



The State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES



Thomas S. Burack, Commissioner

March 27, 2013

The Honorable Russell Prescott, Chairman
Energy and Natural Resources Committee
Legislative Office Building, Room 101
Concord, NH 03301

RE: HB 111, relative to the acquisition of property rights at Akers Pond Dam in the Town of Errol by the Fish and Game Department and the acquisition of property rights at Northwood Lake Dam in the Town of Epsom and Hermit Lake Dam in the Town of Sanbornton by the Department of Environmental Services

Dear Chairman Prescott:

Thank you for the opportunity to testify in support of HB 111, which would authorize the acquisition of easements at the state-owned Akers Pond Dam in Errol, Northwood Lake Dam in Epsom and Hermit Lake Dam in Sanbornton. These easements are needed to maintain the safety of these dams.

Akers Pond Dam is owned by the New Hampshire Fish and Game Department (NHFG). The main dam is a concrete spillway and outlet structure, which impounds Akers Pond. This main dam is on property that is owned by NHFG at the outlet of Akers Pond. The main dam was recently repaired by the Department of Environmental Services Dam Bureau (DES), which performs all major repair and reconstruction needed on any state-owned dams, as well as the daily operation and maintenance of dams owned by DES and NHFG.

Akers Pond Dam also includes an appurtenant structure, which consists of an earthen embankment, located on the east shoreline of Akers Pond just upstream of the main dam. This earthen embankment is overgrown with trees, which must be removed to prevent failure of the embankment and loss of the pond. The earthen embankment is located beyond the property that is owned by NHFG, and an easement is needed for the state to access this area and maintain the safety of the earthen embankment. The owner of the property, on which the earthen embankment is located, is willing to provide the necessary easement to NHFG. However, under RSA 482:44, no dam or any real property appurtenant to a dam or any rights and easements in either may be acquired without an act of the legislature which authorizes the acquisition of a particular dam, real property, or right or easement. For this reason, passage of this bill is required for NHFG to acquire the easement needed to maintain the earthen embankment at Akers Pond Dam in a safe condition.

In addition to Akers Pond Dam, DES has recently identified two other state-owned dams that also require the acquisition of easements to perform the necessary maintenance and repairs needed on their appurtenant structures. These dams are Northwood Lake Dam in Epsom and Hermit Lake Dam in Sanbornton. At both of these dams, easements are needed to repair and maintain earthen dikes

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associated with the dams. Both of these repair projects are scheduled to be performed in the next biennium. Passage of this bill is necessary to provide DES the legislative authorization needed to acquire the easements necessary to perform the required work.

Thank you for the opportunity to comment in support of this bill. Please contact Jim Gallagher, Dam Bureau Administrator, at 271-1961 or james.gallagher@des.nh.gov, or me at 271-2958 or thomas.burack@des.nh.gov if you have any questions or need additional information.

Sincerely,



Thomas S. Burack
Commissioner

Attachment

cc: Representative Gene G. Chandler
Representative Laurence M. Rappaport
Representative Larry S. Enman
Senator Jeff Woodburn