



The State of New Hampshire  
**DEPARTMENT OF ENVIRONMENTAL SERVICES**



**Thomas S. Burack, Commissioner**

January 15, 2012

The Honorable Shannon Chandley, Chairman  
Resources, Recreation and Development Committee  
Legislative Office Building, Room 305  
Concord, NH 03301

**RE: HB 111, relative to the acquisition of property at Akers Pond Dam in the Town of Errol by the Fish and Game Department**

Dear Chairman Chandley:

Thank you for the opportunity to testify in support of HB 111, which would authorize the acquisition of an easement at the state-owned Akers Pond Dam in Errol that is needed to maintain the safety of the dam.

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 additional 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 associated with the dams. Both of these repair projects are scheduled to be performed in the next biennium. In order to allow for the repairs, DES requests that the bill be amended to provide DES the

DES Web site: [www.des.nh.gov](http://www.des.nh.gov)

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legislative authorization needed to acquire the easements necessary to perform the required work. The proposed amended bill is attached.

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](mailto:james.gallagher@des.nh.gov), or me at 271-2958 or [thomas.burack@des.nh.gov](mailto: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