



Testimony in **SUPPORT** of:

**LD 394, An Act to Protect Maine's Loons and Other Wildlife in the Issuance of a Permit to Hold a Regatta, Race or Boat or Water-ski Exhibition**

*Submitted to the Inland Fisheries and Wildlife Committee*

*March 1, 2021*

Good afternoon, Chair Dill, Chair Landry, and Distinguished Members of the Inland Fisheries and Wildlife Committee. Thank you for the opportunity to appear before you today in support of LD 394. My name is Susan Gallo, and I am the Executive Director of Maine Lakes. Our membership organization includes more than 2,500 individual members, supporters and volunteers as well as over 80 Lake Associations. We are dedicated to our mission of promoting, protecting, and enhancing lake water quality, and of preserving the ecological, economic, recreational, and aesthetic benefits of Maine's lakes for all Maine people.

**We support this bill because it will give the Department of Inland Fisheries and Wildlife the authority it needs to fully meet its mission of both promoting responsible recreation and protecting Maine's fish and wildlife and their habitat.**

Current law allows for the issuance of permits for boat races on any lake or pond in the state, as long as the applicant fulfills the requirements of submitting the request to the commissioner and providing advance notice to the municipality. While the wording in the law says the Commissioner "may" issue a boat race permit, it is our understanding after lengthy communication with several different staff at the Department, that there is no process for denying a permit if those requirements are met, and that the Department's practice of attaching conditions to permits that would protect resource has little legal value.

**We believe the current process creates a conflict for the Department, given its mission to both protect Maine's wildlife and promote responsible recreation. This bill will make protection of important resources a part of the boat race permit process.**

Although the issue that brought about this bill was a specific incident on Watchic Lake, where a dead loon was recovered with what appeared to be a propellor slice in its back the

day after a days-long series of boat races, we believe the issue to be broader and to require Legislative action.

Maine Lakes supports responsible boating as a way for people to connect with nature and enjoy the outdoors. The boating industry is an important part of Maine's outdoor economy. We believe all boating must take place in a manner that also protects the health and well-being of water quality, wildlife and wildlife habitat. And we know we can have both. But we can't necessarily have both on every lake.

We have the following concerns that are specific to boat race permits and that we hope you will consider in voting to support this bill:

- Loons are an iconic symbol of Maine's outdoors. Despite a robust and growing adult population, the number of chicks counted during Maine Audubon's annual loon count has not increased significantly since the mid 1980s. We believe consideration of loon territories in issuing boat race permits is warranted. In addition to risk from direct strikes, boat races in these areas mean prolonged disruptions of feeding in that part of the territory over both hours and days.
- Races in water depths less than 20 feet should be scrutinized by the Department in light of sediment disturbance. Prolonged racing, especially in shallow water, is of concern for lake water quality.
- Boaters must observe a no-wake zone within 200' of shore. This existing requirement addresses safety concerns, reduces property damage, and protects water quality by reducing erosion caused by large wakes. However, boat races where multiple boaters circle the same area repeatedly over multiple days pose a different and increased concern for shoreline erosion by creating recurring, on-going wakes from outside of the 200' no-wake zone. The Department should be granted the power to consider the size of the lake and where on the lake boats both race and practice when permits are issued.
- Maine has many thousands of lakes that are large enough to provide race and practice areas outside of loon nesting territories, in water over 20' deep, and far enough away from shore to eliminate erosion and sedimentation issues. Boat races should be directed to lakes and to locations on those lakes where they will have the least impact.

We understand that an amendment will be proposed regarding the issuance of permits as long as the race, regatta or exhibition will not unreasonably endanger public safety, wildlife, wildlife habitat, or water quality. We support this amendment, as it further helps the Department in its efforts to balance resource protection with responsible recreation.

Thank you for your time and attention today. For more information, please see the memo included below, which was generated during the earlier fact-finding stage of bill development. Please contact me any time with questions at [sgallo@lakes.me](mailto:sgallo@lakes.me).

# Memo

To: Scott Lindsay, Regional Wildlife Biologist, DIFW  
Nate Webb, Director, Wildlife Division, DIFW

From: Watchic Lake Association (Steve Lajoie, Kelly Lajoie, Agnes Connors, Rick Wiggins)

Date: 23 October 2020

Re: Issues and Concerns with Boat Races on Small Lakes and Ponds

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## **Background:**

Maine's Great Ponds (lakes and ponds over 10 acres in size) belong to the people of Maine, for their use, recreation, and enjoyment. However, not all uses are compatible with all lakes. The state recognized this in a 1991 declaration of policy declaring one of the state's goals to "ensure that the intensity of use allowed on a great pond is in keeping with its capacity to accommodate that use." (T. 38, Ch. 20, S.1804) The Great Ponds Task Force that followed this declaration in the mid-1990s was tasked with, among other things, developing a management strategy and guidelines for state policies on public access sites, great pond classification, and conflict reduction. One piece of legislation resulting from the Task Force briefly gave municipalities (through a citizen petition process) the ability to adopt restrictions on horsepower limits and types of watercraft on lakes within their boundaries. On larger lakes crossing town lines, multiple municipalities could work together on restrictions and limits. The process was time consuming, but even so, implementations of restrictions on horsepower and watercraft were put in place on more than two dozen great ponds throughout the state, with additional great ponds restrictions added since the Great Ponds Task Force process sunset in the early 2000s. These restrictions helped protect water quality, wildlife habitat, and safety. Many enjoyed widespread support from townspeople because they made the case that large, fast watercraft were an inappropriate use on small, shallow ponds that lead to habitat destruction, water quality degradation, and shoreline erosion.

Boat races are an allowed use on Maine's great ponds, but race organizers must apply for a permit from the Commissioner of Inland Fisheries and Wildlife (IFW). Permit applications require organizers to let municipalities know about the intent to hold a race, and to provide reasonable protection from water traffic interference and hazards. They must also display warning flags during the event to prevent other watercraft from passing through the area. There are no provisions in the statute for the permit application process to identify potential conflicts with wildlife, impacts to wildlife habitat, erosion of lake shorelines, or degradation of water quality because of concentrated boat use. The statute provides no guidelines or criteria for approval or disapproval of permit applications, thus disempowering the Commissioner from any right or legal option to deny an application.

## **Problem:**

A local Kiwanis Club on Watchic Lake in Standish has rented their private beach since 2003 to a Massachusetts-based powerboat racing club two weekends a year, the weekend before Memorial Day

and the weekend after Labor Day. As many as 45 boats participate in the races, which run Friday, Saturday and Sunday from 11 to 6 PM, with pre-race warm-ups the Thursday before.

Watchic Lake is a populous lake, whose "intensity of use ... is in keeping with its capacity to accommodate that use." Its 443 acres are home to jet skis, wake boats, floatplanes, waterskiing (including 2 competitive waterski courses), tubing, fishing, sailboats, pontoon boats, as well as swimming, paddle boarding, canoeing, and kayaking. An active lake association works to accommodate the intensity and range of uses, consistent with the maintenance of water quality and wildlife habitat. During these eight days of racing, however, the concentration and speed of the racing boats (i.e., the intensity of use) far exceeds the capacity of the lake to accommodate safe recreational usage by other lake users. In May of 2018, a banded male Common Loon, part of an actively nesting pair, was found dead on the shoreline in the afternoon following a full day of racing. While the body was unfortunately disposed of without a necropsy, the injuries are very likely the result of a boat or propeller strike from the race, given the visible signs on the body (see Figure 1) and the coincidental timing and location of the death.

Consultation with loon experts and wildlife biologists have made it clear that a lake of this size (443 acres), with two nesting loon pairs (see Figures 2 & 3) is not an appropriate location for a boat race of this size and duration. While freshwater boat races appear to be limited in Maine, similar races have been held in recent years on Wyman Lake (1,819 acres) in Pleasant Ridge, ME and the Kennebec River (170 miles long) in Fairfield, ME.

While loons are not listed as threatened or endangered in Maine, they are listed as a species of Greatest Conservation Need in the state's most recent Wildlife Action Plan and they are an iconic part of Maine's tourist industry, drawing people to visit and stay on Maine's lakes and ponds each summer. While populations have grown over the last several decades, breeding loons have never increased chick production in that time. Because loons take up to a decade to successfully breed, the loss of a breeding adult on a lake like Watchic Pond, which is ideally suited for loon nesting, may be felt for many years to come.



Figure 1. Lacerations across the back of the adult male loon, found dead adjacent to the racecourse on Watchic Lake in May 2018, are consistent with having been struck with the propeller from a high speed, racing watercraft.



In addition to the concern over the death of a Common Loon in 2018, the safety of lake users is of paramount importance. Racers warm up outside of the course area throughout the race days, putting swimmers, paddleboaters, and others at risk due to their speed. Other concerns include water quality degradation, habitat impacts from noise and disturbance, shoreline erosion, and the introduction of invasive aquatic species—all of which are at significantly increased risk from the powerboat races—and are at the top of the list of concerns of the Watchic Lake residents.

Figure 2. Map of Watchic Lake, showing territories and nesting sites of the two nesting loon pairs, and the extent of their use of the pond.

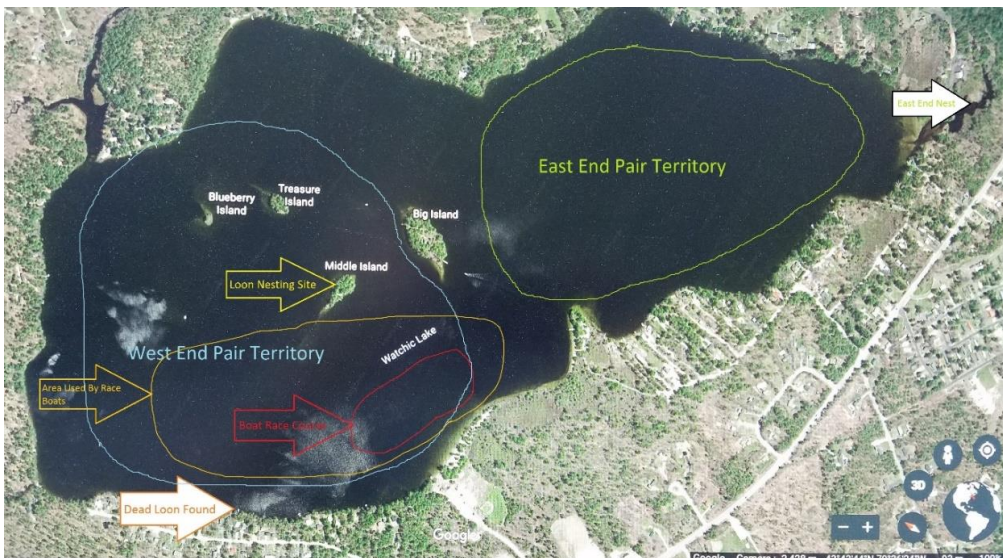


Figure 3. Map of Watchic Lake, showing that the area of the lake used by the racing boats overruns nearly half of the territory of the west-end nesting loon pair, making the lake an inappropriate location for an event of this nature.