

The original documents are located in Box 19, folder “Lake Winnepesaukee Navigability Determination” of the John Marsh Files at the Gerald R. Ford Presidential Library.

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RECONSIDERATION OF THE DETERMINATION BY THE COMMANDANT OF THE UNITED STATES COAST GUARD THAT THE WATERS OF LAKES WINNIPESAUKEE AND WINNISQUAM, NEW HAMPSHIRE, THE MERRIMACK RIVER, AND INTERCONNECTED WATERWAYS ARE NAVIGABLE RIVER, AND INTERCONNECTED WATERWAYS ARE NAVIGABLE WATERS OF THE U. S. DATED SEPTEMBER 2, 1975

On September 2, 1975, in connection with the construction of two bridges by the State of New Hampshire, the Commandant of the United States Coast Guard determined that the water system extending from the northern reaches of the Merrimack River through a system of rivers, lakes and interconnecting channels to the north shore of Lake Winnepesaukee ~~is~~ navigable under the Constitution and laws of the United States. *(was)*

Subsequent to that determination, the Attorney General of the State of New Hampshire raised new historical and geographic facts that are material and relevant to the Coast Guard's determination of navigability. The State Attorney General also raised certain pertinent legal questions. After meeting with the Attorney General, I have decided that it is in the interest of a just and fair resolution of this issue that the question of navigability be reopened in order to assess these new facts and evidence and to review further the applicable law in light of these new facts.

Because it is in the interest of all parties concerned that these questions be resolved on the basis of full and fair consideration of all relevant information, I have directed the Commandant to reconsider his determination. The Coast Guard will visit the State and undertake a thorough review of all the historical and geographic facts that are relevant to a determination of navigability. The Commandant will ~~request~~ the *INVITE* Attorney General of the State of New Hampshire to submit whatever facts, views, and recommendations are appropriate. The Commandant will consult with me before making any final determination.

The Commandant has informed me that he has revoked his determination of September 2, pending completion of his de novo review. As a result, the Coast Guard will not undertake any further action under the Federal Boat Safety Act until after the final resolution of this issue.

The Attorney General of the State of New Hampshire has invited the Coast Guard to inspect commercial vessels currently in use on Lake Winnepesaukee. The Coast Guard has accepted that invitation and intends to inspect the appropriate vessels as soon as possible.

William T. Coleman, Jr.



PRESS RELEASE

Secretary of Transportation William T. Coleman, Jr. announced today that he has directed the Commandant of the United States Coast Guard to review and reconsider the issue of whether certain waters in the State of New Hampshire are navigable under the laws of the United States. These waters include Lakes Winnepesaukee and Winnisquam, New Hampshire, the Merrimack River, and interconnected waterways.

In deciding to reopen the issue for further consideration, the Secretary cited new factual evidence about the historical use and geography of these waters which were brought to his attention in a recent meeting with the Attorney General of the State of New Hampshire.

The Commandant announced simultaneously that he has revoked his determination of September 2, 1975, pending the outcome of the new review. Thus, the Coast Guard does not intend to undertake any further activity pursuant to the Federal Boat Safety Act.

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A → In calling for the review, the Secretary said that "it is in the interest of a just and fair resolution of this issue that the question of navigability be reopened for reconsideration in order to assess these new facts and evidence and to review further the applicable law."

"It is important", the Secretary said, "in an issue involving the application of constitutional law to a complex set of facts that a complete and thorough review take place." The Commandant will ~~request~~ *INVITE* the Attorney General of the State to submit additional facts, views and recommendations that will be useful in the reconsideration. The Commandant will consult with the Secretary before making a final determination.

