suitable rights-of-way, as appropriate.

□ **Eminent Domain**

State and local governments have the constitutional power and the statutory authority to take private property. However, this eminent domain power may be exercised only if the condemned property is applied to public uses and if just compensation is paid to the landowner. In New Hampshire, the statutory authority to exercise eminent domain powers is found under numerous statutes, depending on whether the entity taking property is the state, county, city or town, or public utility. Examples of some of these statutes include:

**RSA 4:29-30** - empowers the Governor and Council to take and appropriate any real estate within the state which may be deemed necessary for any military purposes, public parks, public buildings, or any other public improvement purposes.

**RSA 230:12** - grants eminent domain powers to a three-person committee (appointed by the Governor) for purposes of layout or alteration of class I or class II highway or a highway within the state included in the national system of interstate highways.

**RSA 219:2** - grants eminent domain powers to the Department of Resources and Economic Development (with prior consent by the Governor and Council) to acquire suitable tracts of land for state forests and reservations used for public recreation and park purposes.

**RSA 23:2** - allows any county, as may be authorized by the county convention, to take land within its limits as a site for recreational activities through eminent domain.

**RSA 31:92** - permits towns to take any land required for public use.

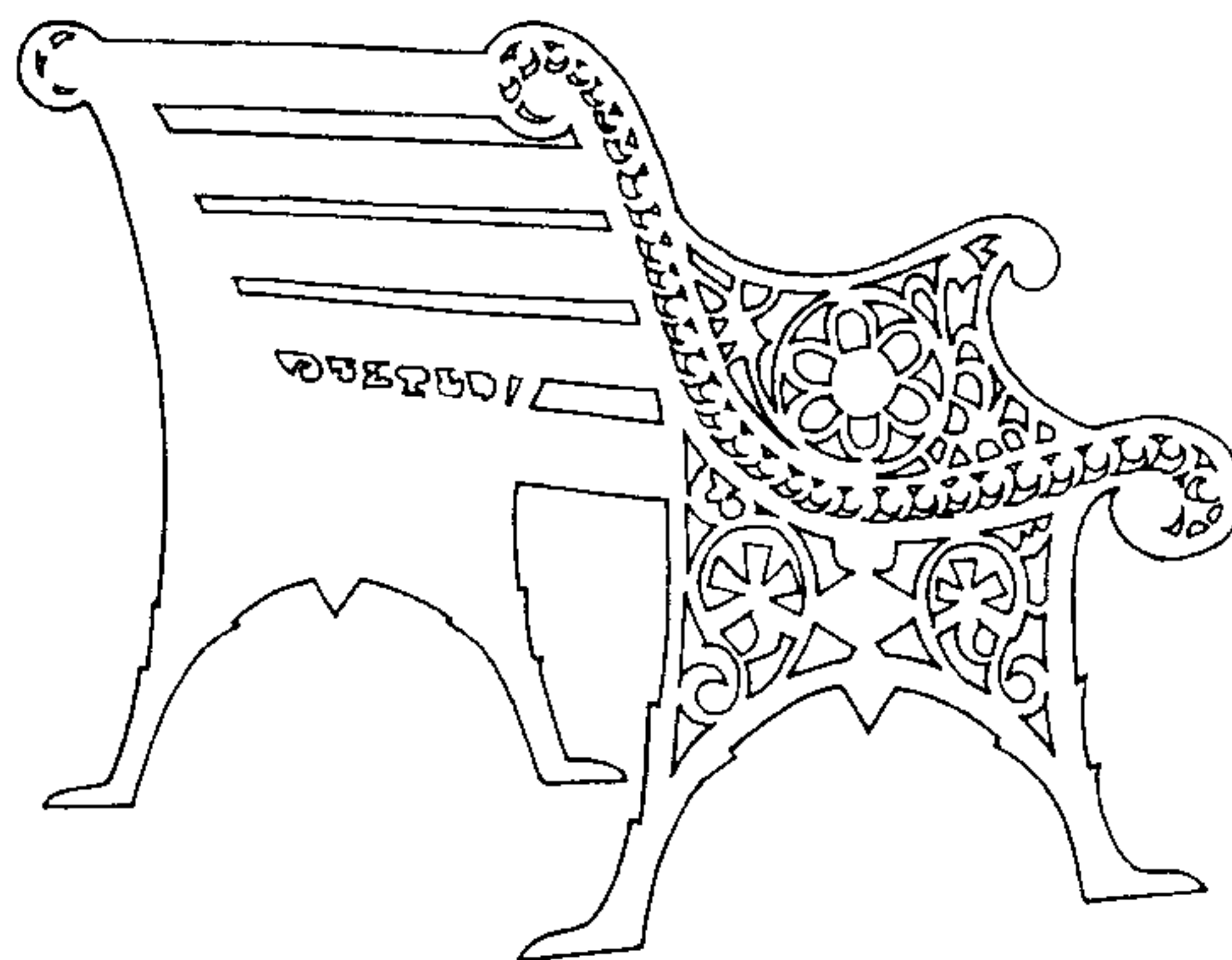
**RSA 36-A:4** - prohibits towns from condemning property for conservation purposes.

**RSA 371:1** - allows a public utility to petition the public utilities commission for permission to take such lands as are needed to meet the reasonable requirements of service to the public.

**RSA 498-A** - specifically addresses condemnation procedure, Board of Tax and land appeals, and determination of just compensation and, therefore, ensures that procedures which govern all condemnations of property and the assessment of damages are applied uniformly and consistently.

The role that some of these statutes have played and their effectiveness in providing public access to public waters are discussed in Chapter 2.





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## Chapter 2 - Public Access Efforts to Date

### Studies

The question of public access to the lakes and ponds of New Hampshire has been a recurring issue over the years. As noted in the preceding chapter, multiple planning efforts addressing public access to public waters have been undertaken in the past. Perhaps the best and most comprehensive of New Hampshire's planning efforts on this subject was the two-volume study on public access published in the mid-1960's, as part of the State Planning Project (SPP) series of reports. The SPP undertook the examination and inventory of all New Hampshire water bodies over ten acres in size, with particular emphasis on their availability to the public. The SPP public access-related reports included the following:

#### **New Hampshire Water Bodies and Public Access Points - Report #4**

This first volume report, published in September 1964, was basically an inventory of public access points. It provided detailed listings and mapped locations of public access points which were identified through field surveys conducted in 1963 and 1964. The report listed only those public access points on public water bodies over ten acres (i.e. natural ponds and lakes, natural water bodies whose levels had been raised by damming, and artificial water bodies created for flood control, power, or other purposes).

#### **New Hampshire Water Bodies and Public Access Points - Report #12**

This second volume report, published in September 1965, recommended that a comprehensive State Public Access Development Program be implemented, and addressed the need to amend and/or repeal certain state statutes. It evaluated the primary issues affecting public access, including existing statutes; identified access needs, including seasonal variations; discussed the natural characteristics of lakes and ponds as they relate to access; reviewed shorefront land use and development; and compared present water-based recreation in New Hampshire to future water-based recreation needs. This report specifically recommended that ". . . the Legislature create a Public Access Advisory Board to carry out a planned program of statewide public access development, and establish a Waterways Fund to finance the program. The Public Access Advisory Board shall be responsible for:

- a. Evaluation of the individual characteristics of each water body for optimum use, whether this be recreation, water supply, esthetic value, industry, or a combination of uses;
- b. Formulation of a water body priority list to serve as a schedule for the construction of public access points;
- c. Development of high standards of access design and construction;



- d. Improvement of existing public access points to meet adopted standards of design and construction;
- e. Acquisition of necessary land by purchase;
- f. Acceptance of gifts of desirable land; and
- g. Provision of amenities including buffers between public use areas and the abutting land, graded parking areas delineated by bumper rails, and adequate and continuous maintenance."

Within the last five years, other studies have also been undertaken which directly and indirectly addressed the issue of public access to the state's public waters and/or discussed water-based recreation demands, needs, and trends. Among these studies were the following:

#### **Lakes and Great Ponds Report 1984-1985**

This study, consisting of Volumes One, Two, and Appendix, was developed by OSP as part of the state's continuing Outdoor Recreation Planning Program. It reviewed and evaluated a wide range of water resource-related problems confronting New Hampshire's 780 great ponds. The first volume identified water resource-related problems through input from a series of public meetings held throughout the Lakes Region, and included recommendations to address these problems. The recommendations were presented by CORD to the Governor. Many of the recommendations subsequently appeared in legislation.

The second volume, a report to the General Court, summarized the effects and interactions of the demands put upon the state's great ponds. The study looked at a series of issues affecting great ponds including: uses and compatibility of uses; public access; and great pond development, physical appearance, and natural diversity. Each of these issues was and still is important to the preparation of a statewide public access policy. The report's section on public access pro-

vides much useful information including specific recommendations which can provide a basis for a public access program for the 1990's.

#### **State Parks Policy Plan**

This 1986 Plan, also a product of OSP's continuing Outdoor Recreation Program, was developed with extensive public involvement (i.e. statewide public forums) as well as input from the Department of Resources and Economic Development. The report provided a thorough analysis of the major issues facing the state park system, and recommended changes in the state park system which would best accommodate the changing social and economic demands of state residents and visitors. The Plan stated that "It is state policy to place high priority on state park development and acquisition which emphasizes water access. . .", and recommended that the Division of Parks and Recreation ". . . should also give high priority to acquisition of lake-front property, both on undeveloped and on developed great ponds, and access points to public waters."

#### **This Park Called New Hampshire**

This document was developed in response to RSA 216-A:3-e which directed the Director of the Division of Parks and Recreation to publish a written comprehensive 6-year development plan for the state park system. This plan attempted to prescribe cost efficient ways of meeting future park needs, and proposed new ways of conducting state park operations and of extending state park budgets. Included among the plan's policies for the development of the New Hampshire state park system was the acquisition of ". . . access sites to water bodies and waterways where existing public access is insufficient and where there is a high public benefit resulting."

#### **Northern Forest Lands Study**

Initiated at the request of Congress, this 1990 study addressed recent changes in land-ownership and land use in the northern for-



ests of Maine, New Hampshire, New York, and Vermont. The US Forest Service together with the Governors' Task Force on Northern Forest Lands carried out the study. Issues discussed included the long-term impacts of changes in landownership and use on the integrity and traditional uses of the land in parts of the study area. The study noted that, within the Northern Forest area, land with access to lakes, rivers, and scenic ridges was the most vulnerable to changes in use. Rivers, lakes, and wetlands were listed as significant resources which provide quality recreational opportunities, as well as unique habitat for plant and animal species of national significance. Strategies to protect land with important resources outlined in the study included:

- 1) acquiring conservation easements to protect scenic views from lakes, undeveloped river corridors, undeveloped lakeshore with low to moderate public use, wetlands, and specialized wildlife habitat/wildlife corridors; and
- 2) acquiring land in full fee to protect undeveloped lake and river shores where heavy public use is expected, undeveloped river corridors, specialized wildlife habitats, and habitats of threatened or endangered plants and animals.

#### **Upper Merrimack River Corridor Plan**

In 1988, the State Legislature designated the entire mainstem of the Upper Merrimack for study under the Rivers Management and Protection Program (Chapter 190, Laws of 1986). This two-volume plan, initiated by OSP, was prepared under the guidelines established by the Program and with assistance from the River Area Planning Committee (composed of municipal, regional, business, landowner, conservation, and recreation appointees). Volume I documents the natural and cultural features found on the river, including those natural resources which provide recreational opportunities. Current recreational use of the Upper Merrimack River is also documented through a user sur-

vey analysis. Volume II, the management plan, contains a vision statement, plan goals, and management recommendations for specific resources--including recreation.

#### **Squam Lakes Watershed Plan**

This Office of State Planning (OSP) initiative was reinforced in the spring of 1986, when the legislature enacted Chapter 45 which directed OSP to establish a pilot watershed planning project with several towns contiguous to a great pond. The focus of this project is the Squam Lakes and their watershed--an area encompassing portions of six towns. Local guidance was provided to the project through a Squam Lakes Watershed Advisory Committee. The seven goals for the Squam Lakes watershed planning process address land and water capability, water quality, wildlife habitat, environmental education, access, land acquisition, and the socio-economic implications of the watershed plan. Plan recommendations include amending local zoning ordinances and subdivision regulations, improving wetland inventories, acquiring conservation easements along streams and around wetlands, and requiring legislative action such as the establishment of lake-use zoning.

#### **State Comprehensive Outdoor Recreation Plan**

A final, major report that is important to this study is the State Comprehensive Outdoor Recreation Plan New Hampshire Outdoors 1988-1993. The SCORP, as it is known, serves as the state's official five-year policy plan for outdoor recreation and natural resource conservation. The plan takes a comprehensive look at outdoor recreation by identifying twelve major issues concerning New Hampshire's recreation and natural resources, and recommending what actions need to be taken to address these issues. The report identifies recreation trends and defines the roles and responsibilities of the various state, local, and private agencies/organizations in meeting the identi-



fied needs/demands for outdoor recreation and resource conservation.

While the entire SCORP 1988-1993 has significance with respect to public-access policy development, certain sections of this Plan have special relevance. The Recreation Supply, and Demand and Need sections include discussions on public access to public waters. In addition, two of the twelve Priority Outdoor Recreation Issues (i.e. Rivers and Lakes, and State Park Resources) also address public access by looking at relevant state policies and presenting specific recommendations.

Given the level and quality of effort involved in completing the reports described above, certain findings from some of these documents are incorporated into the Public Access Plan for New Hampshire's Lakes, Ponds, and Rivers.

## Programs

A number of existing programs are involved in providing public access and protecting/managing public waters.

### Lay Out of Highways to Public Waters

As described in Chapter 1, laying out of highways to public waters is authorized by RSA 230:63-71. Under this statute, the state may determine the need for acquiring public access to great ponds and for constructing access roads or paths to the water. The Department of Transportation administers the roads to public waters law (RSA 235) and has, through this program, provided over 100 access points to great ponds. Shortly after the State Planning Project's two-volume study on public access was completed in the mid-1960's, a major effort was made to acquire new access points to great ponds using the provisions of RSA 230:63-71. A total of 70 new access points were provided, mostly between 1960 and 1970. After 1970, the number of new public access points acquired under this statute declined. The most recent acquisition of a highway to public waters occurred in 1977.

Lay Out of Highways to Public Waters has contributed towards expanding public access opportunities to the public. However, inherent inadequacies do exist in this law. The shortcomings of RSA 230:63-71 were apparent in the mid-1960's and were discussed at length in the 1965 State Planning Project report New Hampshire Public Water Bodies and Public Access Points - Report #12, Part II. Some of the drawbacks of this approach included: the local action required to initiate a petition often reflected particular group interests rather than the overall need for public access to a particular water body; petitions that were initiated dealt with only one water body, and, therefore, did not reflect public access pressures and needs of the area, region, or the state as a whole; due to limitations in the law itself, the public hearing resulting from a petition for access was--in many respects--unsatisfactory. In addition, field observations of public access points established under RSA 230:63-71 conducted in the mid-1960's found that at a majority of these sites, design, lay out, and construction were inadequate for meeting public access needs. Often, the selection of a public access site was based only on the shortest distance from the road to the water, the least expensive land, or the most readily available land. Moreover, all lakes and ponds received the same type of access, with little regard to the physical/cultural characteristics of the water body or surrounding land.

Another shortcoming of the Lay Out of Highways to Public Waters program is that it only provides a road from the main highway to the water's edge, not a public access facility. Therefore, these highways to public waters are often used for personal access by landowners with landlocked parcels. Currently, the NH Department of Transportation (NHDOT) cannot prohibit a landowner along the main highway from selling lots along a NHDOT access road. In addition, sites acquired by NHDOT under this program were not uniformly recorded with the Registry of Deeds. With no formal records existing at the County Seat level for certain roads to pub-



lic waters, some have been taken over by private landowners.

Maintenance of these highways to public waters is also a problem. Once constructed, such highways become the responsibility not of the state but of the municipality in which they are located. On the whole, municipalities have not maintained or repaired these roads resulting in deteriorated road conditions, litter, and vandalism. Lack of funds on the part of municipalities is one reason why required maintenance has not been provided. In other instances, official knowledge of municipal responsibilities towards these public access points was lost over time due to changes in local administration.

### **Rights-of-Way to Recreational Waters**

In 1963, the General Court created a new method of acquiring public access to water bodies. This legislation (RSA 230:72-73) was enacted as a result of a proposal made a few years prior to 1963 to sell all surplus lands held by certain state agencies. This proposal generated considerable public opposition since most of the surplus lands being proposed to be sold were located on the shores of public waters. As described earlier in Chapter 1, this law contains provisions for retaining or acquiring adequate rights-of-way to ponds, lakes, and streams in conjunction with state agency land transactions adjacent to these waters. To advise the Governor and Council, the statute created a four-member Right-of-Way Board. This Right-of-Way Board has met occasionally since its inception but has not been effective in expanding public access to public waters.

### **NH Fish and Game Department Public Access Program**

Originally, the NH Fish and Game Department (NHFG) became involved in public access acquisition in the 1960's. Between 1969 and 1979, the NHFG developed 15 new public access areas for boating and fishing. From 1980 to 1983, however, NHFG's budget for public access development was nonex-

istent. In 1983, the NH Legislature enacted Chapter 343 which directed the NHFG to acquire and construct 10 new public access points to public waters. Five of these points were to be on rivers and the other five on great ponds. The General Court appropriated \$200,000 out of the highway fund to achieve this objective. The law was amended in 1985 reducing the number of predetermined sites to three, plus an additional site of NHFG's choice. Acquisition and development for the three predetermined sites (on the Connecticut River in Claremont, the Merrimack River in Boscawen, and on Big Diamond Pond in Stewartstown) consumed the bill's available funds. Considerable local resistance and the lack of eminent domain powers greatly hampered the ability of NHFG to acquire those parcels best suited for public access development.

A partial solution to the public access problem was provided by the US Fish and Wildlife Service's Dingell-Johnson Act, an Act which provides funding for fish habitat acquisition and fish restoration/management projects. In 1987, the size of available Dingell-Johnson (DJ) funds for use by the state was increased by the federal Wallop-Breaux Expansion Act. The Act expanded taxes to certain previously exempted fishing supplies, and mandated that at least 10% of the entire DJ package be used for public access programs. Although NHFG had access to DJ funds for programming, the state was required to finance 25% of the cost of each project. In 1987, a state Wallop-Breaux fund (Chapter 231) was passed to help NHFG cover the state's 25% match. This legislation allocated \$600,000 over two years to purchase land and construct boat launching sites on lakes, ponds, rivers, streams, and saltwater areas. This law also called for the establishment of a special non-lapsing account. When matched with DJ funds, the account contained \$1.3 million for public access projects. Public access to Big Diamond Pond was acquired using state Wallop-Breaux money as a match for DJ funds.



In 1984, NHFG initiated a Statewide Public Access Program which today is located within the Engineering and Environmental Services Division. This Program is responsible for acquiring land for future sites, developing new public access sites, and refurbishing existing state-owned and/or controlled access areas. NHFG has developed site assessment criteria to prioritize repairs to existing sites, and has also established a "Neutral Criteria Site Assessment Process" to evaluate potential public access sites for acquisition, development, and maintenance activities. To date, NHFG has constructed 20 new public access sites, and has projects in the refurbishment, development, and acquisition stages. Public access at Sewalls Falls on the Merrimack River in Concord is NHFG's largest public access endeavor to date.

The NH Fish and Game Department also provides public access opportunities through its "Waterfowl Conservation Program". This Program purchases wetlands and upland buffers for wildlife management purposes. These lands provide public access for consumptive and non-consumptive users alike. Due to state and federal requirements as well as budgetary constraints, it takes approximately two years to purchase a parcel of land and, once purchased, approximately one-and-one-half years to develop. Federal funding requirements restrict NHFG's public access development to boating and fishing access only.

#### **Land and Water Conservation Fund (LWCF) Program**

The LWCF program provides matching grants to states, and through the states to local governments, for the acquisition and development of public outdoor recreation areas and facilities. Administered by the National Park Service, LWCF assistance may be used to acquire lands and waters or interests in lands and waters for public outdoor recreation, and development of basic outdoor recreation facilities for the general public. Since the program's inception in 1965, over 500 outdoor recreation and conservation projects

(many involving water access acquisition and/or development) have been completed in the state. In fact, the highest ranking projects of 1988 and 1989 were the purchase of 16 acres on the Connecticut River to provide access, and the development of a new community beach on the Lamprey River in Raymond. LWCF project selection criteria used to evaluate project proposals includes a specific criterion which addresses a project's potential for providing new, rehabilitated, or expanded water access. In 1986, federal legislation specifically authorized the acquisition of wetlands with LWCF monies. Of the approximately 525 LWCF projects funded since 1965, 20 involved significant wetland acreages and more than 100 projects involved wetland areas or were located on open bodies of water.

#### **Land Conservation Investment Program**

The Land Conservation Investment Program (LCIP), created by the New Hampshire General Court in 1987 and administratively attached to the Office of State Planning, was established to acquire lands and interests in lands of statewide, regional, and local significance. To date, the LCIP has funded 140 projects obligating more than \$35.4 million to protect over 91,000 acres of land. Ninety-nine percent of this acreage is permanently open to the public for pedestrian recreation, hunting, and fishing. Under this Program, over 20 miles of frontage on 25 great ponds and lakes and Great Bay have been protected, over 50 miles of frontage on 29 rivers and navigable streams have been protected, and access for boats and canoes has been permanently secured on 25 ponds, lakes, and river sites where no public access existed before.

Several LCIP acquisitions represent major additions to the state park system. The 662-acre "Northwood Meadows" property in Northwood protects the headwaters of the Lamprey River and provides a ready-made natural park with a 30-acre lake and 5 miles of interior roads. The 134-acre "Wild Goose"



property adds 130 acres to Sunapee State Park and provides a 4-acre parcel with 732 feet of frontage on Lake Sunapee for future public boat access to the Lake.

A unique feature of the LCIP is its private partner, The Trust for New Hampshire Lands. The Trust is a nonprofit organization founded in 1986 for the exclusive purpose of funding the operation and administration of the LCIP. At present, the two entities forming the partnership have agreed to close the Program down by December 1992. The LCIP anticipates that it will complete all real estate transactions by that date, even if additional funds are made available by the 1991 Legislature. Any additional funding provided by the Legislature would be spent on lands for which applications are already on file from the final competitions for both the statewide and local programs.

#### **New Hampshire Rivers Management and Protection Program**

Passed in 1988 and amended in 1990 and 1991, RSA 483 established a statewide rivers program within the NH Department of Environmental Services (DES) under a Rivers Coordinator. The Program is based on a two-tier approach to river management and protection: state designation of significant rivers and protection of instream values, and local development and adoption of river corridor management plans to protect shorelines and adjacent lands. Under the Program--which encompasses a four category river classification system, nomination procedures, and specific protection measures--eight rivers/river segments have been designated for protection to date. Under the provisions of this law, state agencies considering any action affecting designated rivers (public access facility development would fall under this provision) must notify DES of their plans. This review process is to ensure that proposed actions by state agencies are consistent with the protection measures applicable to the particular river. The law also addressed the disposal of river property by stating that no state-owned property adjacent to or pro-

viding access to a river or river segment shall be recommended for disposal by the Council on Resources and Development except upon the review and recommendation of the Rivers Management Advisory Committee--a Committee established under the rivers program.

#### **New Hampshire Lakes Management and Protection Program**

Passed in 1990, RSA 483-A established a statewide lakes program within DES under a Lakes Coordinator. The Program was established to maintain or enhance the scenic beauty and recreational potential of lakes, to protect wildlife habitat, to ensure opportunity for public enjoyment, and to respect littoral interests. The law requires that state-level lakes management criteria be developed; established a Lakes Management Committee; and set up procedures for cooperative lake management and shoreland protection plan development by DES and the Office of State Planning, with involvement by regional planning agencies. Other provisions of the law require that state-owned property adjacent to or providing access to a lake or river cannot be disposed of by the state without the review and recommendations of the Lakes Management Committee.

#### **New Hampshire Clean Lakes Program**

The New Hampshire Clean Lakes Program (RSA 487:15-25) was established in 1990 as a result of the General Court's concerns that rapidly escalating pressures of shorefront development and recreational uses of public waters were placing increased strains upon the state's lake resources--including accelerating nuisance growths of exotic aquatic weeds.

Administered by the Department of Environmental Services' (DES) Division of Water Supply and Pollution Control, the Program's function is to limit the eutrophication process in New Hampshire lakes by reducing nuisance growths of macrophyton and phytoplankton (algae). The Division is directed to prevent the introduction and further dispersal of exotic aquatic weeds and to manage or



eradicate exotic aquatic weed infestations in the surface waters of the state. Under the Program, eradication of new infestations of exotic weeds is a first priority and the use of all reasonable measures to control exotic aquatic weeds is a second priority. Otherwise, preference is given to lakes that have public access or that serve as a public drinking water supply.

Agency cooperation is also a key component of this Program. The Division must make a "concerted effort" to integrate and coordinate the Clean Lakes Program with other environmental management programs involving lakes or watersheds, whether such programs fall within the jurisdiction of the Division, DES, or other state departments. In addition, the Division may make financial grants to lakefront associations, private businesses, citizens, and local governmental agencies for the management of exotic aquatic weeds where eradication is deemed impossible.

Finally, a Lake Restoration and Preservation Fund, funded through \$.50 from private boat registrations, is established under RSA 487:25 for lake restoration and preservation measures (including exotic aquatic weed control).

## Legislation

During the 1989 Legislative Session, several bills dealing with public waters and public access issues were introduced. These bills were as follows:

**HB 202** - requesting inventories of water access properties under control of various state agencies.

**HB 254** - establishing a committee to determine ownership of great ponds in the White Mountain National Forest.

**HB 427** - relative to public access to public waters and making an appropriation therefore.

**HB 620** - relative to the maintenance of boat launching ramps and related parking areas.

Each of the bills was referred to the House Resources, Recreation and Development Committee which decided that the study committee created by HB 254 should also study the subjects covered in the other three bills. Therefore, HB 254 was amended to create a committee to study a) the ownership of great ponds in the White Mountain National Forest, b) public access to public waters, and c) the responsibility for control and maintenance of public boat launching ramps and adjacent parking areas. HB 254 as amended was passed and signed into law and the first meeting of the Committee was held on July 20, 1989. During the 1990 Legislative Session, two bills were introduced which bore directly on the work of the Committee. HB 1026 relative to the definition of public access to public waters amended RSA 271:20 and was passed. HB 1430, which established a public access advisory board to develop a program for obtaining and developing public access to public waters, was sent to interim study.

## Existing Agency Roles

Public and other access-related programs and responsibilities exist at the federal, state, local, and private levels. An outline of these programs and responsibilities is presented below.

### Federal Agencies

#### *Department of Defense*

Through the Army Corps of Engineers, administers the Section 404 permit program (under the Clean Water Act of 1977) which regulates the discharge of dredge or fill materials into the waters of the United States, and Section 10 permit program (under the 1899 River and Harbors Act) which regulates any construction involving dredging, filling, or obstruction of navigable waters. Also through the Corps, own and operate six flood control reservoirs in the state totalling approximately



27,000 acres. These areas provide an array of recreational opportunities, including access to public waters.

□ **Department of Interior**

Through the National Park Service, administers the Land and Water Conservation Fund (LWCF), and implements the National Wild and Scenic Rivers Program. LWCF monies are, in part, financing the development of this public access plan. Through the US Fish and Wildlife Service, administers the Federal-Aid in Fish Restoration Act (more commonly known as the Dingell-Johnson Act), and manages two National Wildlife Refuges including the John Hay National Wildlife Refuge on Lake Sunapee.

□ **Department of Transportation**

Under the Federal-Aid Highway Act of 1979, provides for the use of highway funds to construct access ramps to public boat launching areas and water recreation areas from bridges under construction, reconstruction, replacement, or repair and/or from alteration on federal-aid primary, secondary, and urban highway systems. Under the Highway Beautification Act of 1965, provide scenic easements along highways. Two such scenic highway easements in New Hampshire run along segments of the Piscataquog and Androscoggin Rivers.

□ **Environmental Protection Agency**

Has special "veto" power on Army Corps of Engineers (COE) Section 404 permits regarding dredge disposal and fill into aquatic ecosystems, and separate enforcement powers from the COE on unauthorized fills.

□ **Federal Energy Regulatory Commission**

Administers the Federal Power Act which regulates the construction, operation, and maintenance of hydroelectric projects. Requires prospective developers to consult and demonstrate compliance with state and federal statutes governing water quality, recreation, fisheries, and other aspects of water resources.

## State Agencies

□ **Department of Environmental Services**

- Public drinking water supply protection.
- Surface quality water protection.
- Stream and lake water quality monitoring.
- Lake Winnepesaukee Boat Inspection Program.
- Aquatic weed control.
- Stream flow records.
- Wetlands Board permits for fill and dredge in wetlands and for shoreline structures such as boat ramps, docks, walls, bank stabilization etc.
- Acid precipitation control.
- Dam and safety inspections, lake level regulation, and land management around water impoundments.
- NH Rivers Management and Protection Program.
- NH Lakes Management and Protection Program.

□ **Department of Resources and Economic Development**

- Acquisition of land for State Park System and State Forest expansion.
- Public access development on designated DRED properties.
- State park, wayside area, and historic site facility maintenance.
- Cooperative program with NH Fish and Game Department addressing boating access opportunities.
- Land and Water Conservation Fund Program grant administration.
- Technical assistance to communities, agencies, and the private sector in areas including public information, access for the disabled, and community recreation.
- Site-specific outdoor recreation planning for all DRED properties.
- Tourism Promotion.



- NH Heritage Trail Program and other statewide trail corridors.
  - NH Natural Heritage Inventory.
  - Forest management for all state-owned woodlands.
- **Department of Safety**
- Boating registration law compliance.
  - Boating law enforcement on navigable lakes, ponds, and rivers.
  - Boat speed and ski craft regulation.
  - Boating safety education promotion.
  - Moorings regulation, law, and policy review and analysis.
  - Criminal laws, mooring laws, wetland laws, drug laws, and decibel noise level laws enforcement.
  - Water buoys maintenance.
- **Department of Transportation**
- Roads to Public Waters Program. Program inactive since 1979.
  - Access to rivers adjacent to bridge sites.
  - Scenic easements; bike paths and scenic overlook development/management.
- **Fish and Game Department**
- Statewide Public Access Program for boating/fishing access using Wallop-Breaux expansion of Dingell-Johnson Act funds, and a portion of credited unrefunded motor fuel tolls.
  - Land Acquisition Program.
  - Stream Survey and Inventory.
  - Pond Survey and Inventory.
  - Fish and Game Laws Enforcement.
  - Search and Rescue.
- **Governor's Commission on Disability**
- Advises the Governor, the NH Legislature, state agencies, municipalities and service providers of the needs and rights of people with disabilities.
  - Enforces the NH Code for Architectural Barrier Free Design requiring accessibility of publicly funded buildings.
- Provides information regarding the many services, laws, and regulations that affect disabled persons.
- **Office of State Planning**
- Comprehensive Statewide Outdoor Recreation Planning.
  - Water Resource Planning.
  - NH Coastal Program.
  - Land Conservation Investment Program.
  - GRANIT - Geographic Information System
- **University of New Hampshire**
- Water Resource Research Center.
  - Lakes Lay Monitoring Program.
  - Department of Leisure Management and Tourism.
- **Regional Planning Agencies**
- Regional Development Master Plans.
  - River Corridor Management Plans.
  - Natural Resource/Open Space Inventories.
- Municipalities**
- Master Plans.
  - Zoning Regulations.
  - Subdivision Regulations.
  - Parks and Recreation Programs.
  - Conservation Programs.
  - Enforcement Programs.
  - Emergency Services (fire and rescue).
- Private Sector**
- **Nonprofit Conservation Organizations**
- Through their specific programs, contribute to expanding access opportunities. Some provide programs and assist in maintaining facilities, while others acquire and manage conservation land--often in partnership with the state. Lands owned by these conservation organizations often abut public waters. These organizations include The Nature Con-



servancy, Audubon Society of NH, the Society for the Protection of NH Forests, and local land trusts.

□ **Private For-Profit Organizations**

Organizations such as private marinas and campgrounds also provide access to the state's waters in the form of boat slips, docks, boat launches, campsites, beaches, etc.

□ **River and Lake Associations**

Examples of programs provided by such associations include river and lake water quality monitoring and education, river and watershed cleanup and protection.

□ **Sporting Clubs**

Involved in "adopt-a-ramp" programs; also patrol and pick up litter at some public access sites.

## **Prior Demand and Need Analyses**

As stated in the beginning of this chapter, planning efforts addressing public access to public waters have been undertaken in the past. These planning efforts acknowledged the growing demand for public access to the state's public waters and recommended ways to expand such access to meet this demand. Most recently, New Hampshire's State Comprehensive Outdoor Recreation Plan New Hampshire Outdoors 1988-1993 (also known as the "SCORP") devoted much discussion on the need to expand public access to the state's public waters. The following review of factors contributing to the growing demand for expanded public access to public waters is taken primarily from New Hampshire Outdoors 1988-1993.

The eighties saw New Hampshire grow on the average of over 19,000 persons per year. This rate of growth makes New Hampshire, by rate of increase, the ninth fastest growing state in the nation. These growth trends are expected to continue through the year 2010. By then, the state's total population is projected (by the New Hampshire Office of State Planning) to reach 1,753,097 persons--an in-

crease of 832,622 persons over the 1980 total. With an increasing population comes a growing demand for water resources. The state's outdoor recreation plan estimates that by the year 2000, there will be a need for 689 new fishing and boating access points and 191 additional swimming beach areas state-wide. Other water-dependent recreational activities, although unspecified, will likewise need more access. Despite this growth in water-related recreation, the Lakes and Great Ponds Report 1984-1985 noted that of the approximately 780 great ponds, 500 of these great ponds had no publicly owned access.

Pressures from a growing population along with related growth in real estate development have put demands on New Hampshire's lakes, ponds, and rivers. Increased development has resulted in increased land costs, making acquisition of large tracts of land for recreation difficult. Growth in the state has also influenced land ownership patterns resulting in formerly accessible lands and waters becoming inaccessible to the general public. Access to recreational resources--once taken for granted by state residents--is being restricted or denied due to development, resulting in resentment on the part of locals to "outsiders". The issue of access to New Hampshire's lakes, ponds, and waterways is a growing source of such resentment. Private ownership and waterfront development are blocking access to waters belonging to all of New Hampshire's citizens. Fearing additional disruption to their peaceful lakes and loss of property values, organized lake and camp associations often oppose public access development. The fact that, in some cases, a large part of association membership is composed of nonresidents only adds to state residents' frustration that they are being locked out of "their lakes".

The assertion that demand for water resources will continue to grow is further supported by the National Park Service's 1982-1983 Nationwide Recreation Survey. The 1982-1983 National Park Service (NPS) survey found outdoor swimming to be one of the leading activities (53% participation



rate) among survey respondents. The general population participation rate for boating was 28%, an impressive figure given the investment of time and money involved in boating. New Hampshire's Department of Safety's own statistics show that boat registrations between 1980 and 1988 increased by over 95%, from 40,596 to 79,398. According to 1982-1983 NPS findings, canoeing or kayaking experienced the largest growth with a quadrupling of the summer participation rate since 1960. The general participation rate for fishing was 35%.

The 1982-1983 NPS survey also revealed that fishing, swimming, and boating were popular with older survey respondents. With the proportion of people over 65 continuing to be the most rapidly growing segment of the American population (New Hampshire is no exception with a 17.5% increase in its "over 65" population between 1980-1987), the demand for such water-related activities will increase. This trend is supported further by another NPS study Activity Participation of the "Baby Boom" Generation: A Comparison of "Baby Boomers" Over Time. This study found that "baby boomers" were beginning to exhibit similar activity participation patterns attributed to older persons, and that age continued to be the variable most likely to account for differences in the number of days people participated in activities. Study results further indicated that, in the future, managers of recreation resources will be faced with more people who will be sailing, boating, backpacking, and snowskiing, since these activities appeared to be more resistant to participation decreases due to age. The implications of these trends for New Hampshire, particularly in the area of water-based activities, are that the demand for public access to New Hampshire's waters—already a major concern—will intensify.

Additional evidence of the need for more access to public waters is provided by the 1987 NH Community Recreation Leaders Survey (NHCRLS), a survey conducted by the Office of State Planning as part of its Recreation Planning Program. When results

from the 1987 NHCRLS pertaining to facility needs are analyzed and compared to similar facility concerns voiced by community recreation leaders in the 1981 NHCRLS, certain facility development trends are evident. Table 1 compares 1981 community recreation facility needs to municipal facilities actually provided between 1982-1987. The table indicates that at the municipal level, parks/conservation lands, beaches, boat launching facilities, and trails ranked among the top ten facilities provided.

The 1987 NHCRLS also revealed that despite the extensive array of facilities which communities provided over the five-year period between 1982 and 1987, community needs with respect to outdoor swimming facilities, beaches, skating facilities, multipurpose water access, and land acquisition still ranked high in 1987.

Recent trends in our society, influenced by federal laws, have sought ways to enable persons with disabilities to become more a part of mainstream society. These trends have resulted in large numbers of disabled persons participating actively in outdoor recreation experiences including hiking, camping, picnicking, fishing, boating, and other water-based recreation. Growing interest in outdoor activities by the disabled is reflected in the fact that in 1989 the Division of Parks and Recreation (within the Department of Resources and Economic Development) experienced an increase in requests for information on accessible sites for freshwater fishing and walking trails. The recent passage of the Americans with Disabilities Act further emphasizes the need to improve the range of recreational opportunities for people with disabling conditions. Planning for new public access sites or the rehabilitation of existing sites should include provisions for developing sites with different levels of accessibility. Public access development which responds to variations in site conditions and resources can provide various levels of accessibility and, therefore, meet the needs of those disabled persons who prefer a more challenging recreational experience.



**TABLE 1**

COMMUNITY FACILITY NEEDS 1981		COMMUNITY FACILITIES PROVIDED 1982-1987	
Rank	Facility	Rank	Facility
1	Baseball Field	1	Baseball/Softball Fields
2	Gymnasium, Recreation Center	2	Multipurpose Fields, Land Acquisition (Park, Conservation & Open Space)
3	Rehabilitation/Support Facilities (Fencing, Lights, etc.)	3	Playgrounds
4	Beach Swimming	4	Rehabilitation (Grounds Improvements)
5	Tennis Courts	5	Tennis Courts, Recreation/Community Center
6	Multipurpose Fields	6	Support Facilities (Fencing, Lighting, etc.)
7	Park Development	7	Beach, Outdoor Basketball
8	Park Land Acquisition	8	Soccer Field, Skating/Hockey Rink
9	Outdoor Swimming	9	Running Track
10	Playgrounds	10	Boat Launch, Game Room, Trails (Nature and Snowmobile)

Source: 1981 NH Community Recreation Leaders Survey                      Source: 1987 NH Community Recreation Leaders Survey

Note: More than one facility per ranking indicates a tie in ranking

Technological developments have also contributed to the growing demand for additional access to the state's waters. The development of jet skis and modifications in boat and motor designs have put greater demands on the state's public waters and, in turn, have led to an increase in resource over-use and user conflicts. The development of sailboards has expanded aquatic recreational opportunities to the public, also resulting in a growing demand for more water access. Given the rate of technological development over the past decade, it is certain that additional recreation-related products will come

on the market thus creating new demands and conflicts.

Along with a growing demand for more access to New Hampshire's public waters is a growing recognition that we must protect these resources from existing and potential threats such as habitat modification and its negative impact on rare, endangered, and threatened plant and animal species; sedimentation; water pollution brought on by growth and development; and reduced recreational access. According to the Lakes and Great Ponds Report 1984-1985, of the state's approximately 780 great ponds, 105 harbor endangered, threatened, or rare animal and



plant species. River corridors also provide habitat for such animal and plant species. Any plan designed to expand recreational access to the state's rivers and lakes must ensure that access development is balanced with the need for preserving river and lake environments.

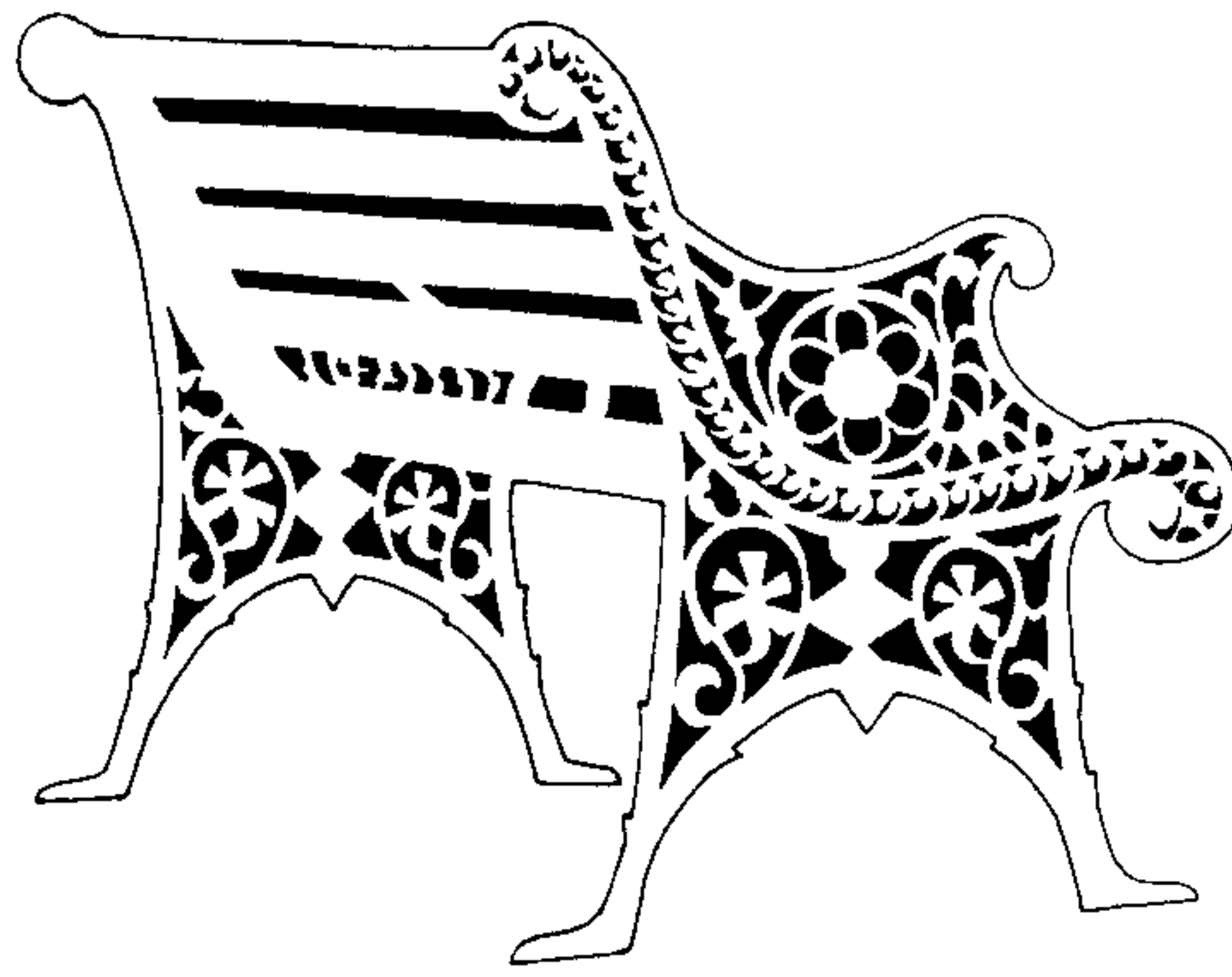
The need to protect New Hampshire's rivers and lakes is being recognized by state lawmakers. Passage of the Designating Rivers and Lakes Deserving Protection bill (Chapter 190, Laws of 1986) was the first attempt to establish a comprehensive policy to guide decisions affecting both the state's rivers and lakes. In 1988, the New Hampshire Rivers Management and Protection Program (RSA 227-F) was established to provide a process whereby New Hampshire organizations and residents could nominate any river or river segment for special designation and protection by the state legislature. Additional efforts to control adverse impacts on water resources were reflected in 1987 and 1988 legislation relating to boating and jet ski use. In 1988, the Legislature authorized the Commissioner of Safety to regulate/prohibit ski craft after first holding public hearings (RSA 270:74). Most recently, the 1990 Legislative Session passed legislation which included a Lakes Management and Protection Program, a NH Clean Lakes Program, an amendment and extension to the NH Rivers Management and Protection Program, and a Study Committee on Shoreland Protection and Standards.

An additional indicator of the public's growing interest in protecting New Hampshire's water resources is the growth in the

number of River and Watershed Associations (18+), and Lake and Pond Associations (263+). For example, the Squam Lakes Association actively pursued the opportunity to work with the state (Office of State Planning) in developing the Squam Lakes Watershed Plan, a Plan in which public access is a key issue. The Merrimack River Watershed Council formed a Merrimack River Forum--a broadly-based alliance of New Hampshire groups and state agencies working to clean up and protect the Merrimack River and its watershed. The Lamprey River Watershed Association (LRWA) established a water quality monitoring program for the Lamprey River. In the course of setting up this program, the LRWA developed a handbook for the layperson on freshwater river monitoring. The official designation of the Wildcat River in Jackson as a federally protected member of the Wild and Scenic Rivers System is another example of the public's growing commitment to resource protection. Eight years of hard work and cooperation between the Jackson Conservation Commission, town selectmen, local tourist industry leaders, and Congress marked this river-saving effort.

With the pressure of population growth and the development of the 1980's putting demands on New Hampshire's natural resources, the concern for protecting these resources is becoming synonymous with the call to preserve New Hampshire's "Quality of Life". Ensuring that all the state's citizens have access to New Hampshire's rivers and lakes is indeed a challenge, since competition for scarce shoreline by private development will continue.





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## Chapter 3 - The Plan

The term "water body" in Chapters 3 and 4 refers to a lake, pond, bay of a larger lake, or river section under review for public access sites.

### Existing Public Access

The status of existing public access has been raised with increased frequency as the resident population of New Hampshire has grown and the travel and leisure portion of the state's economy has shown strength and vitality. According to the Lakes and Great Ponds Report 1984-1985, New Hampshire has approximately 780 great ponds (natural water bodies 10 or more acres in size). There have been recent reports covering this topic but they have generally focused on dam locations. The most comprehensive study available dealing with the issue of existing public access continues to be the work done by the State Planning Project (SPP) during 1964-1965.

The SPP's New Hampshire Water Bodies and Public Access Points - Report #4 described 780 great ponds and identified 445 public access points (mostly boating with some swimming access). Around that time, approximately 70 new public access points were provided under RSA 230:63-71, the statute which authorizes the "laying out of roads to public waters" by the Department of Transportation (previously the Department of Public Works and Highways). This statute

allows the state to determine the need for defining public access to great ponds and to construct access roads or paths to the water.

Title to the land remains with the state, but the management and maintenance of the facility becomes a responsibility of the municipality or the user.

With the approximately 70 additional public access points provided under RSA 230:63, and the approximately 20 new facilities developed by the NH Fish and Game Department since 1969, it would appear that the number of public accesses statewide has expanded since 1960 to approximately 535. This total is a very rough estimate and is subject to question, since a number of the SPP identified sites were marginal and ownership was unconfirmed. Subsequently, there are indications that some of these sites have been absorbed by adjacent residential properties or simply fenced off to eliminate public use. Furthermore, there is some evidence that the "Roads to Public Waters Program" has been used by new developments as private access to the great pond in question, for the exclusive use of that development. **It is imperative that, as a first step, a complete statewide inventory of access points--public and other--be undertaken to determine the status of these sites and to restore them to public use, if appropriate!** Such a statewide inventory should also review the potential of existing



state-owned lands for public access site development.

## New Hampshire's Surface Waters

State Planning Project Report #4 identified and mapped water bodies and public access points by water body name. The report identified 780 water bodies of 10 acres or more, varying in size from 10 to over 44,000 acres. The number and range of sizes of lakes in New Hampshire provide the initial data necessary to calculate public access requirements for the great ponds of the state. Graphs 1 and 2 show the relative importance of each category of great ponds by extent of surface area.

Determining the surface area of New Hampshire's rivers is a bit more difficult. There are approximately 79 rivers in the state which vary in size and length. While the approximate length of rivers and streams is 12,000 miles, a definitive breakout of navigable and/or fishable length was not available for this report. The Office of State Planning undertook a quick analysis with its

Geographic Information System and determined that approximately 1,900 miles of rivers would require access.

## Public Access Standards

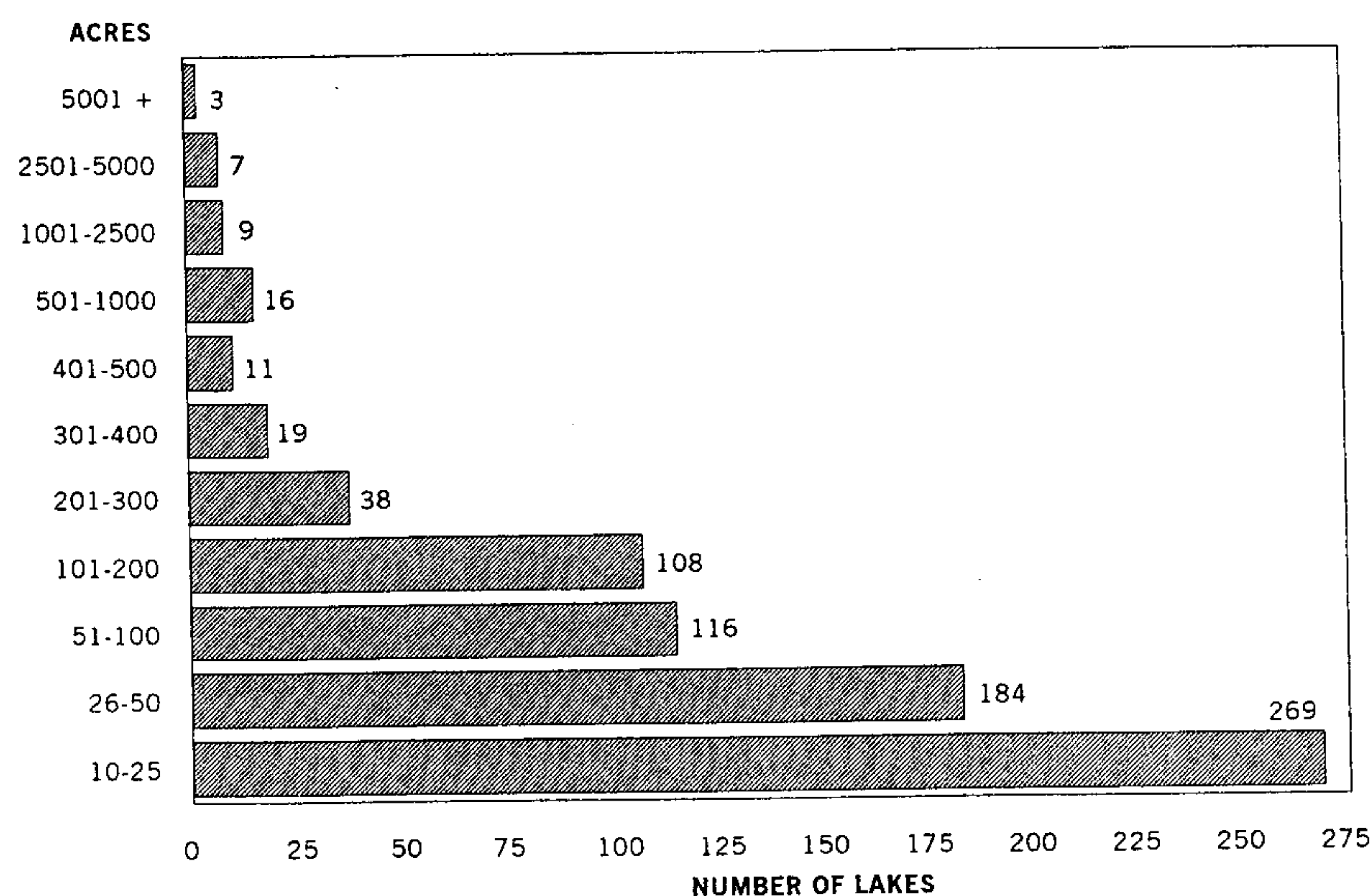
### Previous Approaches

Over the years, a variety of approaches have been used to determine outdoor recreation facility standards and public access standards. Such standards for calculating outdoor facility needs or public access site numbers and types (multi-use, remote walk-in, swimming etc.) are difficult to set. Examining previous approaches to developing standards for both outdoor recreation facilities and, more specifically, for public access facilities may provide more insight into this process.

New Hampshire's current State Comprehensive Outdoor Recreation Plan New Hampshire Outdoors 1988-1993 proposes that outdoor recreation facility standards, which include public access facilities, can be determined by participation rates and suggests that the greatest factor affecting New Hampshire is the state's population growth rate.

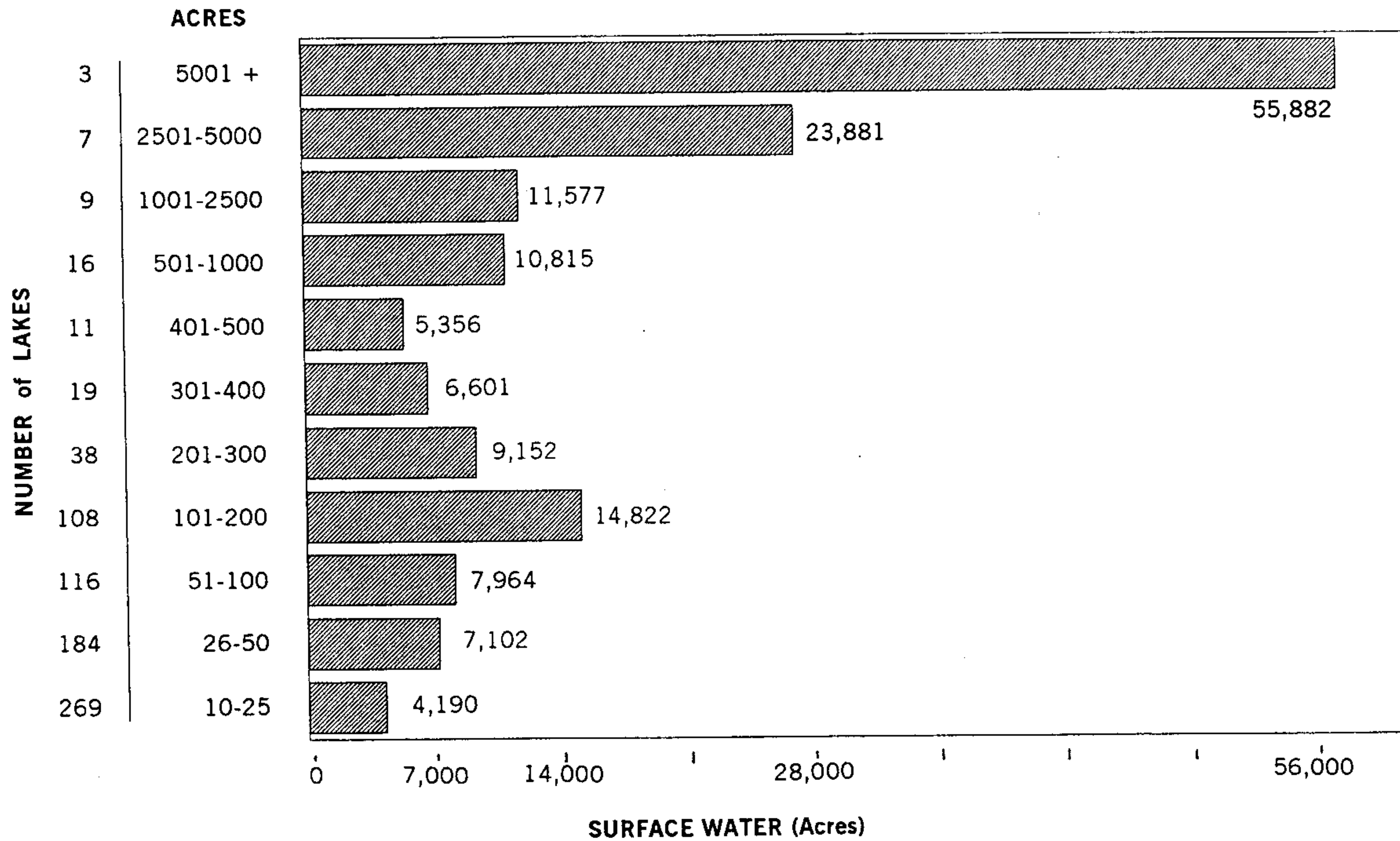
GRAPH 1.

Relative Number and Size of Great Ponds by Size and Category





GRAPH 2.  
Relative Number of Acres in Each Category



Absolute numbers are important; however, the growth in the various age sectors helps to more closely determine growth in demand for the various facilities. New Hampshire has an aging population which is consistent with national trends. As the population grows older, the demand for the most active recreational activities will tend to decline. Table 2 contains outdoor recreation facility standards (based on population) taken from New Hampshire Outdoors 1988-1993. These standards suggest that the need for additional boat/fishing access will double over the next twenty years. These standards also suggest that the need for beaches, trails, parks, and campsites will increase. Obviously, great care should be taken in applying these standards. Each geographic location has variable characteristics which will affect the distribution of facilities. However, this process has enabled

planners to better understand the relative sense of need.

The Lakes and Great Ponds Report 1984 - 1985 Vol. 2 proposed standards for public access points to great ponds (Table 3). This report also stressed that when setting public access standards, consideration must be given to the need for limiting or totally prohibiting human activity at certain great ponds. Such actions could be needed to protect rare, threatened, or endangered species; preserve fragile ecosystems; protect drinking water supplies etc. Furthermore, the Lakes and Great Ponds Report noted that the first step in addressing the public access issue should be to inventory existing public access points, and suggested that existing great pond data profiles could provide base line physical and limnological information for great ponds.



**TABLE 2**

**OUTDOOR RECREATION FACILITY STANDARDS**

Facility	Standard Per 1000 Persons	Total Additional Facilities Needed by:	
		2000	2010
Archery Range	.1	38	70
Baseball Diamond*	1.1	421	766
Basketball/Hard Courts*	.8	306	557
Boat/Fishing Access	1.8	689	1,254
Campsites (Vacation)	13.0	4,978	9,054
Football Fields	.1	38	70
Golf Courses, Regulation (18 holes)	.04	15	28
Gymnasiums*	.25	96	174
Ice Hockey Rinks*	.05	19	35
Ice Skating Area*	.14	54	98
Open Space/Natural Areas (acres)	51.0	19,528	35,522
Picnic Tables	8.0	3,063	5,572
Parks, Community (acres)	6.0	2,297	4,179
Playgrounds* (town and school)	.5	191	348
Playgrounds (acres)	2.10	766	1,393
Shooting Ranges	.08	31	56
Skiing (x-country areas)	.1	38	70
Skiing (downhill areas)	.09	34	63
Soccer Fields*	.16	61	111
Swimming* (beach)	.5	191	348
Swimming*	.14	54	98
Tennis Courts*	.95	364	662
Track	.04	15	28
Trails, Hiking (miles)	2.2	842	1,532
Trails, Snowmobiling (miles)	3.9	1,493	2,716

Note: An asterisk (\*) indicates high-priority need as determined by the 1987 Community Recreation Leaders Survey. (NHCRLS)

Projected facility needs were arrived at using the following calculations:

Year 2000 (or 2010) estimated population minus 1987 population = net population gain.

Net population gain divided by 1,000 = population in thousands.

(Population in thousands X facility standards) + existing facility needs\*\* = projected facility need by the year 2000 (or 2010).

\*\* Determined by 1987 NHCRLS

Source: New Hampshire Outdoors 1988-1993, Office of State Planning.



TABLE 3	
PREVIOUSLY PROPOSED PUBLIC ACCESS STANDARDS	
Great Pond Size	# of Access Points
10 - 100 acres	1
100 - 500 acres	2
500 - 1,000 acres	3
1,000 - 10,000 acres	5
10,000+ acres	7
Source: <u>Lakes and Great Ponds Report 1984-1985, Vol. 2, Office of State Planning</u>	

In addition to determining standards for calculating the number and types of public access points, a standard for public access points-per-water body also needs to be developed.

### Revised Approach

This report, Public Access Plan for New Hampshire's Lakes, Ponds, and Rivers, suggests an alternative planning standard for determining the number of needed public accesses. It is important to recognize that the number and location of public accesses should be limited by the assimilative characteristics of the land or water resource and should not be based on population growth alone. The ability of a water body to assimilate adverse impacts is a principle that should apply to all water bodies, including rivers, and should be a factor in the determination of any public access point. Standards which are based on the number of facilities-per-capita as outlined in the SCORP, do not meet this criteria. An approach which attempts to recognize a water body's ability to handle recreational use while not exceeding

the water body's ability to absorb the negative impacts, and which incorporates existing public access points is more appropriate.

In the past, public access efforts have concentrated primarily on access to great ponds. Any new approach must be applicable to both great ponds and rivers. Such an approach could be based on a system that considers the length of shoreline or acres of surface water to be served.

### **Recommended Public Access to Great Ponds**

Public access planning standards proposed in prior documents and discussed in the preceding pages assumed that at least one public access must be provided for each great pond. This standard was recommended for ponds up to 100 acres in size. Subsequent groups of larger ponds were presumed to require a greater number of public access points. However, it is appropriate to review these proposals carefully for consistency.

Such a review must include evaluating smaller ponds on the basis of the types of uses that are reasonable and providing only the type of public access which meets these needs. There may be situations where public access to a great pond may not be recommended due to the unique biological and ecological characteristics of the water body (e.g. wetlands; rare, threatened, or endangered plant/animal species, water quality etc.).

The very smallest ponds which are utilized extensively for fishing, swimming, and small power boating should be provided this level of public access. As pond size increases, such activities as waterskiing become more common and larger water craft may be required. The type of public access to be provided should be modified to reflect this increase in use and/or the increase in pond size.

The following discussion outlines a rationale for setting public access planning standards which are different from those proposed in prior reports. **The proposed planning standard for great ponds calls for one public access point for each 5 miles of shoreline or for every 1,000**



**acres of surface water.** This standard reduces the overall number of public accesses for small ponds, and relates the number of facilities to a specified length of shoreline and an area of surface water. It provides a basis for evaluating the adequacy of existing public accesses and for determining the need for additional public access points. Field analysis of a particular great pond would determine whether the planning standard should be modified for that water body.

Initially, the revised approach divides great ponds into three categories: 1) small ponds - 500 acres or less, 2) moderate-sized ponds - 500 to 2,500 acres, and 3) large ponds - over 2,500 acres. With respect to the first category, small ponds of 500 acres or less, if circular, would encompass under one square mile of water surface. The maximum diameter or length of the pond would equal approximately one mile and the shoreline distance would be approximately 3.14 miles. In this instance, the provision of a single public access point would provide service for up to 3.0 miles of shoreline and/or 500 acres of surface water.

Moderate-sized great ponds ranging in size from 500 to 2,500 acres of surface water, if circular, would have a maximum diameter or length of approximately 2.2 miles and shoreline of approximately 7.0 miles.

Two public access points would serve up to 3.5 miles of shoreline and up to approximately 1,200 acres of surface water.

For ponds in excess of 2,500 acres, it was assumed that there should be an **average** of one public access for each 5.0 miles of shoreline. This would distribute access around great ponds, allow for a variety of public accesses, and not put an inordinate amount of pressure at any one location. The larger types of public access sites possible on these great ponds would allow for a larger service area. Secondly, the length of shoreline was divided by 5 to obtain the number of public access points based on this criteria. Thirdly, the area of the great pond was divided by the proposed number of public access points to determine the area of surface water being served by each point. Finally, it was assumed that each public access point should serve about the same number of acres of water as was true for the smaller great ponds. This averaged from 700 to roughly 1,200 acres. The number of public access points was adjusted to reflect this average.

Proposed public access planning standards for great ponds are incorporated in Table 4 and are based on the idea that public access points provide access to approximately equivalent lengths of shoreline or areas of surface water, depending on the design func-

<b>TABLE 4</b>			
<b>RECOMMENDED PUBLIC ACCESS PLANNING STANDARDS FOR GREAT PONDS AND ESTIMATED NEED</b>			
<b>Surface Water Area (Acres)</b>	<b>Number of Great Ponds in Category</b>	<b>Number of Access Points Per Great Pond</b>	<b>Total Number of Access Points Required</b>
10 - 500	745	1	745
501 - 2,500	25	2	50
2,501+	10	(See Table 5)	90
			<b>885</b>



**TABLE 5**

**CALCULATED PUBLIC ACCESS POINTS FOR GREAT PONDS  
IN EXCESS OF 2,500 ACRES**

Water Body	Surface Water Area (Acres)	Shoreline (Miles)	Number of Accesses
Winnipesaukee	44,586	240.0	48
Squam	6,764	60.5	9
Umbagog (NH) <sup>1</sup>	4,532	25.1	5
Winnisquam	4,264	28.2	6
Newfound	4,105	19.8	4
Sunapee	4,085	29.6	5
Ossipee	3,091	10.6	3
Wentworth	3,017	14.0	3
First Connecticut	2,807	19.4	4
Massabesic	2,512	26.2	3
	<b>79,763</b>	<b>473.4</b>	<b>90</b>

<sup>1</sup>Total Area = 7,850 acres  
Total Shoreline = 43.2 miles  
Figures shown are for the New Hampshire portion.

ion of the facility. Table 4 reflects the recommendation that public accesses to the smaller great ponds service up to 3.0 miles of shoreline or 500 acres of surface water. For moderate-sized great ponds (i.e. between 500 and 2,500 acres), two public accesses are recommended. This would result in each public access point servicing up to 3.5 miles of shoreline and up to 1,200 acres of surface water. Based on proposed standards, the number of public access points for great ponds in excess of 2,500 acres are shown in Table 5.

The public access standards shown in Tables 4 and 5 are **recommendations only**. Situations may arise where a water body is used exclusively as a public water supply or where an assessment of a water body reveals

unique natural resources that need to be protected. Under such circumstances, public access standards would be modified to ensure that the provision of public access would be compatible with a water body's unique character.

Using the public access planning standards recommended in Tables 4 and 5, the total number of public access points needed to the state's great ponds is approximately 885. Based on the very rough estimate of existing public access points (535) determined in the beginning of this chapter, it appears that New Hampshire should be considering the acquisition, construction, and maintenance of approximately 350 new public access points to great ponds and rehabilitation of existing sites where necessary. The basic question re-



garding the role of the state in assuring public access is how many public access sites will the state be able to provide. Realistically, the state's ability to provide the needed sites will depend on the financial resources available for this purpose.

Providing public access to the largest great ponds should be considered a priority on the basis of general recreational opportunities. These water bodies account for approximately 50% of the surface waters of the state.

The largest great ponds should provide a variety of public access types. Large points would be designed to serve 10 or more miles of shoreline with smaller points designed for less intensive use. There will be opportunities to locate different public access facilities depending on the purpose for each and specific site conditions. Fishing sites would call for a small powerboat launch ramp. Undeveloped areas would be served by carry-in or remote walk-in facilities. Trail sites might serve undeveloped areas suited for environmental studies and/or wildlife observation.

Small ponds should have public accesses which are designed to recognize the limited capacity of these ponds to absorb conflicting uses. Therefore, smaller public access sites with small boats facilities, car top facilities, and/or trails should be provided.

#### **Recommended Public Access to Rivers**

The discussion regarding rivers might be considered different due to the nature of the water body itself. To the extent that public access is the focus, however, the same type of needs are present with regard to river access as are present on great ponds. The provision of public access to rivers should be compatible with the unique character of specific rivers under consideration. Environmental constraints and natural channel conditions of a river need to be studied prior to public access development to ensure that the river can safely accommodate a proposed public access site. As with great ponds, limiting or prohibiting human activity along certain river stretches may be needed to protect

endangered species, preserve fragile ecosystems, or protect drinking water supplies.

There are approximately 79 rivers in the state which vary in size and length. The variety of public access points for these rivers would be similar to those required for great ponds, with recognition also being given to recreational activities that are strictly river-related (i.e. whitewater kayaking, rafting, etc.) The number of needed river public access points is dependent upon the specific characteristics of each segment of any river which is under consideration. Unfortunately, while the approximate length of rivers and streams is 12,000 miles, a definitive breakout of navigable and/or fishable length was not available for this report. It is estimated--based on a quick analysis using Geographic Information System techniques--that approximately 1,900 miles of rivers would require public access.

**The proposed planning standard for rivers calls for an average of one public access point per each 10 miles of shoreline, based on roughly 1,900 miles of reasonably navigable rivers.** Using this standard, it is quite clear that the number of needed public access points to New Hampshire's major rivers is significant, and that from 150 to 190 public access sites would be required.

## **Priorities and Access/Protection Strategies**

### **Setting Priorities**

A plan to expand public access to the state's water bodies (i.e. lakes, ponds, bays of large lakes, or rivers) must address enforcing existing regulations which effect water safety and water quality; setting priorities for public access development; and protecting the unique natural, physical, cultural, and recreational values of New Hampshire's water resources. Information gathered through a needs assessment, water body assessment, feasibility analysis, and site analysis can provide the information required for determining the types of public access facilities most



needed statewide, the water bodies with the greatest need for--and the most suitable for--public access development, and the best location on a specific water body for any particular facility. Adequate enforcement of existing water safety and water quality laws is crucial in public access site evaluation and development as well, since a water body's assimilative capacity is based on users obeying certain rules.

The need and growing demand for public access to the public waters of the state are documented in New Hampshire Outdoors 1988-1993, New Hampshire's current State Comprehensive Outdoor Recreation Plan. It is also evident that public access to the larger water bodies in the state is either insufficient or nonexistent. Initial Public Access Program efforts should use existing demand and need information, and should first consider providing public access to the following larger water bodies: Lakes Winnepesaukee, Squam, Winnisquam, Newfound, Sunapee, Ossipee, Wentworth, Massabesic and Connecticut and Merrimack Rivers. For the remaining water bodies, public access priorities should be developed based on a completed statewide needs assessment. Likewise, water body assessments for the larger water bodies (such as the Squam Lakes Watershed Management Plan) should be conducted on a case-by-case basis, until such time as a statewide resource inventory of New Hampshire's great ponds and rivers becomes available.

### **Enforcement and Education**

Along with the state's responsibility for providing public access, is the responsibility of the state to control the results of expanded access. Over the years, enforcement on New Hampshire's waters has declined due to cuts in funding. Without increased enforcement and education, increased public access will result in increased problems. Expanding public boating access opportunities must go hand in hand with expanding boating safety/water quality regulation enforcement. Effective enforcement of existing and future safety and environmental laws are vital to developing a

successful public access program. Better enforcement will also contribute to greater acceptance of public access sites by abutting waterfront owners.

Public education must also be a part of any plan which will increase access to the state's waters. State agencies providing, regulating, or planning for public access (NH Fish and Game, Department of Resources and Economic Development, Department of Safety, Department of Environmental Services, Office of State Planning, and Department of Transportation) need to develop and coordinate public access-related educational programs that stress responsible public behavior towards the environment, public access facilities, fellow recreationists, and abutters of public access sites. Such educational programs can contribute greatly towards protecting the resource and minimizing user conflicts. Expanding partnerships between state agencies and other organizations could contribute to the state's education and enforcement efforts. Examples of such partnerships already exist.

One development which has serious implication for the whole public education process is the newly enacted legislation providing reciprocal boat registration with other states (RSA 270-E:4). Reciprocity has effectively eliminated the opportunity for reaching and educating out-of-state boaters about New Hampshire's boating safety and water quality laws. Adopting a Use Permit Fee Program for out-of-state boaters is one way of ensuring that boats from other states comply with New Hampshire laws by having proper equipment on board (i. e. mufflers, holding tanks etc.). Under this type of Program, out-of-state boaters upon signing a release certifying that they know New Hampshire's boating laws and that their boat is properly equipped, would obtain a sticker. The Division of Safety Services could then monitor out-of-state boaters for compliance.

### **Needs Assessment**

An important consideration in deciding how Public Access Program funds should be



allocated is determining what types of public access facilities are most needed. A statewide needs assessment based upon an array of water access-related recreational interests can provide this important information. Any statewide assessment to determine long-term public access needs must consider:

- a. Present amount and type of recreational use of the water body.
- b. Expected increase in recreational demands in the future.
- c. Relation of the public access point to commercial or other access to the water body.
- d. Specific circumstances which may influence the establishment of a public access point.

### **Water Body Assessment**

In order to ascertain a water body's potential and suitability for a needed public access facility, information concerning the natural, cultural, and historical resources of a water body as well as the land use/water use characteristics in and adjacent to the water body are needed. A resource assessment of a water body can provide the information necessary for developing management strategies that will minimize adverse environmental impacts and socio-economic conflicts. Examples of resource categories that should be included in a water body assessment are: water quality and water supply, wetlands, floodplains, wildlife, fisheries, endangered species, natural areas, geologic and hydrologic features, shoreline length and character, historic and archeological resources, existing public and other access, degree of development, etc.

Systematic monitoring of water bodies to determine the presence and extent of nuisance growths of exotic aquatic weeds should also be part of the water body assessment. In recent years, non-native weeds like milfoil (*Myriophyllum heterophyllum*) and fanwort (*Cabomba caroliniana*) have been found in some of New Hampshire's lakes. These exotic plants are often transported into lakes on

boat trailers and motors. Preventing the spread of these plants must be a part of any statewide public access program, since these weeds can become a major nuisance to boaters and swimmers and pose significant ecological problems. Because exotic weeds are often found first at boat launching areas, these areas should be checked frequently.

Information gathered through a water body assessment can help public access projects move through the various government regulatory/permitting programs by providing resource information that documents the need for any particular public access facility, and by focusing public access activities towards less environmentally sensitive areas.

### **Feasibility Analysis**

A feasibility analysis looks at a potential public access site to determine whether biological and/or economic constraints exist at the site and how they impact the financial viability and technical feasibility of the proposed project. The purpose of this process is to select a location that best supports both the land uses and the water uses envisioned for a facility. The process is repeated for each potential site. Sites where public access development appears feasible are then investigated more thoroughly through a site analysis and environmental assessment. For sites that are determined to be poor locations for public access, alternative locations are sought.

Environmental protection programs (regulatory and permitting) exist at all levels of government. These programs influence public access development regardless of whether federal funding is used or not. Feasibility analysis findings can help determine whether it will be possible to obtain the needed permits. Most boating access projects require waterway development permits on federal, state, and/or local levels. Permits from the Army Corps of Engineers are required under Section 10 of the 1899 Rivers and Harbors Act which primarily regulates structures placed in navigable waterways (including piles, floats, dredging, fill and bank stabilization activities), and Section 404 of the Clean



Water Act of 1977 which regulates dredge or fill in waters of the United States. Under state regulatory measures, a permit from the NH Wetlands Board is required for activities that excavate, remove, fill, dredge, or construct any structure in or on any bank, upland area, flat, marsh, bog or swamp as well as in any surface fresh or tidal water within or bordering the state.

Other factors also need to be considered in the selection and location of a public access point. On water bodies occupied by many residences, land available for public access development is limited. Here it may be necessary to purchase developed land in order to provide adequately for public access. On less heavily developed bodies of water, wider latitude in site selection may be possible. The public access point should be located reasonably near an improved road, preferably where the entry road may be short. Design features must provide for safety and ease of operation as well as attractiveness. If possible, the access point should be located on shorelines with minimum development, but not at the sacrifice of important ecological values. On well developed shorelines, the few locations available for public access often have less desirable physical features. Under such circumstances, development costs may be extremely high.

#### **Site Analysis and Environmental Assessment**

A site analysis (which includes an assessment of environmental impacts) determines whether a specific design proposal for a selected site is prudent, and if so, what would be the preferred action.

The site analysis must consider:

- a. Impact of proposed public access development on the biological and ecological characteristics of the water body (e.g. water quality; fisheries and wildlife habitat; wetlands; rare, threatened, or endangered plant/animal species; exemplary natural communities etc.)
- b. Effect of a proposed public access point on existing and future land and water use.
- c. Influence of the proposed public access on existing recreational use of the water, and compatibility of the proposed public access site with existing boating restrictions (e.g. speed limits, horse power restrictions etc.)
- d. Concerns of property owners and other interests regarding the proposed public access point.

The National Environmental Policy Act (NEPA) requires that every proposed Federal-Aid project be examined objectively to determine the effects it will have upon the economic, social, political, and environmental parameters of the proposed action. Federal aid programs like the US Fish and Wildlife Service's Sport Fish Restoration Act (Dingell-Johnson Program) which provides fishing and boating access (administered through the US Fish and Wildlife Service), and the Land and Water Conservation Fund which is used for acquiring and developing public outdoor recreation areas and facilities (administered through the National Park Service) are affected by this requirement.

#### **Design Considerations**

Design of facilities selected for construction should be tailored to the characteristics of the site in question and to the rigors of the environment. Because of the potential for disharmony between public access users and adjacent landowners, attention should be given to design features which minimize adjacent landowners' concerns. Landscaping and the careful placement of facilities on the site can help reduce the chances of public access-user/public access-neighbor conflicts. Assuring proper maintenance and security at public access sites can maximize each site's capability to accommodate users, while protecting the right of neighboring property owners to a clean and peaceful environment.

Basic design features for public access facilities should be based on the following gen-



eral criteria and specific site requirements. In the case of boating access, the "States Organization for Boating Access" (SOBA) standards should also be referenced to ensure that, where feasible and appropriate, New Hampshire's boating access will be compatible with national standards.

**1. Accessibility for the Disabled:**

Provision of handicap-accessible facilities and amenities must be incorporated throughout the development process, from the initial planning stage, through site design and construction. Accessibility standards are specified in the New Hampshire Code for Barrier Free Design. Features to be considered include, but are not limited to, the following:

- a. Parking - signage, number of spaces, parking space dimensions, slope of spaces and aisles, width of access aisle and curb ramps, distance of parking to facility, and surface materials.
- b. Walkways, paths, trails, and scenic overlooks where feasible - travel distance, running slope, cross slope, width, passing space, rest stops, edges, signage, surface materials.
- c. Buildings - thresholds and widths of doorways, door hardware, hall widths, turning areas.
- d. Picnic facilities - accessible picnic table/grill, stable ground surface, clear ground space for adequate maneuverability at site.
- e. Swimming facilities - firm and stable pathways from parking to beach and from beach to the water, handrails, floating markers.
- f. Boating and launching facilities - firm paving surface leading to dock, handrails and railings along dock, extended rail support for entering or loading boat, appropriate dock height above water.
- g. Fishing facilities - firm and stable surface providing access to and along water's edge, curbs, railings, frontage, width or depth, shade and shelter, seating,

surface materials.

**2. Site Plan:** A Site Plan must be formulated for each public access point. Each site varies in topography, vegetative cover, access from the nearest road, relation to adjoining land, recreational facilities offered on the water body, and other factors. All such items must be considered in the site plan to insure development best suited to the water body in question.

**3. Terrain Features:** A public access point should be constructed on suitable terrain. Features to be considered are:

- a. Topography - a moderate slope, since steep terrain results in high cost, erosion, and difficulty in use.
- b. Soil conditions - firm, dry land is required for a properly designed access point. The presence of marsh or swamp land may be acceptable, but no portion of the active access area should adversely conflict with the wetland. It may be that a wetland could be integrated into a trail or walk-in site. This could provide the additional opportunity for study of unique habitats or for wildlife observation.
- c. Aesthetic values.
- d. Other considerations - water depth, prevailing winds and currents, navigational hazards etc.

**4. Retention of Shoreline Beauty:**

One of the major attractions of New Hampshire's lakes and ponds is the natural beauty of the shoreline and surrounding landscape. The state must preserve or restore this natural beauty in its public access development program. Boat ramps and related facilities should complement natural features. Careful planning should be applied where the entry road joins the highway. The facilities, such as the parking area, should be so located and designed that they do not detract from the appearance of the area as seen either from the highway or from the water.



**5. Area Size:** The area of the publicly-owned land at an access point must be sufficient to serve the expected use and **include enough land area for possible expansion in the future.** It is recommended that public access points have an adequate buffer zone to protect the natural appearance of the area and to prevent visual and other conflicts with adjacent land use.

**6. Buffer Zone:** The rapid increase in shoreline development makes it very important that the state, in establishing public access points on these water bodies, respect the privacy of abutting land uses. Every new public access point should contain an undeveloped area surrounding the developed facilities to serve as a buffer between the public use area and the abutting land. Normal activity at the public access point should, if possible, be out of sight and earshot of adjacent development. The size of the buffer zone will vary with each location. Distance, topography, and vegetation can be used as "buffers" to assure abutting owners' privacy. Since public access points are available for year-round use, it is suggested that the buffer zone be adequate in periods of reduced foliage. Of the numerous examples of lack of harmony between existing public access points and adjoining private developments noted, most are due to lack of adequate buffers.

**7. Road Designation:** Use of public access roadways should be limited to public access-related activities. Private ingress off public access roadways or the use of such roadways for private parking purposes should not be allowed.

**8. Parking:** Parking areas at public access points should be well constructed, clearly defined, and convenient to the point of access. Size and design of parking areas will depend on the type of public access point and expected use. Public access points with boat launching ramps require adequate room to back and turn a car and boat trailer.

Parking areas should be situated away from the water so that phosphorous loading from paved areas does not contribute to aquatic weed growth.

**9. Signage:** Public access signs should be of uniform design, provide directions to the site, describe the level of accessibility of the site with respect to persons with disabilities, and provide a description of the types of activities allowed at each public access location as well as the hours/season(s) during which the site is operated. Signs should also be used to define public access site boundaries, inform the access user of pertinent regulations and hazardous conditions, and impress facility-user responsibilities toward other recreationists, abutting land owners, and the environment. Appropriate signage that addresses the spread of exotic aquatic weeds across the state's waters should be developed at all public boating access facilities.

**10. Trash Disposal:** Litter is a problem associated with public access areas. The managing agency should decide whether it is better to provide trash containers or rely on a "carry-in/carry-out" policy. Litter control should be instituted based upon the level of usage of each site and the number of complaints received from users and/or abutters. Some rural sites receiving little usage may require no trash facilities or litter control measures. Other heavily-used sites may need daily litter removal and clean up during the heavy usage season.

**11. Sanitation:** Toilet facilities should be available at each access point. The specific number of facilities should be based upon the user capacity of the site.



## Public Access Categories

There are a variety of access issues that must be considered as part of any public access plan. Seasonal use variations must be recognized, and consideration must be given to the role that the private sector has played and will continue to play in meeting the access needs of the public. Public access needs are not limited only to the usually recognized warm weather activities of swimming, hiking, fishing, boating, sailboarding, and water skiing, but also include cold weather activities such as snowmobiling, ice skating, ice fishing, cross-country skiing, and related recreational pursuits.

The state's major role in providing and expanding year-round public access opportunities, through negotiated right-of-way easement or land acquisitions whenever possible, must continue. The state has an obligation to provide public access to its public waters, providing that conditions at these water bodies permit such public access development. It must also be recognized that government (federal, state, and local) has limited financial resources for access development. Therefore, resources targeted for public and other access should be allocated in a manner that will make the most of limited funding. Purchasing easements should be considered as a first resort. Such an approach would contribute to lower costs and would lessen environmental impacts by reducing the amount of new shoreline development. Cooperative programs among the varying state agencies with public access responsibilities might provide multi-use public access sites. Well equipped marinas and major recreational facilities--which may include campgrounds and a variety of water-related activities--should be provided by the private sector. In addition, partnerships between state agencies and between the state and the private sector (conservation organizations, campgrounds etc.) could help expand public and other access opportunities.

While the state should encourage and work with the private sector to provide ac-

cess facilities, it should also assure that standards and regulations affecting access facility development are reasonable. The existing regulatory process needs to be modified to assure the longevity of access points being provided for the public by the private sector. The state currently grants permits for moorings and docks to private entities. Over the years, some of these privately-owned access facilities have become exclusive. Legislation should be enacted so that when a change in use occurs at such facilities, all previously granted permits become null and void. Permits would then be renegotiated with the state to ensure that a proportion of moorings and/or docks would remain available to the public. Access for the public at marinas should not be lost when marinas are purchased and developed into condominiums or used for other non-access purposes. Marinas converting to other forms of ownership or types of service should first be required to obtain Wetlands Board and Governor and Council approval. The state should also consider establishing a program that would grant tax advantages to private landowners providing water access to the public.

Finally, specific types of public access facilities are needed to provide for those year-round activities which take place on New Hampshire's great ponds and rivers. This Plan concentrates on three categories of public access. This is not to suggest, however, that these are the only water-related recreation needs that exist, nor that these are the only kinds of public access points which should be provided. It should be stressed that **all three** public access categories have multi-seasonal use potential. Where appropriate, each public access facility should be developed for multi-seasonal use and employ adequate signage to inform the public of the site's multi-seasonal status. The three basic public access categories are as follows:

### A) Multi-seasonal Boating and Vehicle Public Access

Facilities in this category range from multi-use areas containing boat ramps, docks, beaches, trails, picnic tables,



and other related facilities, to carry-in sites for boats and canoes and remote sites for fishermen, rafters, and tubers. The four types of facilities under this category also provide access for emergency vehicles and for such winter activities as ice fishing, cross-country skiing, and snowmobiling.

**B) Swimming and On-shore Public Access**

Facilities in this category include beaches, camping areas, picnic areas, and trails. Winter activities such as ice fishing, cross-country skiing, ice skating, snowshoeing, and snowmobiling are also included.

**C) Scenic Public Access**

This category of facilities includes roadside turnoffs, scenic areas, and trail heads. Picnic sites and sanitary facilities may be appropriate at some locations.

**Public Access Facility Designs**

The precise design of each facility will be dependent upon conditions which exist at each water body and at each specific site, and could be as much a function of conditions adjacent to the site as those on-site. Each facility design should also include consideration of as many categories of public access as a specific site will permit.

Public access facilities for great ponds and rivers may vary based on type and intensity of projected use or location. Public access development will be on a site-by-site/water body-by-water body basis, and public access sites will be accessible to persons with disabilities. Facility designs described in this plan (Appendix D) **are for illustrative purposes only**, since each facility will vary depending on the need being addressed and on the environmental and land use limitations inherent to each site. Water body sizes cited under this section are also **for illustrative purposes only**. There may be situations where two or all three public access categories (A,B,& C) can be provided within the same facility.

A) Multi-seasonal Boating and Vehicle Public Access

- Type I - Multi-use Public Access Facility
- Type II - Small Public Access Facility with Boat Ramp or Beach
- Type III - Carry-in Launch Facility
- Type IV - Remote walk-in Facility

B) Swimming and On-shore Public Access

C) Scenic Public Access





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## Chapter 4 - Conclusions

The numerical listing of conclusions does not imply priority. Numerical listing is provided for reference purposes only.

1. All of New Hampshire's natural fresh water ponds of 10 acres or more and navigable waterways are state-owned public waters, and are held in trust by the state for public use.
2. There are approximately 780 great ponds in the State of New Hampshire. Public access exists for less than half. There are approximately 79 rivers in the state. The total number of river public access points is not known.
3. Of the state's approximately 780 great ponds, 105 harbor endangered, threatened, or rare animal and plant species. River corridors also provide habitat for such animal and plant species.
4. A growing and aging population, increased private ownership and waterfront development, technological developments resulting in increased recreational options, and the growing interest in outdoor activities by the disabled are just some of the trends contributing to the demand for additional public access to the state's public waters.
5. The question of public access to the public waters of New Hampshire has been a recurring issue over the past 30 years. During this time period, multiple planning efforts addressing this subject were undertaken. Some plan recommendations were implemented, many were not.
6. The state does not have a unified public access program, although several agencies, chief of which are the Fish and Game Department, the Department of Transportation, and the Department of Resources and Economic Development have programs which relate to public access.
7. The Rights-of-Way to Recreational Waters Board (RSA 230:72) has not been effective in expanding public access to public waters.
8. The Layout of Highways to Public Waters (RSA 230:63-71) has contributed towards expanding public access opportunities, but some serious shortcomings exist in this law. Because the Program only provides a road from the main highway to public waters, these highways are often used as a road of ingress by landowners with landlocked parcels. Currently, the NH Department of Transportation (NHDOT) cannot prohibit a landowner along the main highway from selling lots along a NHDOT access road.
9. The only designated funds presently available for public access exist within the Fish and Game Department through the Wallop-Breaux Expansion of the Dingell Johnson Act Fund for boating and fishing access, and within



the Department of Resources and Economic Development through the Land and Water Conservation Fund for the acquisition and development of public outdoor recreation areas and facilities. Since its establishment in 1987, the LCIP has acquired numerous boat and canoe accesses. However, this Program is scheduled to shut down by December of 1992.

10. There needs to be a coordinated Public Access Program developed to focus resources more efficiently and economically. The state's major role in providing and expanding year-round public access opportunities, through negotiated right-of-way easement or land acquisitions whenever possible, must continue.
11. The State Planning Project (part of which was the two-volume study on public access published in the mid-1960's) recommended that a new public access board be established to administer a Public Access Program. At that time there was no viable alternative in existence. The overall program proposed in that report relating to public access responsibilities and duties is still quite valid. However, over the past twenty-five years the Council on Resources and Development (CORD) has come to be valued as a responsible coordinating organization by both the Governor and the Legislature.
12. The Council on Resources and Development (CORD) and an expanded Right-of-Way Board (renamed the Public Access Board) could provide the basis for administration of a Statewide Public Access Program.
13. Any plan aimed at protecting and expanding public access to New Hampshire's public waters must be carried out within the legal framework which defines public and private rights to public waters.
14. Any plan to expand public access to the state's public waters must address enforcing existing regulations which affect water safety and water quality,

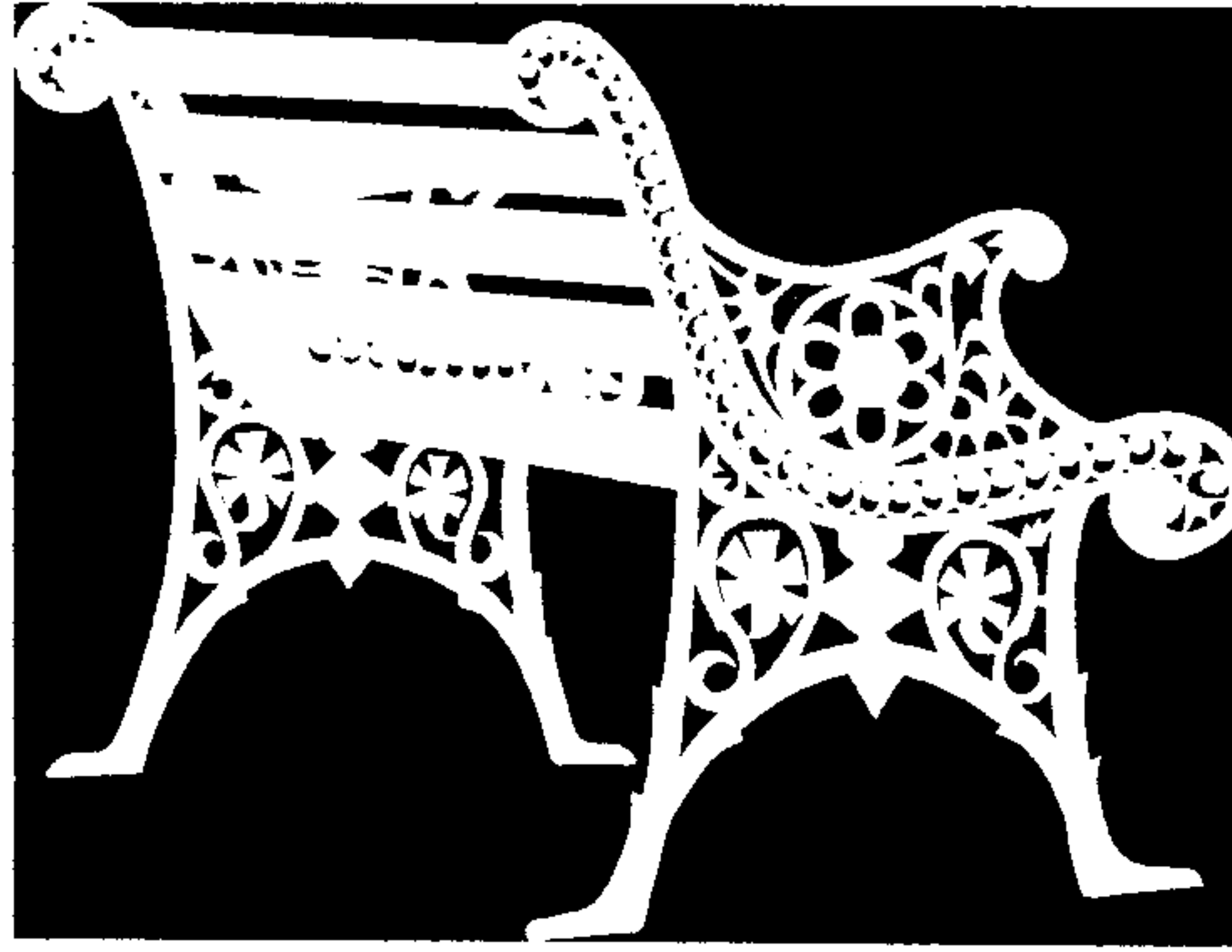
setting priorities for public access development, and for protecting the unique natural, physical, cultural, and recreational values of New Hampshire's water resources. There may be situations where public access to a great pond or river may not be recommended due to the unique biological and ecological characteristics of the water body.

15. Along with the state's responsibility for providing public access is the responsibility of the state to control the results of expanded access. Over the years, enforcement on New Hampshire's waters has declined due to cuts in funding. Without increased enforcement, increased public access will result in increased problems.
16. Public education must be a part of any plan which will increase access to the state's waters. State agencies providing, regulating, or planning for public access need to develop and coordinate public access-related educational programs that stress responsible public behavior towards the environment, public access facilities, fellow recreationists, and abutters of public access sites.
17. Newly enacted legislation providing reciprocal boat registration with other states (RSA 270-E:4) has effectively destroyed any potential for reaching and educating out-of-state boaters about New Hampshire's boating safety and water quality laws.
18. There is no public access inventory/information guide which provides current data on the number of existing public access points statewide or a description of those various public access sites. It is imperative that, as a first step, a complete statewide inventory of public and other access points be undertaken to determine the status of these sites and to restore them to public use, if appropriate.
19. Based on a **very rough** estimate, it appears that the current number of pub-



- lic access points statewide is approximately 535.
20. There may be an existing need for approximately 350 public access points on our great ponds, and between 150 and 190 points on our major rivers.
  21. Under this Plan's proposed Twenty-year Public Access Program, approximately 125 new public access points could be provided at an average annual cost of \$1,800,000 per year.
  22. Determination of additional access to the state's waters should be based on public access planning standards that recognize a water body's ability to handle recreational use, while not exceeding the water body's ability to absorb the negative impacts.
  23. The lack of adequate public access to the state's public waters not only affects the general public, but also the provision of emergency services (search and rescue), and hinders certain state agencies from carrying out their responsibilities. The Division of Safety Services (within the Department of Safety) cannot get guaranteed access to certain water bodies for their enforcement personnel, while the Department of Environmental Services has the same access problems in their water body system reporting and lake water quality monitoring programs.
  24. Considerable local resistance and the lack of eminent domain powers for public access purposes have greatly constrained the ability of state agencies to acquire those parcels that are best suited for public access development.
  25. The Department of Resources and Economic Development's system of parks, forests, natural areas, and historic sites could continue to play a major role in providing public access opportunities appropriate to the Department's responsibilities.
  26. State regulatory review procedures, and local zoning and subdivision regulations represent viable mechanisms for making sure that the public's interest in public access is respected and advanced through the development process. At a minimum, this approach provides a way for considering a proposed development's impact upon public access.
  27. The State has had and needs to continue to have the major role in providing and expanding year-round public access opportunities. However, the private sector has also contributed significantly towards the public's ability to access the state's public waters, and this role should be recognized in any plan that is examining ways to improve access.





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## Chapter 5 - Plan Implementation Recommendations

### Program Recommendations

Any Public Access Program initiated by the state should require that the state be aggressive in acquiring public access sites, either through fee simple or easement purchase methods. In addition, a program for acquiring public access cannot rely only on mutual agreements and "friendly" acquisitions to achieve its goals. Once criteria have been established for the different types of public access points, the subject water body should be surveyed to inventory possible locations and the locations should be prioritized. Although efforts should be made to acquire high priority locations based on negotiated purchase, the Program should recognize that friendly purchases are not always available and that because of the public good and necessity of the program, eminent domain may be required. The use of eminent domain to acquire right-of-way easements or land would be the option of last resort.

To develop a reasonable cost estimate for providing appropriate public access to New Hampshire's surface waters, it is first necessary to develop an up-to-date inventory of the number, type, and condition of existing public and other access points. Such an inventory does not currently exist. Collecting, verifying, and evaluating inventory information must be the first step in developing the state's long-range Public Access Plan.

The 1964/1965 State Planning Project noted that of the approximately 780 great ponds in the state, over 500 had no identified public access point. The vast majority of great ponds are under 500 acres in area. Access to these ponds should concentrate on small public access points with boat ramps or beaches, carry-in launch sites, remote walk-in sites, swimming and on-shore facilities, and scenic access facilities.

The state should then establish, as a priority, the provision of public access where needs are determined to be the greatest. Through a needs assessment and a cost analysis, the maximum value from each dollar invested in public access would be determined. In addition to developing new public access facilities, such a program would include maintaining and rehabilitating existing, under utilized public accesses, as well as strategically locating an appropriate number of beach accesses on these key water bodies.

The provision, operation, and maintenance of public access facilities is a state responsibility. However, partnerships could be developed between the state and various agencies and organizations having a significant interest in the provision of and the proper use and maintenance of these facilities to help with expanding public access opportunities and monitoring/maintaining these sites. Such groups could include sporting clubs, Lake and River Associations, mu-



nicipalities, Regional Planning Commissions, and the numerous nonprofit organizations with wildlife and environmental interests. Such partnerships already exist. For example, in return for the Town of Henniker's agreement to empty trash containers at French Pond, the NH Fish and Game Department installed a toilet facility at the site. Through the Fish and Game Department's "adopt a ramp" program, the Concord Chapter of Trout Unlimited patrols and picks up litter at the Sewalls Falls site. Some Lake Associations have become involved in monitoring parking at public access sites, ensuring that illegally parked vehicles are brought to the attention of authorities.

### Number of Facilities

Earlier in this report, it was suggested that there may be an existing need for approximately 350 public access points on our great ponds and between 150 and 190 points on our major rivers. Addressing these needs can begin by developing public access priorities, building public access sites that are available "in perpetuity", and initiating a twenty-year Public Access Program in five-year increments as recommended by this report--given that sufficient funds are allocated.

Multi-use Public Access Facilities should be considered first for the larger great ponds of which there are ten in excess of 2,500 acres. It is suggested that, initially, a minimum of one such public access point be developed for each great pond in excess of 2,500 acres, resulting in 10 multi-use public access points being developed over the twenty-year Public Access Program.

The need for small public access facilities with boat ramps or beaches is also great. Efforts should be initiated to acquire suitable parcels and to undertake construction according to the proposed time frame. Type II public access facilities should be provided to all great ponds in excess of 500 acres. Initially, these facilities would be provided on the basis of one-per-water body between 500 and 2,500 acres in size, one-per-water body over 2,500 acres, and one public access-per-ten miles of river shoreline. Over a twenty-year

period, this would translate into 35 small public access facilities on great ponds, and approximately 50 such public facilities on our improving rivers.

Carry-in Launch Facilities or Remote Walk-in Facilities should be targeted to great ponds of up to 500 acres in size. There would be a need to provide approximately 30 new public access points and to refurbish a currently unknown amount of existing public access sites. A completed statewide inventory of access sites would determine what number of existing public access facilities need refurbishment. Certain small ponds in this category may be able to handle small trailored craft as well. Therefore, decisions as to what type of public access sites are best suited for an individual pond are best addressed through the NEPA process.

In total, 125 new public access facilities would be provided over the twenty-year Public Access Program. This 125 total does not include the need for refurbishing existing public access sites in order to meet the long-term goals of the recommended Program--one public access per great pond and one per ten miles of river shoreline which are found suitable for such access.

## Funding Recommendations

### Program Costs

**This Plan recommends a \$36 million dollar, twenty-year Public Access Program, and provides a more detailed cost estimate for the first five-year period of the Program.** The cost figures included in this section are very general and, at best, preliminary. Development of public access sites would follow the process outlined in the Priorities and Access/Protection Strategies section of this chapter. Each potential site would be the subject of an appropriate feasibility analysis, and a site analysis which would include an assessment of environmental impacts. The total number of new or refurbished facilities to be provided over the twenty-year period may be subject to change in order to ensure that



each project is funded adequately and maintained in perpetuity.

**Twenty-Year Program**

The basis for cost estimates comes from the NH Fish and Game Department's State-wide Public Access Program (Appendix E).

- a. Ten (10) Multi-use Public Access Facilities would be provided by the state to great ponds in excess of 2,500 acres.
- b. Approximately thirty-five (35) Small Public Access Facilities with Boat Ramps or Beaches would be provided by the public sector to great ponds having an area between 500 and 2,500 acres.
- c. Approximately fifty (50) Small Public Access Facilities with Boat Ramps or Beaches would be constructed on the state's improving rivers.
- d. Approximately thirty (30) Carry-in Launch Facilities or Remote Walk-in Facilities would be provided to great ponds up to 500 acres.
- e. The \$36 million dollar cost for the 20-year Program would be divided as follows:
  - \* Multi-use Public Access Facilities (Cost dependent on location, access size, and uses provided by access point.) . . . . \$15.0 million
  - \* Small Public Access Facilities with Boat Ramp or Beach (Including refurbishments) . . . . \$ 9.0 million
  - \* Carry-in Launch Facilities or Remote Walk-in Facilities (Including refurbishments) . . . \$ 4.5 million
  - \* Administration, Operation, Maintenance, and Enforcement . . . . . \$ 7.5 million

**First Five Years**

This Plan recommends that \$16 million dollars be spent for acquisition, development, refurbishment, and administration of public access sites during the first five years of the Public Access Program. Of this \$16 million dollar total, \$10 million dollars would be provided by a bond issue to immediately start up

the Program. The bond issue would be funded through existing sources and increased user fees, and could be used to match federal Dingell-Johnson funds, Federal Highway Administration funds, and Land and Water Conservation Fund monies. Public Access Program funding for the first five years would be distributed as follows:

- \* Acquisition and Development of New Sites . . . . . \$ 9.0 million
- \* Refurbishments . . . . . \$ 4.0 million
- \* Administration, Operation, Maintenance, and Enforcement . . . . . \$3.0 million

**Existing Funding Sources**

**Unrefunded Motor Fuel Tolls**

Currently, New Hampshire law (RSA 260:60) mandates that 1/2 of unrefunded motor fuel tolls (motor fuel used in the propulsion of boats on inland public waters of the state) be credited to the Division of Safety Services (within the Department of Safety) and the other 1/2 be credited to the NH Fish and Game Department. Funds credited to the Division of Safety Services are to be used for the promotion of safe navigation, while funds credited to the NH Fish and Game Department are to be used by the Department to carry out its existing program.

It is estimated that the NH Fish and Game Department and the Department of Safety will each receive \$500,000 in unrefunded motor fuel tolls in FY 92-93. The NH Fish and Game Department is currently taking one-half of these monies (\$250,000) to match unobligated federal and Wallop-Breaux Expansion of Dingell-Johnson Act funds to fund their Boating and Fishing Access Program.

NH Fish and Game Department Boating and Fishing Access:

- \$250,000 unrefunded motor fuel toll
- \$600,000 unobligated federal and Dingell-Johnson funds



The Department of Safety does not directly receive its share of unrefunded motor fuel tolls. Instead, these monies are deposited into the state's General Fund. The rationale for doing this has been based on the source of funds for the agencies receiving the unrefunded motor fuel toll revenue. Since the Fish and Game Department's source of funds is the Fish and Game Fund, that fund receives the toll money. Since the Watercraft Safety Bureau is funded by the General Fund, that fund is credited with the toll money. At present, the Department of Safety has no plans for undertaking an identifiable public access program with its \$500,000 share of unrefunded motor fuel tolls.

□ **Land and Water Conservation Fund**

The LWCF is a federal program (administered by the National Park Service on the federal level, and the Department of Resources and Economic Development on the state level) which provides matching grants to states for the acquisition and development of public outdoor recreation areas and facilities. Because Congressional appropriations for the Fund have dropped significantly over the years, the LWCF cannot currently be considered a significant source for major funding of the Public Access Program.

Department of Resources and Economic Development Multi-use Access - LWCF FY 1992 estimated appropriation:

\$106,000 Local Projects  
\$ 47,000 State Projects

□ **Land Conservation Investment Program**

Administratively attached to the Office of State Planning, the LCIP has funded 140 projects to date, obligating more than \$35.4 million to protect over 91,000 acres of land in 108 municipalities. It is anticipated that all of the LCIP's remaining unobligated funds--a total of approximately \$5.5 million--will be obligated by the end of January 1991 toward the 75 applications now in hand requesting more than \$20 million in LCIP funding. At present, the Trust for New Hampshire Lands

and the LCIP are scheduled to close the Program by December 1992.

Easements acquired by the LCIP allow for "passive pedestrian public access" such as hiking and fishing, while other activities (e.g. camping) require landowner permission. Fee simple acquisitions by the LCIP have permanently secured access for boats and canoes on numerous ponds, lakes, and river sites where no public access existed before. The LCIP should go forward with its proposal to set aside a portion of its remaining funds to create an endowment fund for monitoring and maintaining these easements and acquisitions. This action would ensure that public accesses acquired through the LCIP would be available in perpetuity.

□ **Federal Highway Administration Funds**

The Federal Highway Administration allows the NH Department of Transportation to include land acquisition and construction costs for public accesses at new bridge sites and for scenic overlooks to be part of the federally-aided highway project involved. Public access at new bridge sites and scenic overlooks are purchased as part of the highway layout. The Department continually looks for access opportunities that can be provided as part of a highway project. The decision to construct a public access generally is based on a request(s) from another agency (e.g. Fish and Game Department) or testimony received at the public hearing. In some instances, however, the decision is made solely by the NH Department of Transportation.

**Potential Funding Options**

The options listed below are not necessarily being endorsed by the Public Access Advisory Committee (PAAC). The PAAC does feel that because these options provide opportunities for improving education, safety, and enforcement of public access users and for generating additional funds for all categories of public access facilities (beaches, trails, fishing, boating etc.), they should be explored



**Increased Boat Registration Fees**

The Legislature is currently reviewing a bill in interim study that would increase boat registration fees to pay for personnel, operation, and maintenance of public boat access facilities. Estimated funds generated yearly would be \$240,000--provided such legislation is enacted.

**\$10 Million Bond Issue**

A \$10 million dollar bond to help fund a twenty-year Public Access Program could be funded through existing sources and increased user fees.

**Golden Passport Program**

A Golden Passport Program could be developed that would enable New Hampshire residents to buy a permit for a fixed fee allowing them to use the state's public access facilities for any given year and/or season. Funds from Passport sales would go towards public access annual operation and maintenance costs. A percentage of such funds could be allocated to municipalities for their support of the Public Access Program.

**User Fees**

A Uniform User Fee Program could be initiated at public access sites with money collected going towards the operation and maintenance of these sites and payment of the bond issue. A percentage of collected funds could be allocated to municipalities for their support of the Public Access Program.

**Decal Program**

A Decal Program could be developed which would allow the public to use any public access site or outdoor recreational facility upon purchasing such a decal. Decals would be displayed either on cars or trailers and would be valid for a specific period of time. A percentage of monies collected under this program could be distributed to municipalities for their support of the Public Access Program.

**Operator Licensing**

A statewide Operator Licensing Program could be an effective mechanism for improving education, safety, and enforcement on the state's public waters. Awareness of New Hampshire laws among public and other access users (including out-of-state users) could be increased through required training and testing. Fees collected through such a program could be applied towards the Department of Safety's education, safety, and management programs.

**Use Permit Fee for Out-of-State Boaters**

A Use Permit Fee Program could be instituted that would require visiting boaters to obtain a sticker on their boats for a fee, upon signing a release certifying that they know New Hampshire's boating safety and water quality laws and that their boats are properly equipped with mufflers, holding tanks etc. Marinas who are boat agents could, for a small percentage of the fee to cover administrative costs, act as agents for this program. For added revenue, an additional "per-foot-fee" could be charged for boats over 25 ft. in length having sleeping and toilet facilities. Fees collected under this program could go towards boater education, safety, and enforcement.

**Non-Boater User Fee**

As was suggested at one of the Public Access Public Informational Meetings, perhaps a partnership could be developed between nonprofit conservation organizations and the state. Individuals paying their membership dues to such organizations could be given the option of paying an additional nominal fee. This nominal fee would entitle a person to a special membership sticker allowing that individual to use public access sites. Fees collected under such a program could go towards public access sites providing such water-related recreation as hiking, birding, and wildlife observation.



## Program Funding

### Total Funds Available (Twenty Years)

NH Fish and Game Department . . . . .	(\$850,000/year) . . . . .	\$17.0 million
Department of Safety . . . . .	(\$250,000/year) . . . . .	\$5.0 million
Increased Boat Registrations* . . . . .	(\$240,000/year) . . . . .	\$4.8 million
Bond Issue** . . . . .		<u>\$10.0 million</u>
Total . . . . .		\$36.8 million

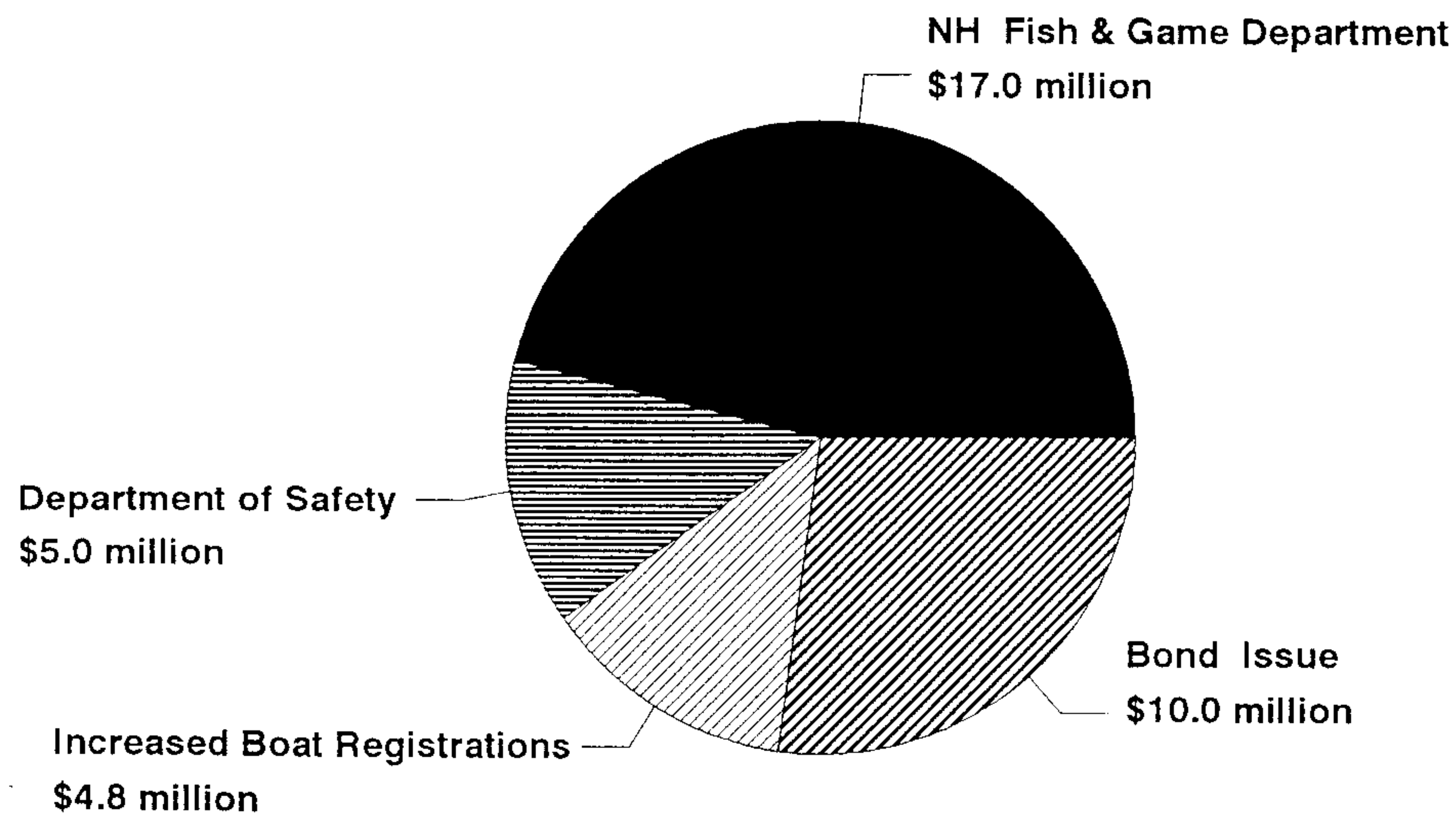
### Phase I (Initial Five Years)

NH Fish and Game Department . . . . .	(\$850,000/year) . . . . .	\$4.25 million
Department of Safety . . . . .	(\$250,000/year) . . . . .	\$1.25 million
Increased Boat Registrations* . . . . .	(\$240,000/year) . . . . .	\$1.20 million
Bond Issue** . . . . .		<u>\$10.00 million</u>
Total . . . . .		\$16.70 million

\* Based on a \$5.00 increase in boat fees. (Projected yearly amount may be significantly impacted by recently adopted reciprocal boat registration program.)

\*\* For use in acquiring all categories of public access (i.e. beaches, trails, picnic sites, scenic views, fishing, boating etc.)

### Total Funds Available (Twenty Years)





## Administrative Recommendations

1. Legislation authorizing CORD to have overall administrative responsibility for the Public Access Program be introduced and enacted.
2. Legislation authorizing the creation of a \$10 million dollar bond issue be introduced and enacted.
3. A twenty-year Public Access Program be initiated with Phase I comprised of a five-year, \$16.7 million dollar effort which incorporates a \$10 million dollar bond issue. Phase I will provide \$9 million for acquisition and development of new sites, \$4 million for refurbishments, and \$3 million for administration, operation, maintenance, and enforcement. Decisions as to how bond money would be used for public access purposes would be made by CORD, based on Public Access Board recommendations and state agency requests.
4. Legislation which renames the current Right-of-Way Board and expands its current membership be introduced and enacted, so that the new Public Access Board can coordinate the Public Access Program and serve as an advisory committee to CORD.
5. RSA 271:20-a which legally defines Public Access be modified to require that public access sites be held "in perpetuity".
6. RSA 4:29 which empowers the Governor and Council with eminent domain authority be modified to include "public access" as a public improvement for which taking of real estate may be deemed necessary.
7. Three existing public access sites be refurbished for every new site developed.
8. CORD in its semi-annual Public Access Program status reports develop recommendations for following through with the Program for the remaining fifteen years.

## Goal Specific Recommendations

**Goal 1 - To prepare a recommended plan for providing public access to state waters, it is recommended that:**

- a. The Office of State Planning, under its Outdoor Recreation Program, identify, characterize, and computerize all existing public and other access points as the first step under the statewide Public Access Program. Such a statewide public access inventory should also review the potential of existing state-owned lands for public access site development. This inventory would serve as the base for a statewide access map to be provided to the users of New Hampshire waters. This information could then be used to develop an access publication.
- b. CORD be given the overall administrative responsibility for the statewide Public Access Program. This responsibility would bring together existing public access efforts and would recognize the importance of the state park system in providing public access. CORD's function would be not only to help resolve problems between state agencies (any interagency conflicts would go to CORD for binding resolution), but also to identify any opportunities that could mutually benefit the public access efforts of specific agencies. CORD would also bring recommendations pertaining to needed eminent domain actions to the Governor and Council.
- c. CORD be responsible for submitting to the Governor and Council a semi-annual report on the status of projects being undertaken under the Public Access Program (i.e. status of acquisitions, development, and refurbishments as well as upkeep of site maintenance and public access inventory work).
- d. RSA 4:29 which empowers the Governor and Council with eminent domain authority be modified to include "public access" as a public improvement for



which taking of real estate may be deemed necessary. The state should have sufficient conviction in the public good and necessity of a Public Access Program to use the power of eminent domain as a process of last resort. Although efforts should be made to acquire high priority locations based on negotiated purchase, the program should recognize that friendly purchases are highly unlikely, and that eminent domain may be required.

- e. RSA 230:72-73 Rights-of-Way to Recreational Waters be revised. The Right-of-Way Board should be renamed the "Public Access Board" and expanded to include the Office of State Planning, the Department of Safety, the Governor's Commission on Disability, and members of the general public--in addition to the present membership comprised of the Division of Parks and Recreation within the Department of Resources and Economic Development, the Fish and Game Department, Division of Water Resources within the Department of Environmental Services, and the Department of Transportation.

The new Board should be composed of staff designees of the Commissioners or Directors of the above-mentioned agencies, and three members of the general public who are directly involved in providing access. These individuals would in effect operate the state's overall public access program under the supervision and guidance of CORD which is comprised solely of agency Commissioners and Directors.

- f. The new Public Access Board responsibilities include coordinating all state agency public access efforts, serving as an advisory committee to CORD, and alerting CORD to any potential problems which may inhibit public access efforts. Specific responsibilities should include: evaluating individual water body characteristics for optimum use; formulating a water body priority list to serve as a guide for public access construction; adopting public access

design and construction standards proposed by the members; improving existing public access points to meet adopted standards; recommending land acquisition projects to CORD or member agencies; accepting gifts of desired land; and developing standards for the provision of needed public access amenities (e.g. buffers, parking, and adequate maintenance).

- g. State agencies currently involved in some aspect of providing, regulating, or planning for public access should expand such efforts under the Public Access Program. Department of Resources and Economic Development should provide multi-use, public access parks; NH Fish & Game Department should continue its public access program for hunters, fishermen, trappers, and boaters; Department of Environmental Services should provide surface water quality monitoring and protection, aquatic weed control, fill and dredge permit regulation, and statewide river and lake inventorying. Office of State Planning should focus on inventorying statewide access sites and assessing access needs; NH Department of Transportation should focus on including boat ramps and trails in bridge and highway construction and reconstruction projects, developing roadside turnoffs/scenic areas, and on supporting the new Access Board with public hearing/appraisal assistance and road layout. Finally, the Department of Safety should provide adequate boating law enforcement and boating safety education promotion.
- h. A public information component which offers a continuing source of readily available and reliable information to public access users be included under the Public Access Program. Such informational products could include maps and public access guides which are routinely updated. Directional signage to public access points should be provided by the state. Integrated into all informational products should be a message stressing user responsibility



to impress upon public access users a respect not only for the rights of neighbors and other users, but also for the environment.

- i. The Public Access Program use information gathered through a needs assessment, water body assessment, feasibility analysis, and site analysis to determine priorities for public access development and to protect the unique natural, physical, cultural, and recreational values of New Hampshire's water resources.
- j. All property acquired by the state for public access sites be uniformly recorded with the Registry of Deeds at the County Seat level.

**Goal 2 - To provide and improve year-round public access to state waters, it is recommended that:**

- a. Immediate Public Access Program efforts use existing demand and need information, and concentrate on providing public access to larger water bodies (i.e. Lakes Winnepesaukee, Squam, Winnisquam, Newfound, Sunapee, Ossipee, Wentworth, Massabesic, and the Connecticut and Merrimack Rivers). For the remaining water bodies, public access priorities should be developed from a completed statewide needs assessment. Likewise, water body assessments for the larger water bodies should be conducted on a case-by-case basis, until such time as a statewide resource inventory of New Hampshire's rivers and great ponds becomes available.
- b. The state provide assistance to municipalities to aid them with the required maintenance and upkeep of public access points established under RSA 230:63-71 Layout of Highways to Public Waters.
- c. An overall twenty-year Public Access Program be initiated which would result in the development of approximately 125 new public access points.
- d. The legal definition of Public Access under RSA 271:20-a be modified to re-

quire that public access sites be held in perpetuity.

- e. Where appropriate, existing public access sites be upgraded to and new public access facility be developed for multi-seasonal use.

**Goal 3 - To provide and improve year-round water access to persons with disabling conditions, it is recommended that:**

- a. The Permanent Committee on Architectural Barrier Free Design of the Governor's Commission on Disability continue to ensure that all buildings and facilities being constructed, rehabilitated, or substantially remodeled are in compliance with the New Hampshire Code for Barrier Free Design.
- b. The design of new recreation facilities conform to the standards of the American National Standards Institute (ANSI) relating to accessibility for individuals with disabilities and any other standards adopted by the Governor's Commission on Disability.
- c. The public access inventory and any public access information guides developed from the inventory include information on the accessibility characteristics of specific public access sites.
- d. Signs at public access facilities describe the level of accessibility of the sites.

**Goal 4 - To provide needed public access facilities and support services for boaters, it is recommended that:**

- a. The NH Fish and Game Department be designated the lead agency in providing boating and fishing public access.
- b. The States Organization for Boating Access (SOBA) standards be referenced to ensure that, where feasible and appropriate, New Hampshire's boating access will be compatible with national standards.
- c. The Division of Water Supply and Pollution Control within the Department of Environmental Services display and



distribute promotional material and engage in educational efforts informing boaters of the problems with exotic aquatic weed control, and eradicate small new infestations of exotic aquatic weeds as authorized by the NH Clean Lakes Program (RSA 487:15-25)

- d. A visible signage program be developed to inform users of the varying types of uses at each public access location and the hours/season(s) during which the site is operated. Signage that addresses the spread of exotic aquatic weeds across the state's waters should be developed at all public boating access facilities.
- e. The state and municipalities play a larger and more coordinated role in managing boating activity, and enforcing safety and operating regulations. State programs that enforce boating safety and operating rules, and educate boaters on appropriate rules of operation on the water should be expanded. Interagency program coordination needs to be improved.
- f. The Department of Safety through the Division of Safety Services use their portion of unrefunded motor fuel tolls solely for boating safety promotion as provided by RSA 260:60.
- g. The Department of Safety through the Division of Safety Services expand boating safety education and boating law enforcement programs to meet current demands, and ensure that the provision of safety and enforcement programs keeps pace with the expansion of public access.

**Goal 5 - To provide needed public access facilities and support services for nonboaters, it is recommended that:**

- a. The State Park System's role in this process be primarily to provide multi-use, public access **parks**, (i.e., areas of large enough size to meet public access needs while at the same time providing other compatible outdoor recreation opportunities -- all within a

**park-like** setting). Depending on a number of factors, area size could be anywhere from several acres to fifty acres or more, with most sites falling in the range of 15 - 30 acres. Toilet facilities, drinking water, picnic sites and trails to scenic vistas or to other points of interest are among the types of additional facilities seen as complementary to the public access function. Hopefully, over a period of years or decades, some of these envisioned "mini-parks" will replace some of the much-too-minimal "Road To Public Waters" sites. Among all state agencies, the state park system has had the most experience in the planning and management of outdoor recreation **facilities**. There seems no reason to assume that it views the **facility** needs of boaters and fishermen as being any less a "park and recreation" function than it does the needs of beach-goers, picnickers, campers or the many other outdoor recreationists served by the Department of Resources and Economic Development. Whenever appropriate opportunities arise, the Department should develop cooperative arrangements with the Fish and Game Department to develop or improve public access sites.

- b. A visible signage program be developed which informs users of the types of uses permitted at each public access location and the hours/season(s) during which the site is operated.
- c. The state consider developing easement arrangements with municipalities to provide swimming access, and with private organizations like campgrounds to provide winter access for use in perpetuity. The state should also investigate how legal devices such as contracts and easements could be used to obtain access for the public through existing private access.
- d. The NH Department of Transportation continue to purchase scenic overlooks as part of highway layouts using highway funds, and include boat ramps and trails in bridge and highway construction and reconstruction projects.



- e. Visual access be protected and maintained for long-term public use. Development of scenic viewpoints in conjunction with public accesses, or where physical access is not appropriate, should be encouraged.

**Goal 6 - To identify, analyze and minimize the potential for adverse environmental impacts and socio-economic conflicts resulting from public access development, it is recommended that:**

- a. The state, as the holder of public trust rights in the waters of navigable rivers and great ponds, develop comprehensive shoreline protection measures to ensure that public waters and adjacent shoreland are used for the greatest public benefit. The natural qualities of great ponds and rivers--which make water-related recreation so satisfying in the first place--need to be protected.
- b. A water body's potential and suitability for accommodating a needed public access facility be based on information gathered through a water body assessment. Resource information that should be included in a water body assessment are: water quality and water supply, wetlands, floodplains, wildlife, fisheries, endangered species, natural areas, geologic and hydrologic features, shoreline length and character, historic and archeological resources, existing public and other access, degree of development, presence and extent of nuisance aquatic weeds, etc.
- c. A Lake Assessment be conducted under the newly established Lakes Management and Protection Program (RSA 483-A) within the Department of Environmental Services (DES) to develop a systematic base of natural resource and land/water use information for lakes, including the identification of all lakes which have such exceptional natural values that only limited public access opportunities may be appropriate.
- d. DES continue to expand its lakes and ponds data base through its routine, bi-

yearly sampling/resampling of 40 to 50 waterbodies each year. DES should also continue to provide assistance to lake associations via its Lay Monitoring Program which complements a similar program under the guidance of UNH Cooperative Extension.

- e. A Statewide River Study be undertaken under the New Hampshire Rivers Management and Protection Program (RSA 483) within DES to develop a comprehensive inventory of selected river-related natural, physical, cultural, and recreational resources. Inventory findings would facilitate accurate and responsible river and riparian land use decisions. DES is already obtaining certain inventory information under its river nomination requirements. In addition, DES should consider using the 1983 New England Rivers Center's New Hampshire River Protection and Energy Development Project final report as an initial resource in its inventory work, since this report's river resource assessment findings are still valid.
- f. A feasibility analysis be undertaken for each potential public access site to determine whether biological and/or economic constraints exist at the site, and if so, how they impact the financial viability and technical feasibility of the proposed project. Sites where public access development appears feasible should then be investigated more thoroughly through a site analysis and environmental assessment.
- g. Design of public access facilities selected for construction be tailored to the characteristics of the site in question and to the rigors of the environment.
- h. Public access projects initiated by state agencies be reviewed by the NH Natural Heritage Inventory for assessment of potential impact on rare plant and animal species.
- i. An additional highway classification be created that would limit use of public access roads to public access-related activities. No private ingress off public access roadways or the use of such



roadways for private parking purposes should be allowed.

- j. The Division of Water Supply and Pollution Control within the Department of Environmental Services prioritize those freshwater lakes and ponds requiring exotic aquatic weed eradication and those requiring exotic aquatic weed control measures, as established under the NH Clean Lakes Program (RSA 487:15-25).
- k. State agencies providing, regulating, and planning for public access (NH Fish and Game, Department of Resources and Economic Development, Department of Safety, Department of Environmental Services, Office of State Planning, and Department of Transportation) develop and coordinate public access-related educational programs that stress responsible public behavior towards the environment, public access facilities, fellow recreationists, and abutters of public access sites.
- l. The Office of State Planning in cooperation with key state agencies develop a Public Access Education Action Program through its Recreation Planning Program.

**Goal 7 - To minimize abutter conflicts, particularly in areas where active recreation occurs in close proximity to residential areas, it is recommended that:**

- a. Attention be given to public access design features which help minimize the potential for disharmony between public access users and adjacent landowners. Landscaping and the careful placement of facilities on the site are two ways in which public access-user/public access-abutter conflicts could be reduced.
- b. Proper maintenance and security at public access sites be assured to maximize the sites' capabilities to accommodate users as well as to protect the right of neighboring property owners to a clean and peaceful environment.

- c. Efforts to educate public access users to respect the interests of riparian/littoral landowners be initiated. Such efforts should be a part of any public access educational program developed by the state.

**Goal 8 - To clearly define the role of the public, private for-profit, and private not-for-profit providers of access to public waters, it is recommended that:**

- a. The state provide and expand year-round public access opportunities through negotiated right-of-way easement or land acquisitions, whenever possible.
- b. The state encourage and work with the private sector to provide other access facilities and to make sure that standards and regulations affecting other access facility development are reasonable.
- c. The Department of Environmental Services through the Division of Water Supply and Pollution Control continue to use its authority under the NH Clean Lakes Program (RSA 487:15-25) to make financial grants available to lakefront associations, private businesses, citizens, and local governmental agencies for the management of exotic aquatic weeds where eradication is deemed impossible.
- d. The state consider establishing a program that would grant tax advantages to private landowners who provide water access to the public.
- e. Legislation be enacted so that when a change in use occurs at private facilities which results in previously approved water access becoming exclusive to a limited number of individuals, all previously granted dock and/or mooring permits become null and void. Permits should then be renegotiated with the state to ensure that a proportion of moorings and/or docks remain available to the public.
- f. Marinas converting to other forms of ownership or types of service should



first be required to obtain Wetlands Board and Governor and Council approval.

- g. The state (possibly through CORD) develop a program to coordinate conservation organization programs with state agency programs to provide access. The state, in collaboration with local governments, private land trusts, and conservation groups (such as the Audubon Society of NH, The Nature Conservancy, Society for the Protection of NH Forests) should develop coordinated access and preservation plans for the state's major inland water bodies.
- h. Communities participating in the New Hampshire Heritage Trail effort consider the project's potential for expanding public access to the Merrimack, Pemigewasset, and Connecticut Rivers.
- i. Municipalities consider placing provisions in their subdivision regulations that would, under special agreement, require that access for emergency services be provided at any major development on a water body.

**Goal 9 - To identify existing funding sources and all conditions associated with these sources, and to identify and develop new, unrestricted, nonlapsing funding alternatives that can stand alone, enhance and/or supplement existing funding mechanisms, it is recommended that:**

- a. A \$10 million dollar bond be issued to help fund a twenty-year Public Access Program with bond repayments scheduled from increased user fees and registrations.
- b. Initial funding for a Public Access Program be derived from the expanded, unrefunded motor fuel tolls money which approached \$500,000 in FY-90. A portion of these funds should be devoted to the state's share for provision of public access, and existing federal funds should be utilized to augment the overall state program.

- c. The Fish and Game Department continue to take one-half of their unrefunded motor fuel toll monies to match unobligated federal and Dingell-Johnson funds to carry out the Department's Boating and Fishing Access Program.
- d. The Department of Safety undertake an identifiable public access program using a share of the unrefunded motor fuel tolls it receives. This money should fund the Watercraft Safety Bureau's boating law enforcement and boating education programs. With boat registrations increasing by over 95% between 1980 and 1988 (from 40,596 to 79,398), the need to expand such programs is genuine.
- e. The state consider increasing boating registrations to pay for personnel, operation, and maintenance of public boat access facilities.
- f. The state further explore the merits of the other potential funding options presented in the plan (i.e. Golden Passport Program, User Fees, Decal Program, Operator Licensing, Out-of-State Use-Permit Fees, and Non-Boater User Fees) as additional funding sources for all categories of public access.
- g. CORD conduct its own evaluation of existing and new funding sources which would examine, but not be limited to, those existing funding sources and funding alternatives suggested by the Public Access Advisory Committee and CORD Subcommittee.

**Goal 10 - To develop a strategy for prioritizing funds to ensure coordinated and efficient use of available and potential funding, it is recommended that:**

- a. A feasibility analysis be undertaken for each potential public access site to determine whether biological and/or economic constraints exist at the site, and if so, how they impact the financial viability and technical feasibility of the proposed project.



b. The Office of State Planning, under its Outdoor Recreation Program, conduct a statewide needs assessment to determine long-term public access needs. Such an assessment should be based upon a complete range of water access-related recreational interests.

c. The Department of Environmental Services through the Division of Water Supply and Pollution Control continue using Lake Restoration and Preservation Fund monies (under the NH Clean Lakes Program RSA 487:15-25) for lake restoration and preservation measures, including the control of exotic aquatic weeds.



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# Appendix A

## Governor's Memorandum

### MEMORANDUM

March 10, 1989

TO: Bob Varney, Director  
Office of State Planning

FROM: Governor Judd Gregg

SUBJECT: Proposed Public Access Plan

As you know, I am deeply concerned about the lack of public access to New Hampshire's lakes, ponds and rivers. I believe that in the face of rising demand for water oriented recreation, public access to water bodies is remaining static or even decreasing. At the same time, we need to ensure that our efforts to increase access are targeted to areas of greatest need while considering potential impacts on shoreland property owners, wildlife habitat and sensitive environmental areas.

In order to achieve a goal of improved public access in a coordinated and comprehensive manner, I would like to have you direct the Council on Resources and Development to submit a Public Access Plan to me by December 31, 1989. The Plan shall include, but not be limited to boat launch access (trailer and car top), parks, marinas/mooring fields, beaches, and other facilities directly related to water-oriented recreation. The components of the Plan should include an inventory of existing access facilities, pertinent standards and criteria to assess adequacy, and recommended strategies identifying priorities, costs, potential sources of funding and responsible implementing agencies. An evaluation of environmental factors and socio-economic impacts associated with the recommended improvements should also be included.

I recommend that a CORD subcommittee be established consisting of the Fish and Game Department, the Department of Environmental Services, the Office of State Planning, the Department of Transportation and the Department of Resources and Economic Development with specific staff designated by each department head to assist in the preparation of the Plan. I further recommend that the CORD subcommittee develop the Plan in cooperation with a public advisory committee composed of representatives from the Society for the Protection of New Hampshire Forests, New Hampshire Wildlife Federation, the New Hampshire Campground Association, and other relevant public entities recommended by the CORD subcommittee.

Please advise the CORD members of my request at their April 13 meeting and that by May 1, I wish them to submit an outline and chapter by chapter schedule for completion of the Plan.

JG:cjc



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# Appendix B

## CORD Resolution on Public Access Definition

RESOLUTION ADOPTED BY CORD AT THEIR

MEETING OF MAY 28, 1987

### Definition of Public Access

Whereas, the Council on Resources and Development (CORD) is composed of member agencies, several of which manage lands adjacent to our public waters;

And whereas, those managing agencies individually or in cooperation with one another provide access for the public to our public water;

And whereas, the problem of defining public access constitutes a "common problem in the field of natural resources" which CORD is authorized to "consult upon";

And whereas, it is in the best interests of the State of New Hampshire that a common definition of public access be adopted by appropriate member agencies;

Now, therefore, be it resolved that CORD recommends to appropriate member agencies that they adopt the following definition as part of their administrative rules.

Public access means "legal passage to any public waters of the State by way of designated contiguous land owned or controlled by the adopting state agency assuring that all members of the public shall have access to and use of the public waters for recreational purposes".

In order to assist with the implementation of this definition, the adopting state agency shall consider the following recommendations:

1. Require that such public access shall be incorporated into any short or long-term leasing of any existing or potential access lands under its ownership or control.
2. Determine whether user fees should be charged for noncommercial recreational use and access. If legislation permits charges should be used for the maintenance, operation and development of public access areas.
3. Erect and maintain one or more uniform signs designating such public access. Such signs shall include the name of the adopting state agency managing the area and any pertinent regulations.
4. For purposes of this definition, public waters shall include all such waters wherever defined in any and all Laws and Rules of the State of New Hampshire.



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# Appendix C

## Chapter 177, Laws of 1990

### HOUSE BILL - FINAL VERSION

-1-

HB 1026

3589B

CHAPTER 177

90-2323

05

### STATE OF NEW HAMPSHIRE

In the year of Our Lord one thousand  
nine hundred and ninety

### AN ACT

relative to the definition of public access  
to public waters.

Be it Enacted by the Senate and House of Representatives  
in General Court convened:

177:1 New Section; Definition. Amend RSA 271 by inserting after section 20 the following new section:

271:20-a Definition of Public Access.

- I. Public access to public waters means legal passage to any of the public waters of the state by way of designated contiguous land owned or controlled by a state agency, assuring that all members of the public shall have access to and use of the public waters for recreational purposes.
- II. Public access also means that no barriers or other impediments shall exist in the roads and ways leading to any of the public waters.



## Appendix C (Continued)

### HOUSE BILL - FINAL VERSION

-2-

#### HB 1026

177:2 State Jurisdiction Over Public Waters; Published List. Amend RSA 271:20 to read as follows:

271:20 [Area] *State Water Jurisdiction; Published List of Public Waters; Rulemaking.*

- I. All natural bodies of fresh water situated entirely in the state having an area of 10 acres or more are state-owned public waters, and are held in trust by the state for public use; and no corporation or individual shall have or exercise in any such body of water any rights or privileges not common to all citizens of this state; provided, however, the state retains its existing jurisdiction over those bodies of water located on the borders of the state over which it has exercised such jurisdiction.
- II. The department of environmental services shall prepare, maintain, and publish an official list of all public waters in the state. The commissioner of the department of environmental services shall adopt rules, pursuant to RSA 541-A, relative to this publication.

177:3 Effective Date. This act shall take effect 60 days after its passage.

Approved: April 27, 1990

Effective: June 26, 1990



# Appendix D

## Public Access Facility Designs

The diagrams and accompanying text are provided solely for illustrative purposes and are not intended to portray a specific site design. Such a design is only possible after a thorough site analysis has been completed.

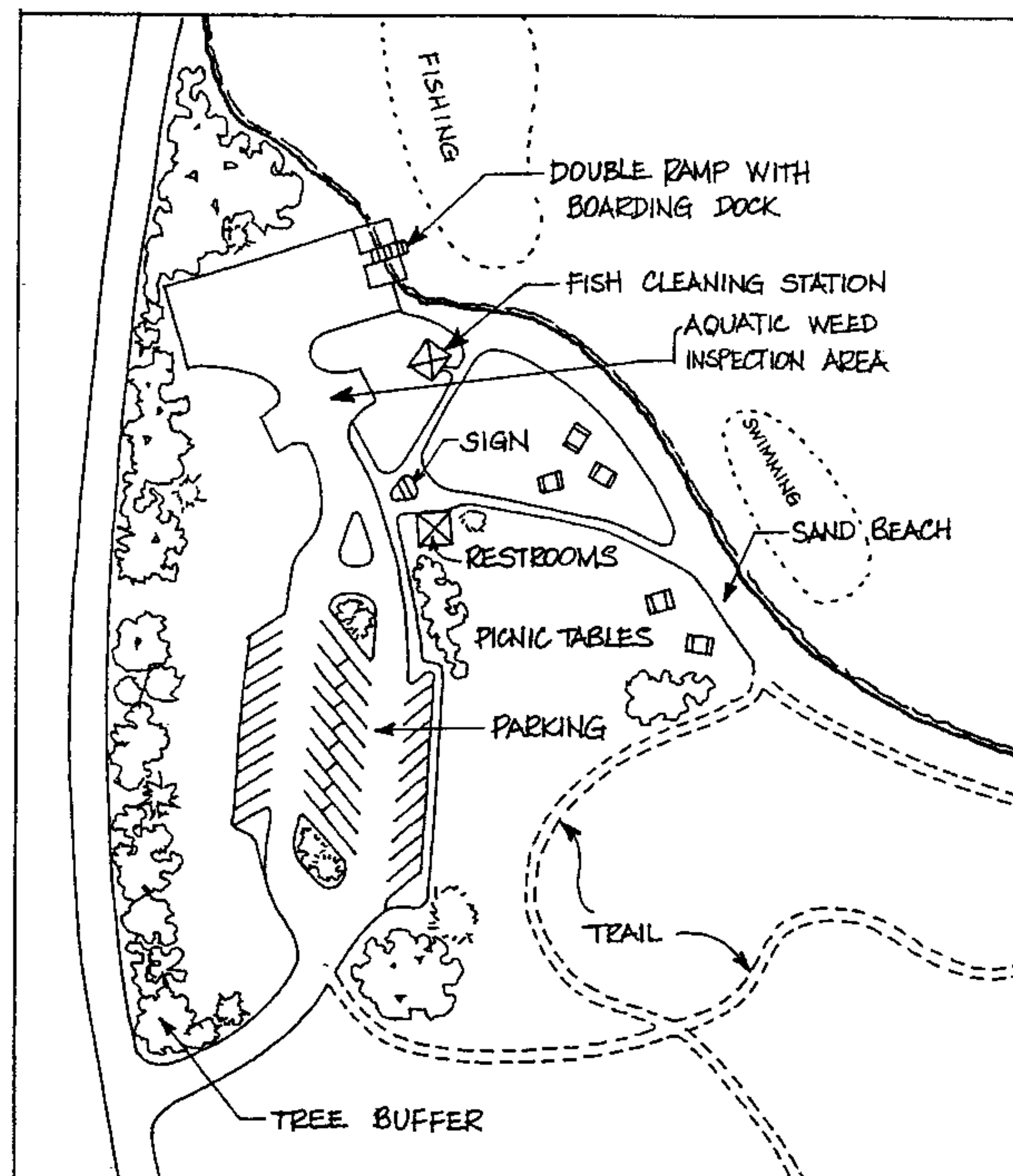


Illustration 1

### 1. TYPE I - MULTI-USE PUBLIC ACCESS FACILITY

Type I multi-use public access points are those expected to receive the greatest use by all kinds of recreationists. Therefore, these public access points should contain sufficient area to accommodate the family and group facilities needed to support heavy and varied use. It is recommended that Type I locations be placed only on water bodies over 1,000 acres in size.

#### Features may include:

Average size: 15-30 acres, including buffer zone.

Parking area: To accommodate a minimum of 30 cars with boat trailers and/or adequate parking for users of other facilities located on the site (e.g. beaches, trails, picnic areas etc.) Two-thirds of the proposed parking area to be developed, one-third to remain in reserve.

Entryway: Each lane of the entry-exit roads should be 12 feet wide, have a maximum grade of ten percent, and be paved.



**Boat ramp:** All boat ramps at Type I public access points should be constructed of concrete. Each double ramp should be 30 feet wide, and extend far enough into the water to permit easy use in all seasons. The degree of slope of the ramp will vary with the terrain. It is recommended that the slope be no more than 10 - 15 percent. The surface texture of the ramp should be rough enough to provide adequate traction when wet. There should be one ramp for each 30 vehicles.

**Dock:** At periods of peak use, Type I public access points will be used by the largest boats that can be trailer-towed, as well as by many smaller boats of all descriptions. Mooring docks should be provided and be constructed of durable materials to withstand year-round weather conditions.

**Related facilities:** The nature of the use and the users expected at Type I public access points indicates that additional facilities are needed at these locations. Suggested additional facilities include: trails, beaches, scenic viewpoints, picnic areas with pedestal-mounted grills, toilets and drinking water. Cooperative agreements with private interests might be arranged to provide concession facilities. Refer to Illustration 1 for a sample layout plan.

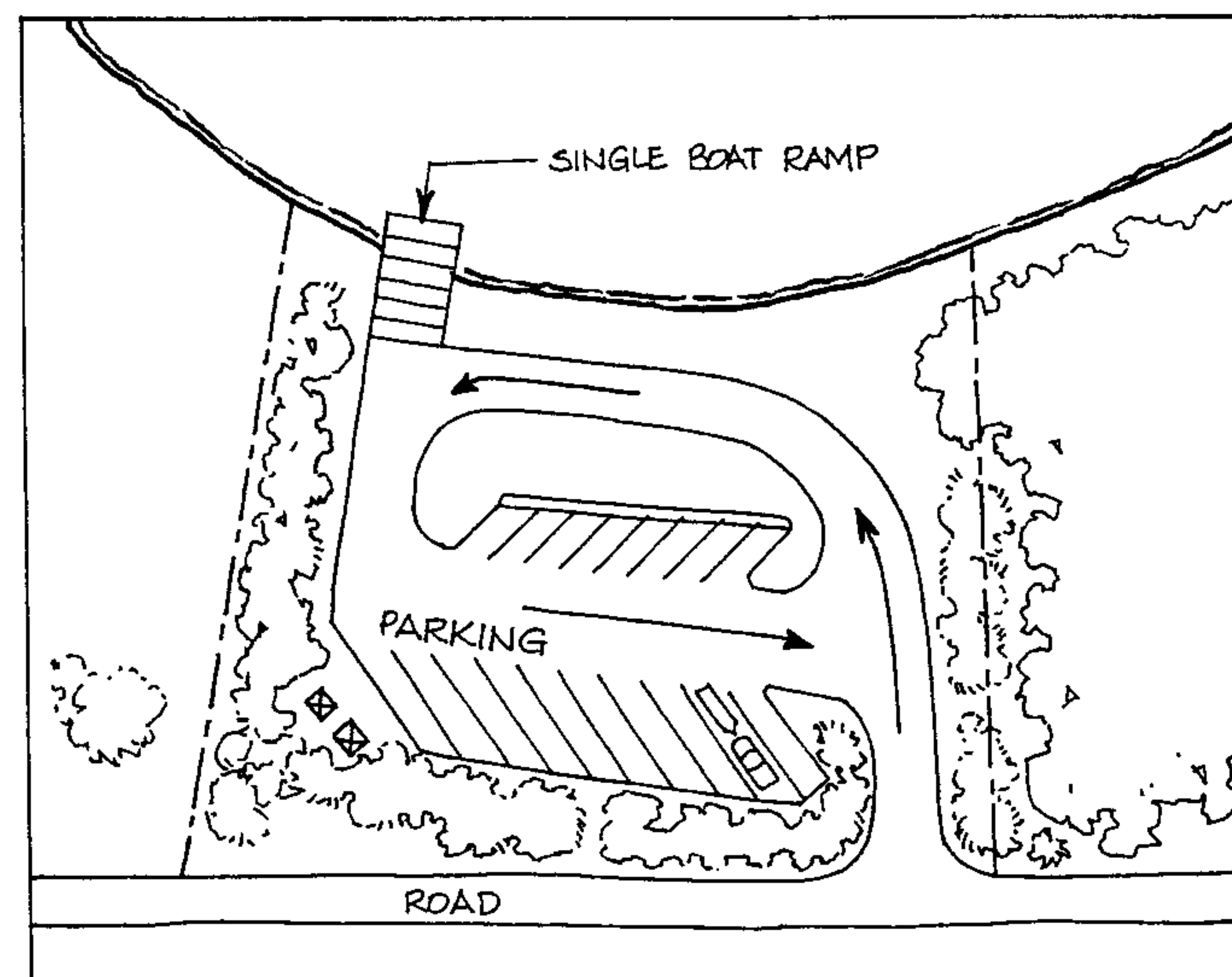


Illustration 2

## 2. TYPE II - SMALL PUBLIC ACCESS FACILITY WITH BOAT RAMP OR BEACH

Type II public access points are intended to provide launching ramps or beaches on water bodies where use is expected to be moderate. The sites need only be of sufficient size to provide basic trailer-boat launching requirements.

### Features may include:

**Average size:** 10-15 acres, including buffer zone.

**Parking area:** To accommodate a minimum of 15 cars and boat trailers.

**Entryway:** Two-lane, two-way traffic, 22 feet or wider. Paved.

**Boat ramp:** Type II boat ramps should include the features recommended for Type I ramps, although they may have a single-width ramp instead of a double-width design.

**Related facilities:** Beaches, scenic viewpoints, picnic tables, pedestal-mounted grills, trash barrels and toilets. Refer to Illustration 2 for a sample layout plan.



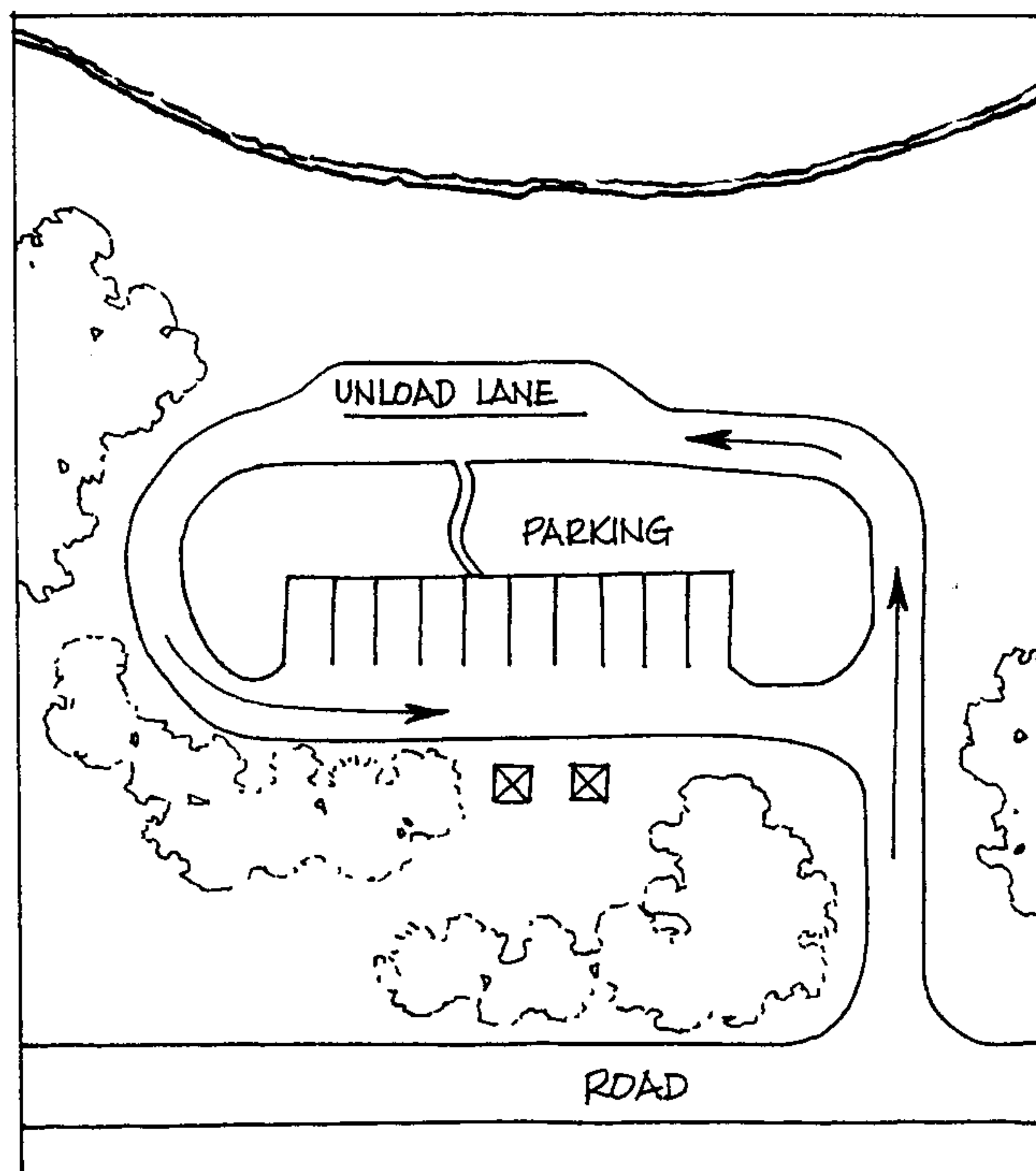


Illustration 3

### 3. TYPE III - CARRY-IN LAUNCH FACILITY

Type III public access points are intended to provide public access to water bodies having natural characteristics worthy of preservation and where larger facilities would substantially impact such natural characteristics. Light to moderate recreational use of these facilities is anticipated. Carry-in launch sites are public access points where a hand-carried boat or canoe may be placed in the water, but there is no access for car-towed trailers.

**Features may include:**

Average size: 5-6 acres, including buffer zone.

Parking area: To accommodate 10 cars.

Entryway: Paved, two-way traffic, width 20 feet or more.

Launch area: A graded area sufficiently wide to allow several small watercraft to be beached at the same time.

Related facilities: Trash barrels optional, toilets. Refer to Illustration 3 for a sample layout plan.



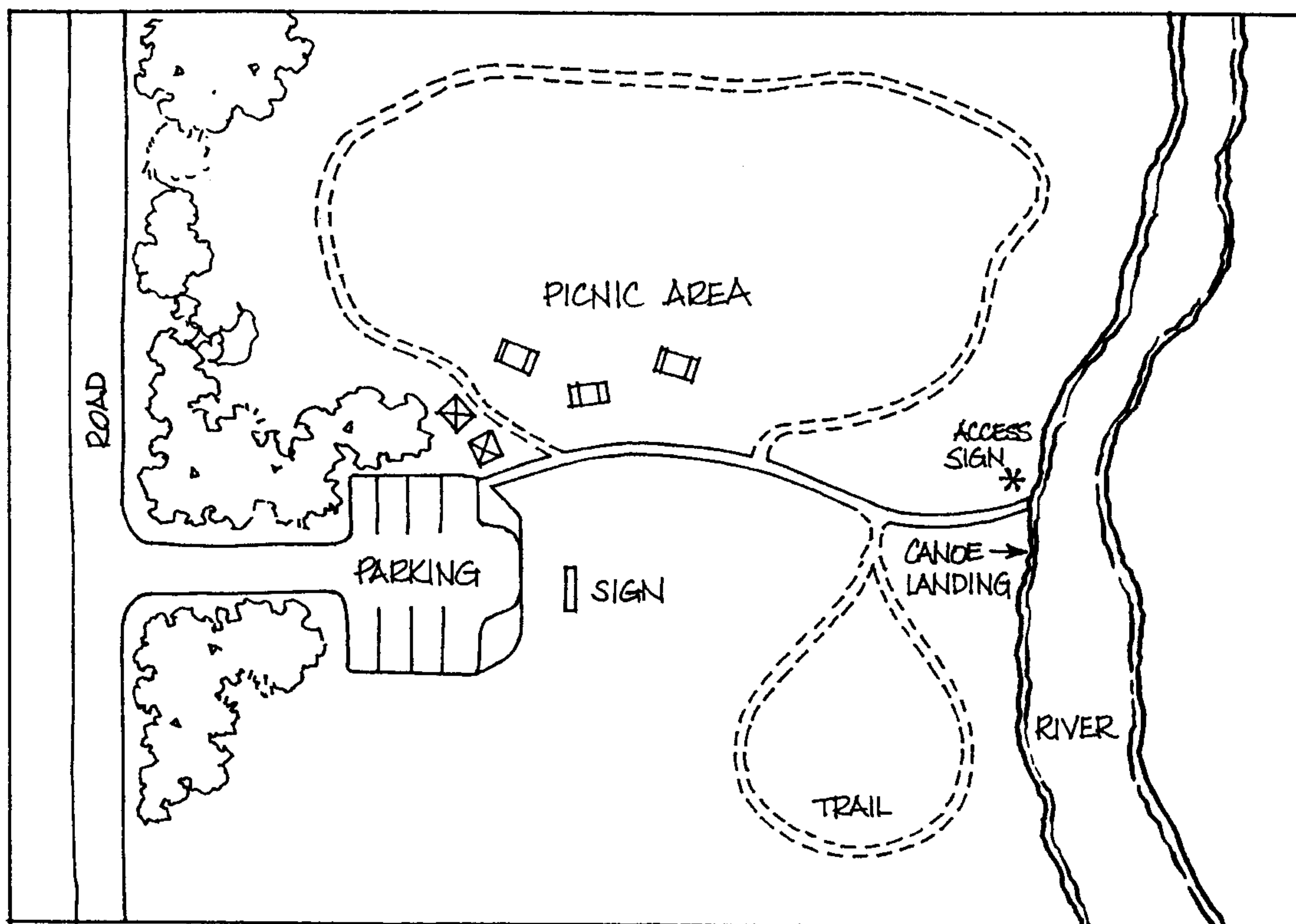


Illustration 4

#### 4. TYPE IV - REMOTE WALK-IN FACILITY

Type IV public access points are recommended for small water bodies and on portions of larger water bodies that are isolated or have natural characteristics worthy of preservation. It is expected that this type of public access will primarily service fishermen and those seeking natural surroundings for such water-related recreation as shore fishing, hiking, birding, and wildlife observation.

##### Features may include:

**Size:** The minimum size for the entrance, parking area, and beginning of the trail should be 3 acres.

**Trail:** The area required for the trail will vary with terrain and length. The developed trail should be up to six feet wide, with clearance to permit carrying of a small boat. The minimum right-of-way for the trail, including the buffer zone, should be 100 feet on either side of the trail. The trail could also interconnect with existing trails.

**Entryway:** Short, paved road leading to the parking area. Two-way traffic, 20 feet or wider.  
**Right-of-way:** variable width, depending on site conditions associated with each trail corridor.

**Parking area:** To accommodate a minimum of 5 cars.

**Related facilities:** For public access points of this type, it is desirable to post a durable map of the trail at the entrance and to install trail markers at intervals along the trail and where the trail meets the water's edge. Refer to Illustration 4 for a sample layout plan.



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# Appendix E

## Fish and Game Department Memorandum

### Memorandum of January 23, 1990 from Richard J. Tichko, Fisheries Biologist with the New Hampshire Fish and Game Department.

"The NH Fish and Game Department's State Public Access Program is multifaceted in its mission. It is designed to acquire land, refurbish existing state-owned/controlled boat access sites, and to develop new boat launching facilities. Of the three, land costs are the hardest to predict, since the value of the land is subject to a great number of variables."

"Land acquisition costs are broken down into two components: 1) river, lake, pond or stream frontage; and 2) back acreage. Frontage values are a reflection of the number of linear feet actually touching water. To date, the Department has spent from \$600 to \$1,500 a linear foot for frontage. Back acreage values are a reflection of the land's highest and best use; again the Department has spent from \$1,000 to \$12,000 per acre, thus far."

"Development activities are a little easier to assess in costs. However, construction costs vary as the building climate changes in the state.

- 1) Refurbishment Projects (the resurrection of state-owned boat access sites that are no longer functional to design) have cost from \$27,000 - \$100,000; and
- 2) New Development Projects (the development of a parcel of raw land) have costs from \$70,000 - \$175,000 and I would expect if we ever hit an area with a great deal of ledge, the costs could well exceed \$200,000."

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