

**L.A.E. Association
263 Ashuelot Drive
Washington, NH 03280**

April 14, 2026

C. Wayne Ives, P.G.
Instream Flow Specialist
Watershed Management Bureau, Water Division
New Hampshire Department of Environmental Services
PO Box 95 – 29 Hazen Drive
Concord, NH 03302-0095

By Email and Certified Mail

Re: Request to Extend Public Comment Period for Draft Ashuelot River Protected Instream Flow Study

Dear Mr. Ives:

L.A.E. Association (“LAE”) respectfully requests that the New Hampshire Department of Environmental Services (“DES”) extend the public comment period for the Draft Ashuelot River Protected Instream Flow Study (the “Study”) by at least ninety (90) days, or for such other period as DES determines will provide affected stakeholders a fair and meaningful opportunity to review the Study and submit informed comments.

The extension is necessary because the present comment window is not adequate in light of the scope, complexity, and practical consequences of the Study, particularly for lake stakeholders whose interests were not meaningfully addressed during the Study process and whose properties and uses may be materially affected by any subsequent effort to use Ashuelot Pond as a source of managed releases. The DES website states that the public hearing was April 9, 2026 and that the comment period closes at 4:00 p.m. on May 11, 2026. In other words, for a lengthy and highly technical study with potentially significant consequences for Ashuelot Pond and its surrounding community, affected stakeholders were provided only a 30-day period to organize, retain counsel, identify and engage appropriate experts, review the record, and formulate comments.

That timeline is not reasonable under the circumstances. The Study is a 274-page technical document with extensive appendices, hydrologic analysis, habitat modeling, biological criteria, and discussion of flow recommendations. The Study itself explains that it was prepared following a multi-year process, that the Ashuelot study began in 2021, and that fieldwork was completed in 2022. DES and its consultants thus had almost five years to develop the Study, while affected lake stakeholders have only 30 days to evaluate it and respond. That imbalance is especially problematic where DES’s own program materials state that the instream-flow program is intended to work with water users and dam owners and that subsequent water management planning is meant to balance human needs with the needs of aquatic life. Meaningful balancing is not possible if the stakeholders whose lake interests may bear the burden of the plan are given only a compressed period to respond to a highly technical record.

The inadequacy of the current comment period is underscored by the State's own investment in this process. According to official State of New Hampshire records, DES paid Normandeau Associates, Inc. at least \$428,122 for work on the Ashuelot and Isinglass River studies (including approximately \$254,067 in 2021 and \$174,055 in 2023, with the possibility of additional payments paid to Normandeau or Streamworks, PLLC). Where a study has required close to five years of work and substantial public expenditure to develop, fairness and sound administrative practice strongly support allowing affected stakeholders a reasonable period to review it with appropriate care. A 30-day comment window is disproportionately short relative to the scale, cost, and technical complexity of the work product DES has placed before the public. Granting an extension would help promote a more meaningful and informed public review process given the significant public resources already devoted to the Study.

This concern is heightened because LAE's interests are distinct from those of other entities in the watershed. The record reflects that LAE is a recreational lake community and that stakeholders believe Ashuelot Pond may be treated as a principal source of controlled releases during the driest part of the season, when the pond is already down and when boating, docks, shoreline access, and lake uses are most vulnerable. The same record also reflects that LAE participants recognized during the 30-day comment period that legal counsel was needed and that a longer-term strategy would be necessary to respond responsibly. These are not tactical complaints. They underscore that the current period is inadequate for stakeholders to obtain the professional assistance needed to participate meaningfully in a process that could materially affect lake levels, recreational uses, and property interests.

An extension is also warranted because the Study is technically dense and raises issues outside the ordinary competence of lay stakeholders. Any responsible review requires, at minimum, consultation with legal counsel familiar with New Hampshire water law and administrative practice, and likely one or more hydrologic, engineering, and lake-management experts capable of evaluating the Study's assumptions, methodology, and conclusions. That need is particularly acute here because the Study is framed as protecting "instream public uses" and protected entities in a designated river system, but the concerns for LAE relate to the potential use of Ashuelot Pond as a donor impoundment. DES's own materials recognize that the instream-flow program operates under RSA 483:9-c and Env-Wq 1900 and that it works with water users and dam owners to maintain protected flows while meeting human needs. The Study itself states that the program is designed to protect designated and instream public uses and includes an assessment of public recreation, and DES's Ashuelot River materials separately identify recreational uses including swimming and boating. LAE cannot meaningfully assess whether the Study protects those uses—or instead shifts burdens onto Ashuelot Pond—without a corresponding evaluation of those same uses as they relate to the lake and surrounding communities, and without sufficient time to retain and consult qualified professionals.

The request is further supported by process concerns reflected in the record. DES's website reflects a process consisting of an informational meeting on followed by a public hearing, with the comment period remaining open from the public hearing on April 9, 2026 until May 11, 2026 at 4:00 p.m. At the same time, the record indicates that some affected stakeholders believe they did not receive timely direct notice and learned of the March 24 meeting only shortly beforehand. Whether or not DES agrees with those concerns, the point remains that there is a serious and credible issue as to whether affected stakeholders have been afforded a genuinely meaningful opportunity to participate at this stage. Where a study may become the foundation for later water-management measures

affecting a lake community, the prudent and fair course is to extend the period now rather than force stakeholders to respond incompletely and preserve procedural objections later.

The need for additional time is also reinforced by the nature of the issues DES itself has put in play. The DES webpage states that the draft Ashuelot protected instream flow report is under public review and that water management plans are developed after the protected instream flow study. That same webpage directs readers to the fact sheet concerning how instream-flow management affects lakes. Those materials indicate that lakes and impoundments present distinct issues requiring focused consideration and balancing, because DES explains that the initial study phase is river-focused, while later water-management planning evaluates the needs of major water users, dam owners, and upstream lakes. If DES's own program contemplates that lake-related impacts require separate attention, it is not reasonable to insist that a lake homeowners association marshal legal and expert review of those issues within a 30-day window.

This request is also consistent with the basic principles of fair agency procedure reflected in New Hampshire law. The online RSA compilation confirms that RSA 541-A is the State's administrative procedure framework, and DES's instream-flow rules provide for notice, public hearing, and public input as part of the protected instream flow process. LAE is not asserting that DES is automatically required to grant an extension in every case. Rather, LAE respectfully submits that where an agency has developed a complex technical record over several years, where affected stakeholders may need counsel and experts to participate meaningfully, where notice concerns have been raised, and where important lake-community interests may be affected, the refusal to allow a reasonable extension would be difficult to reconcile with the principles of fair administrative process and meaningful public participation that animate RSA 541-A and the instream-flow program itself.

For these reasons, LAE respectfully requests that DES extend the comment period by at least 90 days. In the alternative, LAE requests whatever shorter extension DES is willing to grant, provided it is sufficient to allow LAE to retain counsel, consult appropriate experts, and submit informed comments on behalf of the affected Ashuelot Pond community. LAE further requests written confirmation that DES will include this extension request in the administrative record and that no action will be taken to close the comment process or advance the matter while this request remains pending.

Please confirm promptly whether DES will grant this request. LAE submits this request without waiving any substantive objection to the Study or any procedural objection arising from the adequacy of notice, opportunity to comment, or the sufficiency of the administrative process. LAE expressly reserves all rights.

Respectfully submitted,

L.A.E. Association

By: *Heath H. Grayson*
Heath H. Grayson
Director, L.A.E. Association