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From: Dana Akers <dana.akers16@gmail.com>

Sent: Thursday, May 29, 2025 11:23 AM

To: AttorneyGeneral@doj.nh.gov

Subject: Complaint re violation of law re aquatic invasive species

To: NH Attorney General

Re: NH DES, Diver for Hire, LTD Diving & Country Pond Lake Association

Please consider this email letter a formal complaint. All listed above have been involved in intentional actions that are knowingly spreading the invasive brittle (spiny) naiad in Country Pond. It is my understanding this violates NH law. A strong accusation? Yes, very, but it is proven by the documentation. Worse yet, this was seemingly, in my opinion, done with the intent of using this as an excuse to use chemical herbicides. These actions need to cease immediately and those responsible should be held accountable. I request that this letter be read aloud at the upcoming CPLA annual meeting (I am again now a member). I will try to keep it brief by putting much of the details in footnotes referenced by (#) which those interested can read later.

Before I proceed, let me say that I believe that most of the CPLA is not involved in this and I wish to thank them for all the good things they are doing for Country Pond.

At the 2023 annual meeting, it was announced that the DES was to do a brittle naiad survey to determine if diving was warranted (1). A full year later the CPLA still had not shared whether the survey was performed nor any details of the diving performed. I did not renew my membership. I reached out to the DES and the divers. They provided the survey map and dive reports, neither of which have yet been shared with the CPLA membership, now 2 years later. There appeared to be an effort to cover up some of the 2023 diving performed... In June 2024, the DES reported 2023 diving only 5 days in Aug. The 2024 CPLA annual meeting also reported just 5 days. There were actually 7. The last 2 were Sep 20 & 21, despite the CPLA board minutes just prior to this acknowledging that they understood "they should not be disturbed after the plants have gone to seed" (2)

In 2024, there were 15 diving days performed Jul 22 - Sep 6. Again, the CPLA acknowledged their understanding that performing work too late "will only spread the seeds" (3)

The CPLA board minutes stated their understanding that there is only a 4-5 week window available for diving (4). Compare that to actual diving performed over 7-1/2 weeks in 2023 & 7 weeks in 2024.

And compare to the presentation to CPLA May 2022 by Amy Smagula, the DES' & NH's foremost limnologist... "seeds form July, seeds fall off plants usually sometime in Aug"(5)... "so diving can be done before the plant produces seed, but after the seed is on there, it is something that you really don't want to be physically managing, because you could be fragmenting and spreading seeds"(6)... "we would need to do it early and in the less dense areas" (7)... "treatment when used are done in July before it goes to seed"(8).

Y'all have a lot of explaining to do as to why all of the diving in

2023 & 2024 was performed in complete opposition to the timing recommendations of our foremost limnologist.

The DES survey maps show less than half the number of findings of brittle (spiny) naiad in July 2024 vs July 2023. Despite this, the CPLA is claiming that it got much worse in 2024 after July (9), cannot be managed by divers, and is pressing very hard for chemicals (3)(10).

Create a problem, and rush in with the 'solution' you really wanted.

There is no mention whatsoever of the 3rd option presented by Amy Smagula, that is to do nothing. I urge all to review her slide presentation (13) and listen to the video (5) again. A few points of hers:

- No other states are seeing the need to manage this weed because it is generally a low grower (13)...
- "brittle naiad management in other states is not happening" (15)
- "No control is a viable option. May disappear on its own or will reach an equilibrium (12)
- "In 6 waterbodies in NH ... 4 are not managed because the plants come and go and have not reached high densities. 2 are actively managed (chemicals)... Milton Three Ponds & Big Island Pond (13). "I have not seen great control in Milton Three Ponds since we've been doing management and we're coming up on 5 (now 8) years of management".
- (14). I would agree that experiment is not going well. Similar for Big Island Pond.

I have stayed quiet and tolerated our taxpayer \$ being spent on removing what appears to be all weeds (not just this invasive) in shallow areas in front of beaches of a few. But now harm is being done to Country Pond and more seems to be planned. Should this path be continued upon, anticipate followup by me and by more folks around the lake to address these actions, which I believe are harmful, as you yourselves have noted, and criminal.

As many know, I have pushed for addressing long term causes of weed and cyano issues vs addressing the symptoms. Example: A couple years ago I tried to get the CPLA to take a position against a special interest zoning change that permitted a very large tractor trailer facility close by in the watershed, currently under construction. I will get actively involved with CPLA again, as I believe will others, in whatever capacity desired, but only if desired by a majority of the board, and only if those responsible for these actions have been removed from the board. This can be accomplished simply with votes at the upcoming annual meeting, if desired. Footnotes follow below.

Ps. I see CPLA is increasing its officer liability coverage (11). That will not change what is covered. Read the policy. Most do not obligate them to defend against damages caused knowingly and/or intentionally.

Sent from my iPad  
Sincerely,  
Dana Akers  
16 Reinfuss Lane  
Kingston, NH 03848  
c: 617-645-9244

Footnotes:  
(1) CPLA Board Meeting Minutes:

2023-04-11: "Amy Smagula will do another survey to see if the spiny naiad remediation is necessary. "

2023-06-23: "A new survey will be performed by NHDES in July to determine if diving treatment is required ."

2023-07-11: "Greg has noticed some spiny naiad in the lake near his dock ... Amy Smagula will do a follow-up survey in 1-2 weeks."

(2) CPLA Board Meeting Minutes 2023-09-13: "Not sure if there will be any further work done this year although we have remaining funds to do so. Greg expressed concern over pulling plants this late in the season since it was thought that they should not be disturbed after the plants have gone to seed. "

(3) 2024-09-30 CPLA emailed report: "...to September 6. Extraction work is now done for the season as the plants have become too fragile to handle and disturbing them will only spread the seeds. - Spiny naiad growth was far more extensive than last season, and the divers found that it had grown in areas not found in the July survey"

(4) CPLA Board Meeting Minutes 2024-11-20: "2 issues with the divers option:...4-5 week window that's available to pull the naiad"

(5) May18-2022 DES presentation video @ 14 minutes. Available from CPLA website under News, 2022. My transcription may be imperfect; refer to video.

(6) Video, see (5) above @ 25 minutes, 25 seconds

(7) Video, see (5) above @ 25 minutes, 4x seconds

(8) Video, see (5) above @ 26 minutes

(9) CPLA Board Meeting Minutes 2024-8-13: "Divers have removed a lot more material this year than last year. ". Note that 'material' means weeds of all types, not just this invasive one.

(10) CPLA Board Meeting Minutes:

2024-9-24: "This level of growth cannot be managed by divers. Greg will reach out to Amy for clarification of her email regarding future treatment and next steps. "

2024-11-20: "Bids have been sent out for divers as well as chemical treatments"

(11) CPLA Board Meeting Minutes 2025-1-29: "Greg believes we need to purchase additional insurance to protect the CPLA board ... Bid requests were sent out according to the instructions provided by NH DES ...Bids from divers...Herbicide treatment cost was quoted...Last season spiny naiad growth was so extensive that...with...CPLA's other financial commitments (boat ramp project), it will not be feasible to contract with divers for the full amount required for complete remediation in 2025...fund diver treatment for 2025...all in favor...If the divers are not effective at controlling the growth and spread of the naiad again this season, CPLA will have to consider herbicide treatment going forward.  
"

No relevant discussions in Feb or Mar minutes & Apr15 minutes are not posted yet as of May27.

(12) Video, see (5) above @ 27 minutes

(13) May18 2022 DES presentation slides available on CPLA website under More, Documents, Invasive Species, last document

(14) Video, see (5) above @ 33 minutes

(15) Video, see (5) above @ 31 minutes