



# CANDLEWOOD LAKE AUTHORITY

P.O. BOX 37 • SHERMAN, CONNECTICUT 06784-0037 • (860) 354-6928 • FAX (860) 350-5611

## Minutes of Regular Meeting February 13, 2019

### Attending:

P. Schaer	Sherman
G. Linkletter	Sherman
D. Cushnie	Sherman
S. Kluge	New Milford
M. Toussaint	New Milford
J. Hodge	New Fairfield
J. Main	New Fairfield
D. Rosemark	Danbury (electronic)
C. Robinson	Danbury
J. Murphy	Brookfield
W. Lohan	Brookfield

### Absent:

E. Siergiej	Danbury
B. Licht	New Fairfield
B. Brown	Brookfield
J. Wodarski	New Milford

M. Howarth, Executive Director  
J. Neil Stalter, Director of Ecology and Environmental Education  
F. Frattini, CLA Administrative Coordinator

Recorder: F. Frattini

Guests: two members of the public (one arrived at 7:40PM)

Chairman, Phyllis Schaer, called the regular meeting of the Candlewood Lake Authority to order at 7:31 P.M. at Brookfield Town Hall Brookfield, CT. She welcomed the guest.

**Pubic Comment:** None

**Secretary's Report:** *Jerry Murphy made a motion to accept the minutes of the January 9, 2019 meeting as written, seconded by Bill Lohan; motion was voted with all in favor. Motion carried, and minutes have been accepted as written.*

**Candlewood Lake Authority Marine Patrol:** No report.

**Chairman's Report:** Chairman Phyllis Schaer reported that she will be going to Hartford tomorrow with Mark Howarth, Neil Stalter, Steve Kluge and Bob Stryker to meet with DEEP on the decontamination project. Today she attended the Technical Committee Meeting with FirstLight noting the first meeting covered Zebra Mussels and that the CLA asked if it would be possible to also test in the fall in addition to the spring testing that FirstLight's consultant has been doing. The next meeting covered the

Nuisance Plant Monitoring Report where she voiced the objection of the CLA on the change of vendor. She advised that a second version of the Nuisance Plant Monitoring Report for the 2018 season had been received last night – she had objected that the report was released less than 24 hours before the meeting. She reported that there were items in the report that were inappropriate and unprofessional, she voiced concerns on the data collection and the impact the change would have on the CLA's grass carp project. It was noted that the Lake Authority needs to write to FirstLight, who will request an extension to file the final report with FERC, allowing for a comment period on Version 2 of the report. She advised that it was thought that the Technical Committee would be voting at the meeting on a vendor for the 2019 Nuisance Plant Monitoring but that was not the case as FLPR advised that they would be putting out an RFP for the 2019 NPM. Mr. Stalter added that the bid proposals and bid will go to the Technical Committee and the Technical Committee will then vote on the vendor. Also, the Technical Committee will be able to comment on the RFP prior to its submission. Discussion followed on how the other stakeholders reacted to the change of vendor and it was noted that the CLA needs to be concerned with what is best for Candlewood Lake and the Grass Carp project. Mr. Howarth suggested that the version 2 report be discussed at the Watershed Management Committee meeting next week for comments. Mr. Stalter added that there were 5 growth forms of stands and most were #3 which were one to two feet below the surface that indicates Grass Carp feeding.

The Deep drawdown level was met on January 23<sup>rd</sup> and the lake will begin filling as of this week. With the unusual weather this winter we cannot predict how effective this deep drawdown has been.

Mrs. Schaer reported that she had seen that the DEEP has filed a notice of intervention with FERC on the FLPR license change to an LLC and Bob Stryker has filed a letter with FERC. Due to the government shutdown, FERC has extended the period for the filing of interveners. Discussion followed, and *Mark Toussaint made a motion that the CLA file to be an intervener in the LLC license transfer, seconded by John Hodge and voted with all in favor. Motion carried.*

Mrs. Schaer added that the Executive Committee agreed that the CLA needed to make the public aware of the revision draft of the SMP; two versions of a Public Advisory had been prepared for the delegates. It was noted that these advisories had been prepared before FLPR has responded to the CLA comments. It was also noted that they should be released with a note advising that they are based on the current draft SMP and may be revised as the draft changes. *Mr. Toussaint made a motion to approve and release both versions of the Public Advisory and advising that if the SMP is modified or changed such modifications/changes will be added to the documents. Seconded by Mr. Hodge Discussion followed.* These documents will be attached to these minutes, added to the CLA website and sent out as a press release. It is important to get it out, so the public is aware of what is in the draft SMP. Mr. Howarth noted that after the SMP Stakeholder's meeting next Tuesday with FLPR there may be some new information and possible changes to the draft SMP if FLPR has responded to the CLA (and others) written, submitted comments. *With no further discussion the motion was voted with all in favor.*

**Vice-Chairman's Report:** Vice Chairman, Mark Toussaint, noted it was in above discussion.

**Treasurer's Report:** Treasurer Bill Lohan advised that we have completed 7 months of the fiscal year and Profit and Loss Budget vs. Actual for January 31, 2019 has income at 87% of budget, contributions coming in as of year to date are \$25,000.00 and expenses year to date are Admin at 53% of budget, Equipment/Facilities 51% of budget, Public Safety 72% of budget, Public Awareness 45% of budget, and Watershed Management 45% of budget, making overall expenses 53% of budget. Public Safety is seasonal and will be watched closely that it will come in at or below budget. *Mr. Lohan reported that two lines have gone over budget and noted the transfers as of 1/31/2019 from Line #116 Admin/ Postage \$318.45 to Line #123 Admin/Comp Hardware-Software and from Line #412 PA/Ed. Bulletins \$29.36 to Line #414 PA/Subscription services and three items that needed adjusting from Line #100 Admin/Wage \$482.00 to Line #161 Admin/Rent (the 3% increase in rent was not included in the 2018/19 budget) From Line #102 Admin/ED-Fringe \$1,065.35 to Line #402 Pub. Awareness/ PE Fringe (this is for the DEEE) and Line #400 Pub Awareness/ Wage \$1,934.65 to Line #402 Pub Awareness/PE Fringe – Mr. Lohan moved to approve these transfers/adjustments, Jerry Murphy seconded and voted with all in favor.*

*Mr. Lohan asked for a motion to accept the report of Profit and Loss Budget vs. Actual for the month ended January 31, 2019 be accepted as presented, moved by John Hodge seconded by Jerry Murphy and voted with all in favor. Motion carried, and report has been filed for audit.*

Mrs. Schaer reported that there has been positive feedback from the meetings with the towns so far on the 2019/2020 budget.

**Executive Director's Report:** Mark Howarth advised his report is attached to these minutes and then noted the highlights.

- Drawdown update
- Budget meetings
- Action pledges
- MOA revision to add back the Assistant Chief
- Table cover to go with the Enviroscope
- Intervener with FERC on FLPR license transfer
- Safety whistle
- Homeowners Guide – proofs are in, will review them for accuracy, hoping to have it printed and in hand by the end of March.

**Director of Ecology and Environmental Education:** Neil Stalter noted his report is attached to these minutes. Highlights from his report are:

- SMP review for comments to FLPR
- Stakeholder meeting set for Tuesday February 19<sup>th</sup> to review stakeholder comments on the SMP
- Organizing the historical water quality data
- Grant applications to:
  - National Fish and Wildlife Foundation for an interactive demonstration buffer garden at the Danbury Town Park

- Women’s Club of Danbury/New Fairfield for the boater safety whistle program
- Moving forward on the Drone video
- New Fairfield High School Senior Enrichment Experience (SEE) - CLA will have an intern again this spring.

**Committee Reports**

**Public Safety Committee:** Jerry Murphy noted that CLAMP had a very successful year and he added that is very important for the delegates to get out there and see how the Lake Patrol operates –he suggested that the delegates sign up for a ride along.

**Equipment/Facilities Committee:** Doug Cushnie, Committee Chairman, noted that one engine is at Echo Bay for repair. Mrs. Schaer asked about applying for a grant with FLPR grant program for additional buoys again this year. He noted that he needed to evaluate and would advise.

**Pubic Awareness Committee:** Committee Chairman George Linkletter noted that the SMP had been the main focus, they set a tentative date of May 18, 2019 for the Clean Up, a summer electronic appeal to go out by June 15<sup>th</sup>, the drone video project, handouts and State of the Lake sometime in July but need to secure a location. He advised that Mr. Howarth would like to have a focus session of the delegates. Mr. Hodge suggested an aerial banner to promote CLA messaging instead of a stationery or moveable (on a truck) billboard. Discussion on why move State of the Lake to July, it was to include more summer residents. It was suggested to include a May date when checking for a location for July.

**Watershed Management Committee:** Mark Toussaint Committee Chairman nothing more to report

**Old/New Business:** None

With no other business, *Jerry Murphy moved to adjourn the meeting. Seconded by Chris Robinson. Meeting adjourned at 8:45 P. M.*

Respectfully submitted,

Jerry Murphy, Secretary

Frances Frattini, Administrative Coordinator

r/b/mh

*These minutes are not considered official until they have been approved at*

*The next regularly scheduled meeting of the Candlewood Lake Authority.*



# CANDLEWOOD LAKE AUTHORITY

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**February 13, 2019**  
**Executive Director**  
**Mark Howarth**

## **Monthly Report:**

- **Shoreline Management Plan:**
  - We have been working on the SMP review and comment process. We crafted and submitted comments and suggested SMP language to FirstLight on 1/31, after meeting with them earlier in January. We look forward to their responses to our comments.
  - We will be attending the 2/19 Stakeholder's Meeting at FirstLight's offices, where we will be with the other members of the Lake Advisory Committee (and River Advisory Committee) to discuss the draft of the 2019 Shoreline Management Plan.
  - We have created a new page on our website for the Shoreline Management Plan, [www.candlewoodlakeauthority.org/smp](http://www.candlewoodlakeauthority.org/smp). It contains the existing 2013 SMP and 2019 draft SMP, as well as other information such as important dates, and will be updated as the review process moves forward.
- **Drawdown Update:** We received notice from FirstLight on January 23<sup>rd</sup> that they had reached the deep drawdown target depth of 419.
- **2019/2020 Budget:**
  - We have had budget meetings with New Fairfield and Danbury to date and expect to meet with the remaining municipalities.
  - We created a new budget narrative document for the municipalities to assist in the budget process.
- **Action Pledges:** We continue to work on an initiative to bring a new program here to the Candlewood Lake area. At the North American Lakes Management Society's Annual Symposium, we learned about an award-winning program which utilizes citizen action pledges through a website customized to the local area and printed materials which are designed to engage people and promote lake-healthy behaviors, such as reducing fertilizer use, maintaining septic systems, planting native vegetation, etc. We will update you further as we progress in our efforts.
- **MOA:** We are working to make the necessary addendum to the MOA. Dan Rosemark is helping by crafting the addendum and we have had discussions with the CT DEEP as

well. Once the addendum language has been finalized, we will submit it to the CLA Board and the CT DEEP for approval.

- **Table Cloth:** We have been working with a local graphic design company to create a printed table cloth to be used with our Enviroscape when we bring it to schools, events and area organizations. The theme on the table cloth will correspond to the Enviroscape, showing what happens to the water that hits the ground when it rains, to provide for a more engaging display and increase booth/table traffic.
- **Intervener:** The Executive Committee requested that we investigate filing as an intervener in FirstLight's January 3rd license transfer application to FERC. The deadline would have been 30 days later (February 2<sup>nd</sup>), however we called the FERC contact listed on the filing and the deadline has been extended. If we wish to file to become an intervener, the deadline is now February 25<sup>th</sup>, and we can do so electronically via the FERC website.
- **Safety Whistles:** We created and submitted a design for the printed safety whistles, and after final proof approval they will go into production. The whistles will be used by the Marine Patrol, primarily to give to people on PWCs and manually propelled vessels (kayaks, canoes, etc.) who require a sound producing device.
- **NFWF Grant Application:** We have submitted a grant application with the National Fish and Wildlife Foundation to create an interactive demonstration buffer garden and educational tool at Candlewood Town Park in Danbury. The grant is part of the Five Star & Urban Waters Restoration Program. We have been working with the City of Danbury and partnering with other area organizations, groups etc. to strengthen our grant proposal.
- **Homeowner's Guide Files:** Today we received the printed proof of the Homeowner's Guide. We will go through the proof and inspect it for errors. Once approved, we will approve it for printing and a mailing to the shoreline homeowners. We will look to distribute additional guides to places such as local realtors' offices.



# CANDLEWOOD LAKE AUTHORITY

Member Municipalities: *Brookfield • Danbury • New Fairfield • New Milford • Sherman*

PO BOX 37 • SHERMAN, CT 06784 • P (860) 354-6928 • F (860) 350-5611

**J. Neil Stalter**

**Director of Ecology and Environmental Education**

**Candlewood Lake Authority**

**Re:** February Meeting: Monthly Report

**Date:** 2/13/19

- **SMP Review:** Continuing management of the CLA's SMP review process and deliverables.
  - We submitted our first set of comments to FLPR for them to potentially incorporate into the next draft of the SMP. Those comments are attached to this report.
  - The first SMP Stakeholder meeting is on Tuesday, February 19<sup>th</sup>, where we will go over all the stakeholders' comments and FirstLight's process.
  - We have notified the public of the review via our email list and website, with links to the new draft SMP as well as the current SMP.
  - We met with the New Fairfield Selectmen, as well as the New Fairfield Wetlands Commission to discuss their reviews and are trying to arrange meetings to discuss the SMP with the other municipalities/selectmen as well.
  
- **Danbury Buffer Zone Project Grant Application:** We've applied to the National Fish and Wildlife Foundation for a grant to help fund a new demonstration buffer project in Danbury Town Park
  - We've connected with community organizations as partners for this project, including the City of Danbury, FirstLight, the UCONN master gardeners, and the Housatonic Valley Association.
  - We are still communicating with other clubs and organizations, like the Danbury Garden Club and the Girl Scouts, about additional collaborators to help with the project.
  
- **WCDNF Grant Application:** We have also applied for the Women's Club of Danbury and New Fairfield grant to help fund our boater safety whistle program with the Marine Patrol.



- **Decontamination Station:** We have a meeting scheduled with DEEP to discuss the potential of the boat wash station at Squantz Cove Launch. That meeting is scheduled for Thursday February 14<sup>th</sup>.
- **Articles:** Wrote and distributed a number of articles this month on our email list.
  - Our continuing column “Creatures of Candlewood” is going fabulously, with the most recent entry being the American Mink
  - A “Stop Oversalting” article was also included in our most recent newsletter, and we plan to pursue future projects on this front.
  - We have also notified the public of the SMP review and will continue to keep them abreast of updates.



- **Drone Video:** We are moving forward with our buffer Garden drone video!
  - We are in contact with the folks at Tunnel to Towers to organize the process. Project will begin in earnest come Springtime.
- **New Fairfield SEE Project:** We are likely going to be taking in one SEE student in the early summer for a CLA project regarding fisheries and planktonic communities in the lake.
- **Data Organization:** Continuing the process of organizing our historical data.

And lots of planning for exciting new projects and initiatives we can begin to take up this year!



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**To:** John Howard  
Director of Connecticut Operations  
FirstLight Power Resources  
P.O Box 5002  
New Milford Connecticut, 06776

## **Shoreline Management Plan Draft v.1.0 Candlewood Lake Authority Comments for FirstLight Power Resources**

**1/31/2019**

- I. P. 3, IV. TERM:** This section states: “FirstLight shall review and. As necessary, revise the SMP every 10 years following approval of the 2019 SMP.”
- a.** The License (article 407, p. 38-40) states: “Further, the SMP shall include... (m) a schedule and process for periodically reviewing and updating the plan every six years.”<sup>1</sup>
    - i.** We are requesting this 6-year review process in the 2019 SMP to allow for the most effective evaluation of progress and implementation.
  - b.** The last sentence of this section reads “The goal of the consultation process is to achieve consensus amongst the parties to the extent possible and may include at least one noticed public hearing prior to any SMP update being submitted to the FERC for approval.”
    - i.** We are requesting that this “may” be changed to “will” or “shall” as we feel a noticed public hearing is integral to informing the public of SMP changes during the review and consultation process.
- II. P. 3, V. REVIEW AND FERC APPROVAL**
- a.** (a) states: “The FERC’s approval of this 2019 SMP will allow FirstLight to continue to update the Exhibits, Guidelines and Appendices referenced herein.”
    - i.** We request that all of the appendices, save the maps contained in appendix A, be moved instead to the body of the document. These describe critical components of permitting, fee structure, guidance, and more for how to

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<sup>1</sup> Federal Energy Regulatory Commission (FERC), *FERC License for Housatonic Hydro, P-2576*, June 2004. P 40

comply with the SMP and any changes to these must be subject to FERC approval.

- ii. The appendices shall be reserved for citation of specific supporting documentation and information, such as: the “Feasibility Report, Plan, and Schedule for Conservation Easements and Restrictions” (referenced on p.7), License articles 407 and 413, important shoreline management manual excerpts, shoreline buffer report excerpts, seawall report excerpts, etc.

### **III. P. 4, VII. MUNICIPAL AND STATE JURISDICTION**

- a. (a) States: “FirstLight does not have, as part of its authority under the Federal Power Act, jurisdiction over public health and water quality. Therefore, the State of Connecticut Department of Public Health (CTDPH), local health departments, State of Connecticut Department of Energy and Environmental Protection (CTDEEP) and any other jurisdictional bodies are primarily responsible for public health and water quality, consistent with their regulatory authority on and in both Project lands and Project waters.”
  - i. While all of these entities have a responsibility to protect public health and/or water quality, however, as noted in the FERC Guidance for Shoreline Management Planning at Hydropower Projects: “Licensees have an ongoing responsibility to supervise and control such shoreline developments to ensure that they are not inconsistent with project purposes, including protection and enhancement of project’s scenic, recreational, and environmental values.”<sup>2</sup>
  - ii. We request that this passage be edited to reflect this shared responsibility for protecting water quality and public safety.
- b. (f) On p. 5 states that “FirstLight may request inspection, condemnation and other services from these entities as part of its compliance with the terms of this SMP.”
  - i. It is our understanding that New Fairfield, Danbury, and a few other Municipalities bordering other impoundments never signed the land use agreement saying that they have any jurisdiction within the project boundary, and thus FirstLight might be able to request these services, but the municipalities have no responsibility to provide these services. This should be clarified.

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<sup>2</sup> Federal Energy Regulatory Commission, *Guidance for Shoreline Management Planning at Hydropower Projects*, July 2012, p. 9

#### IV. P. 7-9, SHORELINE LAND DESIGNATION CHARTS

- a. The 2013 SMP contains a “Land Conservation Program” on P. 7, XII.<sup>3</sup> This has been eliminated from the 2019 draft SMP.
  - i. Subsection (a) states: “undeveloped shoreline lands owned by FirstLight within the project boundary shall be managed for environmental protection and Conservation.” This is now the first sentence of the description of the Conservation Lands designation.
    - 1. We request this sentence also be added to the undeveloped residential lands designation.
  - ii. Under the Undeveloped Residential Lands designation in the 2019 SMP, it states: “land use development may be restricted to protect and preserve existing natural resources.”
    - 1. We request this “may” be replaced with “will” as we would like these lands, should they ever be developed, to retain the requirement for a 200ft buffer, as well as other existing restrictions compared to the developed residential lands designation.
    - 2. The last sentence under this designation, referring to voluntary conservation restrictions should be clarified to include where these restrictions can be found, and why developed residential lands are not candidates for voluntary conservation restrictions.

#### V. P. 11. X. VEGETATED RIPARIAN BUFFERS AND STORMWATER MANAGEMENT

- a. **Vegetated Riparian Buffers:** This section should likely contain more specifics regarding: “existing buffer areas cannot be altered without authorization from FirstLight and the enhancement of such buffer areas may be required as a condition of approval of other shoreline and land uses.”
  - i. We request that this “may” be changed to “shall” as enhancement or creation of a vegetated buffer is a requirement of permitting shoreline and land uses, and that requirement should be reflected here.
- b. We request the detail and information in Appendix C p.12-15 regarding vegetated buffer installation be included here, in the body of the document, to ensure that buffer installation remains a FERC mandated requirement. See above comment **II** for more detail about this request.
- c. **Stormwater Management:** We want to confirm that homeowners will not be required to fund stormwater retrofitting projects for municipal or community stormwater conveyances within the project boundary.

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<sup>3</sup> FirstLight Power Resources, *Shoreline Management Plan Housatonic River Project No. 2576*, 2009. P. 7

**VI. P. 13, XIV. DIGITAL AND HARD COPY DATA POLICY**

- a.** This passage states: “FirstLight does not have any obligation to release any... company information to the public. Any data that FirstLight has determined is accessible to the public may be posted on the FirstLight’s website.”
  - i.** Under article 407 in the FERC License for Housatonic Hydro<sup>4</sup>, subsection (f) clearly states the SMP shall include: “a provision to share existing digital mapping data upon request.”
  - ii.** We request this passage be rewritten as: “FirstLight does not have any obligation to release any permit, license, lease, agreement, or any company information to the public inconsistent with past or future FERC requirements and rulings for project number p-2576. FirstLight will abide by article 407, subsection (f), of the project license stating that they will share existing digital mapping data upon request.”

**VII. Appendix C. P.4, V. LIMITED ACTIVITY USE GUIDELINES, Derelict Docks**

- a.** This passage states: “FirstLight or its agents, the respective police, boating authority, or any others shall endeavor to secure, remove, and/or dispose of any derelict docks that break loose and could cause a hazard to boating navigation.”
  - i.** We request this passage be re-written to say: “FirstLight or its agents shall secure, remove, and dispose of any derelict docks that break loose and could cause a hazard to boating navigation. The respective police, boating authority, or any others may assist with the location, securing, and notification to FirstLight of said derelict docks.”
  - ii.** This original passage also states instead of “securing, removing, and disposing of the derelict docks”, that FirstLight can “secure, remove, and/or dispose of any derelict docks.”
    - 1.** If read as “secure, remove, or dispose of any derelict docks” this requirement would allow FirstLight to only Secure the dock, meaning the issue does not get taken care of. We have removed the “or” in our suggested language.
  - iii.** It is also worth noting that “shall endeavor to” has a distinctly different meaning than just “shall” and the latter is the language that should be used for this to be a policy that is actually enforced.
  - iv.** There is no discussion of a timeframe of when derelict docks would be removed from the lake following reporting. A timeline should be explicitly stated in this passage.

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<sup>4</sup> Federal Energy Regulatory Commission (FERC), *FERC License for Housatonic Hydro, P-2576*, June 2004. P. 39

**VIII. Appendix C. P. 5, V. LIMITED ACTIVITY USE GUIDELINES, Design and Construction Guidelines for Residential Docks**

- a. “Tagging” states that “All docks shall be marked with their FirstLight activity number.”
  - i. Clarification of whether this tag is solely for in-progress, permitted projects, or if every dock will have a permanent tag for inventory keeping, is needed here.

**IX. Appendix C. P. 6, V. LIMITED ACTIVITY USE GUIDELINES, Vessel Moorings and Navigational or Regulatory Buoys**

- a. The third paragraph states “If found, [unauthorized vessel moorings] are subject to removal by FirstLight or the respective authority.”
  - i. We suggest a rewrite of this passage, stating “If found, unauthorized vessel moorings and other unpermitted buoys will be removed by FirstLight. Prior notice before removal is not required.”
  - ii. We suggest FirstLight create a system whereas licensed moorings are tagged. This would allow more easy identification of licensed vs. unlicensed moorings that could be more easily removed.
  - iii. We request a timeline for unauthorized mooring removal (i.e. following notification to FirstLight that an unauthorized mooring has been found, how quickly will unauthorized moorings be removed/permitted).
  - iv. Unlicensed Swim Areas are also not specifically called out as requiring DEEP permitting in the new SMP and should also be included in this section as not being approved without the proper approval first from DEEP.
    - 1. This had been included in the SMP approved in 2013, where it fell under XI (p. 6)<sup>5</sup>.
    - 2. We request that this section (XI) from the 2013 SMP be re-included here in the 2019 SMP.

**X. Appendix C. P. 7, V. LIMITED ACTIVITY USE GUIDELINES, Seawalls**

- a. Design and Construction Guidelines for Seawalls states: “Environmentally benign alternatives shall be considered” as opposed to seawalls.
  - i. We request the language here be changed to: “Environmentally benign alternatives, such as vegetation and rip-rap shall be utilized unless impossible based on a scheduled site inspection with FirstLight. Any new or significantly modified shoreline stabilization projects, including

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<sup>5</sup> FirstLight Power Resources, *Shoreline Management Plan Housatonic River Project No. 2576*, 2009. P. 7

seawalls, rip-rap, and other environmentally benign alternatives will be included in an annual ‘seawall report.’”

- b. We note that the requirement for an annual seawall report is omitted from the 2019 SMP draft.
  - i. We request that this annual reporting requirement be included in the new draft, but only requiring: “a site description, photographs, and any other pertinent information (e.g., the existence of deeded rights to a seawall) that demonstrates that the licensee considered alternatives to a seawall, but that other alternatives were not feasible” for new projects as laid out by FERC in the Order Modifying and Approving the SMP in 2013.<sup>6</sup>

**XI. Appendix C. P. 8, V. LIMITED ACTIVITY USE GUIDELINES, Alternative Shoreline Stabilization Techniques**

- a. This passage states: “These uses may be authorized subject to Article 413 of the License, the SMP, and in compliance with these Guidelines and other applicable requirements.”
  - i. We request that this passage be rewritten as: “These alternative Shoreline Stabilization techniques will be implemented subject to Article 413 of the License, the SMP, and in compliance with these guidelines and other applicable requirements unless impossible based on site specific criteria discussed during a site inspection with FirstLight.”
- b. This section, and the Seawalls section discussed above, could be combined into one section titled “Seawalls and Alternative Shoreline Stabilization Techniques” to illustrate that the two are related, and that environmentally benign alternatives are prioritized, based on site specific criteria.

**XII. Appendix C. P. 10, V. LIMITED ACTIVITY USE GUIDELINES, Upslope Uses**

- a. Under Steps, Paths, and Walkways it is stated that “The width of such [pedestrian] paths shall be limited.”
  - i. We would like to see this width limit stated specifically in this passage for easy reference for residents. Notably, there is a width limit mentioned in Appendix D of 4ft.

**XIII. Appendix C. P. 12-15, V. LIMITED ACTIVITY USE GUIDELINES, Vegetated Riparian Buffers**

- a. Vegetated Riparian Buffer Area describes a buffer as requiring “native trees, shrubs, and herbaceous or ground covers which must occupy between five and

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<sup>6</sup> Federal Energy Regulatory Commission (FERC), *Order Modifying and Approving Shoreline Management Plan Pursuant to Article 407*, March 27, 2013. P. 17

fifty percent of the vegetated buffer zone.” In a normal 50ft buffer zone, this would mean that only 2.5ft need to be covered by plants. This could be accomplished by planting one shrub, a small tree, bush, etc.

- i.** We suggest an increase to the bottom boundary of this requirement to 20%. 10ft of plants in a 50ft buffer is a reasonable bottom boundary and will still accomplish the goal of a vegetated buffer; 5% coverage will not be able to effectively mitigate runoff pollution into the lake.
    - ii.** This 20% bottom boundary can be changed for exceptional cases where 20% is not achievable based on site specific criteria and will be noted in the annual buffer report.
  - b.** Vegetated Buffers as a required Use starts by saying “Property Owners may be required to install or re-establish a Vegetated Riparian Buffer composed of native vegetation when an application is made to modify... an existing use.”
    - i.** We request that “May” be replaced by “will” to enforce that this is indeed a requirement.
      - 1.** If there are exceptions, a sentence can be included that states: “Homeowners can apply for an exemption if installation of a vegetated buffer is impossible based on site specific criteria discussed during a site inspection by FirstLight.”
    - ii.** There is no mention of a change of ownership requirement for buffer installation. This is one of the most important and effective triggers for buffer implementation.
      - 1.** The 2013 SMP states on p. 5: “Landowners abutting the project boundary shall be required to install a vegetated buffer... within (5) years of change of ownership of property, a change in its size, location or configuration of an existing structure, or installation of a new structure.”<sup>7</sup>
        - a.** We request that this change of ownership requirement be added to the 2019 draft SMP.
        - b.** We appreciate the new tightened time frame of 3 years (for limited activity use permitting), but all triggers for buffer zone implementation should be conserved.
      - iii.** The one-year time frame of buffer installation should be included for clarity in the sentence: “For applications that include a request for Significant Activity Uses, the installation of vegetated buffer plantings will be required as part of the implementation.”
      - iv.** There is no mention of the required annual buffer zone implementation reports, as laid out in the order modifying and approving the 2013 SMP.

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<sup>7</sup> FirstLight Power Resources, *Shoreline Management Plan Housatonic River Project No. 2576*, 2009. P. 5



1. As stated in the Order Modifying and Approving Shoreline Management Plan Pursuant to Article 407 (p 15, 29): The Licensee should be required to file with the Commission an annual report that details its progress implementing its shoreline buffer rules.”<sup>8</sup>
  2. As this was added to the original SMP by FERC and gives valuable insight into the success of buffer zone implementation, it should be incorporated into this, and all future SMP iterations.
- c. Shoreline Vegetation Removal states: “Removal of trees, shrubs, and other vegetation located within the project boundary is prohibited without prior written authorization by FirstLight.”
- i. This should specifically discuss the process if a fallen tree presents a safety or navigation hazard to property owners or boaters or prevents a homeowner from exercising their deeded rights (i.e. to pass and re-pass and access their dock).
  - ii. The following passage states: “Such prohibition does not apply to pruning, mowing, or weeding. Notwithstanding the foregoing, pruning, mowing or weeding of a permitted Vegetated Riparian Buffer shall not be permitted unless it is authorized by FirstLight.”
    1. We suggest a rewrite of the above, as it is very confusing: “The vegetation removal prohibition does not apply to mowing, pruning, or weeding within the project boundary. General maintenance of a permitted vegetated buffer, including light weeding and pruning, is allowed provided it is not prohibited by FirstLight, and there is no significant removal of vegetation within said buffer.”
- d. On p. 15, Irrigation and Application of Fertilizers, Pesticides, and Herbicides could be improved by stating specifically that fertilizers with phosphorous shall not be used in vegetated buffers unless expressly allowed under State of CT Senate Bill-254 which prohibits the application of fertilizer containing phosphorus in buffer zones.
- e. Under the Vegetated Riparian Buffer Education Program, it discusses FirstLight’s Shoreline Management Manual, which is an extensive and informative document.
- i. However, this document is so long (over 140 pages) as to be unapproachable for average homeowners.
  - ii. We would like to collaborate with FirstLight on the creation of a shorter, approachable, guidelines document that can be distributed to homeowners who trigger the buffer requirement.

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<sup>8</sup> Federal Energy Regulatory Commission (FERC), *Order Modifying and Approving Shoreline Management Plan Pursuant to Article 407*, March 27, 2013. P. 15

**XIV. Appendix D. P. 1 ADMINISTRATIVE APPLICATION FEE SCHEDULE**

- a. Application Submittal Fee (7<sup>th</sup> row) should be clarified.
  - i. This fee should not apply to uses that are listed in the table as being free, like permitted tree removal and deeded rights.
- b. What is the definition of an “Existing Use Permit.”
  - i. Why are residential existing Use Permits free, while community permits cost \$500? (Rows 9 and 10) We request that these community existing use permits be free, the same as residential existing use permits.
- c. What is the definition of a “New Boat Landing” (2<sup>nd</sup> from last row)?
- d. We request the addition of a “Deeded Right Maintenance and Repair” row, with a \$0 (Free) fee, just for clarity and ease of reference for property owners.
- e. We request that you add a footnote to the FERC Application Fee row (Final Row) citing p. 19 in what is currently Appendix C so homeowners can easily reference what this fee applies to.

**XV. Appendix F. P. 1 STAKEHOLDERS AND THEIR RESPONSIBILITIES**

- a. It is unclear how often the Stakeholders will meet, how meetings are called, and whether stakeholders can request meetings. We request clarification on these points.
- b. It is stated: “The Stakeholders will meet prior to the ten-year review and update to the SMP.”
  - i. See comment above labeled **I** for concerns regarding the ten-year review period.
  - ii. We suggest annual meetings of the stakeholders for the first 3 years following approval of the new SMP, to discuss what is and isn’t working, and strategies for effective implementation.
    - 1. This was done following approval of the original SMP in 2013 (Exhibit I), where it says: “The LAC and RAC will meet, at a minimum, on an annual basis for the first three years after approval of the SMP”<sup>9</sup> and has been omitted from this SMP.
- c. This passage states “FirstLight will entertain suggestions of additional issues to be addressed if received fifteen days prior to the date of the meeting.”
  - i. We request this timeframe be increased to 5 business days prior to the meeting.
- d. This passage states “FirstLight will, at its sole discretion, make any final decision regarding the SMP and its revision, subject to any necessary FERC approvals.”

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<sup>9</sup> FirstLight Power Resources, *Shoreline Management Plan Housatonic River Project No. 2576*, 2009. Exhibit I “Responsibilities of the LAC and RAC.”

- i. We suggest rewriting this sentence to say: “FirstLight will, following stakeholder meetings and consultation, make any final decision regarding the SMP and its revision...”
- e. This section contains very little detail about the stakeholders and their responsibilities and should contain more specific information of Lake Stakeholder Group and River Stakeholder Group responsibilities, similar to the bulleted list found in the SMP approved in 2013.<sup>12</sup>
- f. We request that the representatives in the SMP Lake Stakeholder group for Lakefront property owners remain the same as it is in the SMP approved in 2013 (i.e. 2 from Candlewood, one from Squantz, one from Lillinonah, and one from Zoar) and as appointed by the CEOs of the surrounding municipalities.
  - i. We also request that Municipal representatives also states that each representative will be appointed by that town’s CEO; the same as it stands in the SMP approved in 2013.

**XVI. General Comments**

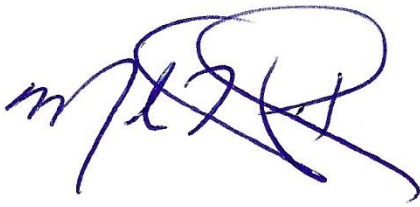
- a. We would like to see, when referencing specific other documents, or even other pages within the SMP, that a page number or footnote be included. This would allow more easy research and reference for residents when going through the SMP. For example, the requirements in the Shoreline Management Manual referenced on p. 13 of the SMP under section X. Or referencing page numbers on p. 10 with the specific Limited and Significant Activity use guidelines.
- b. We suggest that the page numbers in the 2019 SMP increase by 1 every page, and don’t reset in appendices, for ease of reference in the future.
- c. There is insufficient explanation of how floating debris that poses a navigational hazard (such as trees coming up from the bottom, or blowing in after a storm, etc.) on Candlewood Lake would be dealt with. We suggest a similar arrangement to the rewritten derelict dock arrangement mentioned above in comment VIII.
- d. On page 4, under municipal and state jurisdiction, section (e) should say that FirstLight “will” require applicants who are proposing a significant activity seek local wetland and watercourse permits. This process, of projects requiring both FirstLight and Wetlands permitting should be outlined explicitly both in this section, and in the application processes section on p. 22 of Appendix C.
- e. Please clarify within the SMP FirstLight’s responsibility for tree/limb removal, shoreline damage, etc. as a result of significant storm events.
- f. Stakeholder and public consultation is described briefly in three sections in this SMP: Under “IV. Term”, “VI. Stakeholder Consultation and Support”, and “Appendix F. Stakeholders and Their Responsibilities.” None of these sections are very descriptive of what stakeholder and public consultation will actually look

like, and what responsibilities and timeline of this consultation process will look like.

- i. We request the stakeholder and public consultation period be expanded upon on p.4 (VI. Stakeholder Consultation and support) to include how stakeholders will be consulted when a change is proposed to the SMP, a timeline for that consultation, and how stakeholders will be notified. This will help ensure that everyone knows they are both permitted and encouraged to consult with FirstLight regarding concerns and suggestions during SMP updates and reviews.

*Respectfully Submitted,*

CANDLEWOOD LAKE AUTHORITY

A handwritten signature in blue ink, appearing to read 'M. Howarth', with a large, stylized flourish at the end.

Mark Howarth  
Executive Director

JNS



# CANDLEWOOD LAKE AUTHORITY

Member Municipalities: Brookfield • Danbury • New Fairfield • New Milford • Sherman

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## Public Advisory of Proposed Shoreline Management Plan Revisions

On December 17<sup>th</sup>, 2018 FirstLight Power Resources published a draft revision of its Shoreline Management Plan (SMP) for Candlewood Lake, which has been in place since March of 2013 (see attached description of the SMP). This important document contains details describing management of development around the shoreline, protection of the critical resource of Candlewood Lake, and the rights of shoreline property owners. When the SMP was approved by the Federal Energy Regulatory Commission (FERC) in March 2013, they established a six-year review period, triggering the current review process. The current process will end when the final draft of the document is submitted by FirstLight on March 27<sup>th</sup>, 2019. This notification is intended to let the towns and residents around Candlewood Lake know about the proposed changes and to urge you to review the proposal and prepare comments with your concerns.

Given the many challenges that the lake faces, we hope to use this opportunity to strengthen the existing SMP with FirstLight. The draft SMP that we have reviewed is more than just an update, it is a new SMP that contains substantial changes. Some of the most relevant changes or omissions, along with what exists in the current SMP are included in the table below:

<b>Description of Proposed Change or Omission</b>	<b>Language in the current SMP (Approved in 2013)</b>	<b>Language of the Draft SMP (Due March 27<sup>th</sup>, 2019)</b>
<p><b><u>SMP Review Term:</u></b> The length of time between public reviews of the document has increased from 6 years to 10 years.</p>	<p>“The term of this SMP shall be the term of the Project License. Consistent with License Article 407(m) <i>FirstLight shall review and, as necessary, update the SMP every six years.</i>” (p. 2, III)</p>	<p>“<i>FirstLight shall review and, as necessary, revise the SMP every 10 years following approval of the 2019 SMP.</i>” (p. 3, IV)</p>
<p><b><u>Administrative Fees:</u></b> Additional administrative fees for applying for and permitting uses within the project boundary (“below the 440 line”).</p>	<p>“FirstLight proposes that, for the term of this SMP, <i>it shall not impose the following fees on Abutting Property Owners, municipalities, and/or those with Deeded Rights:</i> Registration fees for existing structures, One-time fees for new structures, repairs or replacements of existing structures, [and] Annual license/permit administration fees.” (p. 2, IV).</p>	<p>“<i>All Property Owners, municipalities, State of Connecticut or other entities seeking review of an application for an authorized use of project lands and waters shall pay an administrative fee to cover the cost associated with such review. The schedules and rates for application and administrative fees are listed in APPENDIX D – Administrative Application Fee Schedule.</i> (p. 11, XI).</p>

Description of Proposed Change or Omission	Language in the current SMP (Approved in 2013)	Language of the Draft SMP (Due March 27 <sup>th</sup> , 2019)
<p><b><u>Vegetated Buffers:</u></b> Elimination of the requirement for new homeowners to install a vegetated buffer garden following a property sale.</p> <p>Elimination of FirstLight’s annual buffer progress reporting.</p>	<p>“Landowners abutting the Project boundary <i>shall be required to install a vegetated buffer</i> composed of native vegetation within five (5) years of change of ownership of property, a change in the size, location or configuration of an existing structure, or installation of a new structure. (p. 5, VII).</p> <p>“the licensee [FirstLight] shall be required to file with the Commission [FERC] an annual report that details its progress implementing its shoreline buffer rules.” (FERC Order Modifying and Approving SMP, p. 15, (29)).</p>	<p>“The preservation or re-establishment of Vegetated Riparian Buffers is required subject to Article 413, the 2019 SMP, the guidelines attached hereto and other applicable requirements. Existing buffer areas cannot be altered without authorization from FirstLight and the enhancement of such buffer areas may be required as a condition of the authorization of other shoreline and land uses” (Appendix C, p. 12)</p> <p>“Property owners <i>may be required to install or re-establish a Vegetated Riparian Buffer</i>... when an application request is made to modify the size, location or configuration of an existing use or an application request... to install a new authorized use.” (Appendix C, p. 13)</p> <p>There is no mention of the buffer installation reporting requirement.</p>
<p><b><u>Data Sharing:</u></b> Elimination of a commitment to share data, including GIS mapping data valuable for lake management, evaluating lake health, and public safety, with municipalities and lake authorities.</p>	<p>“FirstLight <i>will make digital mapping data available</i> to the Municipalities, the Lake Authorities, the Housatonic Valley Council of Elected Officials (HVCEO), the Housatonic Valley Association, and the Northwest Connecticut Council of Governments upon request.” (p. 10, XXIV).</p>	<p>“FirstLight <i>does not have any obligation to release any permit, license, lease, agreement or any other company information to the public.</i> Any data that FirstLight has deemed is accessible to the public may be posted on the FirstLight’s Website.” (p. 13, XIV).</p>
<p><b><u>Seawalls and Rip/Rap:</u></b> The CLA has requested language providing for a requirement that homeowners use environmentally friendly shoreline stabilizing rip/rap instead of a new seawall unless impossible or within a homeowner’s deeded rights, and seawall installation reporting has been eliminated.</p>	<p>“FirstLight will communicate more environmentally benign alternatives to solid bulkheads or seawalls.” (p. 8, XVII).</p> <p>“this order requires the licensee [FirstLight] to file with the Commission [FERC] an annual report... describing each permit for seawalls or retaining walls granted by the licensee.” (FERC Order Modifying and Approving SMP, p. 17, (32)).</p>	<p>“Environmentally benign alternatives shall be considered. A site-specific evaluation and justification by a CT Licensed Engineer for the replacement or construction of a new seawall may be required at FirstLight’s discretion.” (Appendix C, p. 7)</p> <p>There is no mention of the seawall and rip-rap installation reporting requirement.</p>
<p><b><u>Appendices Can Be Changed:</u></b> Many specific requirements, including fees,</p>	<p>There is no mention of FirstLight being able to update appendices/exhibits without FERC approval.</p>	<p>“The FERC’s approval of this 2019 SMP will allow FirstLight to continue to update the exhibits, Guidelines and appendices referenced herein.” (p. 3, V).</p>

Description of Proposed Change or Omission	Language in the current SMP (Approved in 2013)	Language of the Draft SMP (Due March 27 <sup>th</sup> , 2019)
(contd.) buffer zone details, and guidelines for all activities within the project boundary are in appendices, which can be freely updated by FirstLight at any time.	<i>Appendices Contain:</i> The “Land Use Agreement” for municipalities, excerpts from the FERC license for the project, land designations and maps, unauthorized use enforcement, boat dock guidelines, and stakeholder groups.	<i>Appendices Contain:</i> Shoreline designation maps, definitions, permit guidelines (including guidelines for docks, moorings, stormwater uses, buffer requirements, septic tanks, existing uses, limited activities, and significant activities.), process for applying for a permit, fees and fee schedule, enforcement, and stakeholder groups.
<b><u>Annual SMP Review Meetings:</u></b> Elimination of annual stakeholder meetings to evaluate the efficacy of the SMP and its effects on residents and the lake.	“The LAC [Lake Advisory Committee] and RAC [River Advisory Committee] <i>shall meet, at a minimum, on an annual basis</i> for the first three years after approval of the SMP” (Exhibit I)	There is no mention of these annual meetings to evaluate SMP efficacy with stakeholder organizations in the 2019 draft SMP.
<b><u>“May” Instead of “Will”:</u></b> Certain requirements that were mandatory have been made discretionary by using the word “may” instead of “will.”	<p>“The goal of the consultation process is to achieve consensus... and <i>shall</i> include at least one noticed public hearing prior to any SMP update.” (p. 2, III).</p> <p>“FirstLight <i>will make digital mapping data available</i>... upon request.” (p. 10, XXIV).</p> <p>“Landowners abutting the Project boundary <i>shall</i> be required to install a vegetated buffer composed of native vegetation within five (5) years of change of ownership of property, a change in the size, location or configuration of an existing structure, or installation of a new structure.” (p.5, VII)</p>	<p>“The goal of the consultation process is to achieve consensus... and <i>may</i> include at least one noticed public hearing” (p. 3, IV).</p> <p>“Any data that <i>FirstLight has determined is accessible to the public may</i> be posted on the FirstLight’s website.” (p.13, XIV).</p> <p>“enhancement of... buffer areas may be required as a condition of the authorization of other shoreline and land uses.” (Appendix C, p.12)</p> <p>“Property Owners <i>may</i> be required to install or re-establish a vegetated Riparian Buffer” (Appendix C, p.3)</p>

We urge the Towns to review the proposal (<https://www.firstlightpower.com/shoreline-management/connecticut-permit-applications/shoreline-management-plan-review-2019/>) and compare it with the plan that is currently in place: (<https://www.firstlightpower.com/wp-content/uploads/FirstLight/Shoreline%20Management%20Plan.pdf>). A final draft of the document must be submitted by FirstLight to FERC by March 27<sup>th</sup>, 2019. FirstLight has scheduled a Stakeholder meeting on Feb. 19<sup>th</sup> where members of the Lake Advisory Committee, including municipal representatives, lake authority representatives, and representatives from other important organizations like DEEP, the Fish and Wildlife Service, and others can submit comments. This will also be followed by a public meeting, date TBD, when members of the public can express their thoughts and concerns. We suggest that all interested members of the community who have

concerns review and compare the documents and formulate your thoughts for that public hearing. We will be updating the community with the time, date, and location of that meeting when it becomes available.

As of this writing, the CLA has submitted all of these concerns, and more, directly to FirstLight, who has stated that they will take our suggestions under advisement and may make some of the changes outlined above and in our comments. Note that this is a draft document and is still subject to change by FirstLight until the final due date on March 27<sup>th</sup>. The CLA looks forward to continuing to work with FirstLight, the Towns, and the public at this critical time to make sure the SMP remains a document that protects the Lake and the people who enjoy it for generations.





# CANDLEWOOD LAKE AUTHORITY

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Given the many challenges that the Lake faces, we had hoped that FirstLight would use this opportunity to strengthen the existing SMP. Unfortunately, rather than building on the 2013 SMP, FirstLight drafted an entirely new plan, making substantial changes that weaken existing protections. For example, FirstLight proposes to:

- Increase the time-period in-between public review of SMPs from 6 years (the period described in the FERC approved License) to 10 years;
- Add administrative fees when residents apply for shoreline uses within the project boundary;
- Eliminate the requirement for new homeowners to install a vegetated buffer garden following a property sale and annual buffer progress reporting;
- Eliminate the commitment to share data, particularly of GIS mapping data valuable when evaluating lake health, with municipalities and lake authorities;
- Provide no requirement for homeowners to install shoreline stabilizing and erosion controlling rip/rap instead of new seawalls and eliminates reporting on seawall and rip/rap installation;
- Move many requirements laid out in the current SMP to appendices where they can be freely updated by FirstLight without public notice, comment, or approval.
- Make many requirements that were mandatory discretionary through the use of the word “may” instead of “will”;
- Eliminate the annual stakeholder meeting to review SMP progress; and

- Muddy the language concerning consultation with municipalities and wetlands commissions when permitting shoreline uses.

While we are pleased with certain aspects of the new SMP, including the shortened timeframe for buffer garden installation requirements, on balance, the new proposal is a step backward from the protections required to keep Candlewood the vibrant natural resource we all enjoy and depend on.

We urge the Towns to review the proposal (<https://www.firstlightpower.com/shoreline-management/connecticut-permit-applications/shoreline-management-plan-review-2019/>) and compare it with what is currently in place (<https://www.firstlightpower.com/wp-content/uploads/FirstLight/Shoreline%20Management%20Plan.pdf>). A final draft of the document must be submitted by FirstLight to FERC by March 27<sup>th</sup>, 2019. FirstLight has scheduled a Stakeholder meeting on Feb. 19<sup>th</sup> where members of the Lake Advisory Committee, including municipal representatives, lake authority representatives, and representatives from other important organizations like DEEP, the Fish and Wildlife Service, and others can submit comments. This will also be followed by a public meeting, date TBD, when members of the public can express their thoughts and concerns. We suggest that all interested members of the community who have concerns review and compare the documents and formulate your thoughts for that public hearing. We will be updating the community with the time, date, and location of that meeting when it becomes available.

The CLA looks forward to working with FirstLight, the Towns, and other stakeholders at this critical time to make sure the SMP remains a document that protects the Lake and the people who enjoy it for generations.