



The State of New Hampshire
Department of Environmental Services



Robert R. Scott, Commissioner

February 13, 2024

The Honorable Andrew Renzullo
Chairman, House Resources, Recreation and Development Committee
Legislative Office Building, Room 305
Concord, NH 03301

RE: HB 1277 – AN ACT establishing a committee to study alternatives for funding the operation, maintenance, and repair of state-owned dams

Dear Chairman Renzullo and Members of the Committee:

Thank you for the opportunity to comment on HB 1277. The New Hampshire Department of Environmental Services (NHDES) recommends that the bill be amended to include language in Senate bill SB 549 and Senate amendment 0567s. This bill would create a study committee to review alternatives for funding the operation, maintenance and repair of state-owned dams. Additionally, if this bill was amended to include the language in SB 549, the bill would amend existing statutes to clarify when a non-menace dam can be reclassified and to clarify the type of revenue that can be deposited into the Dam Maintenance Fund. NHDES looks forward to working with a study committee on recommendations for funding the Dam Maintenance Fund and provides the following information for consideration.

NHDES' Dam Bureau is responsible for the reconstruction and rehabilitation of the 273 state-owned dams and the operation and maintenance of 208 of these dams. The average age of state-owned dams is over 100 years and many of these dams have not seen major rehabilitation in 40 to 50 years. The Dam Bureau estimates a cost of \$414 million is needed to bring all 273 state-owned dams into compliance with current dam safety standards. An estimated \$300 million of that total is needed to address the 63 dams classified as high hazard, the failure of any would cause loss of life.

The cost for the operation, maintenance, and reconstruction of these dams is currently funded from a mix of the Dam Maintenance Fund, capital funds and general funds. The sole source of outside revenue to the Dam Maintenance Fund is rent payments that NHDES receives from leasing nine of the dams that it owns to hydropower developers to generate electricity at the sites. Under the terms of the leases, the rent that is paid to NHDES is a percentage of the revenue from the sale of power at the facilities.

For the first 13 years after the Dam Maintenance Fund was established in 1989, this revenue source covered nearly all necessary expenses for the operation, maintenance, and reconstruction of state-owned dams. During that period, hydropower operators were receiving above-market rates for the power they produced, approximately 8 cents to 17 cents per kilowatt-hour (kwh), under long-term power purchase agreements with Public Service of New Hampshire (PSNH), established in the early 1980's, in part to encourage the development of alternative energy sources such as small-scale hydropower. However, in 2002 PSNH renegotiated their above-market power purchase agreements pursuant to RSA 374-F. This is

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the Electric Utility Restructuring legislation that directed utilities to take all reasonable measures to mitigate stranded costs, including the renegotiation of power purchase contracts. As a result, since 2003 the hydropower developers have received only the market rate for power, which last year averaged approximately 3.6 cents per kwh. Consequently, the Dam Maintenance Fund has seen corresponding decreases in revenues, and the Dam Bureau has come to rely on the General Fund and Capital Fund to cover the increasing costs of operating, maintaining, repairing, and reconstructing state-owned dams.

In 2004 a legislative study committee was formed under SB 488 to review the effects that electric utility restructuring had on the Dam Maintenance Fund and to identify alternatives for operation and maintenance of state-owned dams. The committee reviewed several potential revenue sources, such as unrefunded road toll (gas taxes) to boaters, a shorefront maintenance fee, increasing fishing license fees, increasing boat registration fees, increasing mooring permit fees, increasing park fees, and leasing additional dams. However, subsequent legislative efforts in 2005, 2007 and 2009 to implement the first two recommendations of the committee failed to pass. The other recommendations were found to be deficient and were not recommended by the committee for further analysis.

If this legislation was amended to match SB 549, the legislation would also amend RSA 481:32 to clarify that revenue resulting from sales or transfers of dams, as well as other revenue from other sources, to be deposited into the Dam Maintenance Fund.

Additionally, if this legislation was amended to match SB 549, the legislation would also amend RSA 482:12 to clarify when it would be appropriate for NHDES to reclassify non-menace dams. Currently NHDES cannot reclassify a non-menace dam unless downstream conditions have changed since the dam was classified or a permit to reconstruct the dam is issued by NHDES. Unfortunately, this has led to situations in which non-menace dams are remaining classified as such, even though the threat to downstream property is elevated due to the insufficient discharge capacity. Amending RSA 482:12 would correct this issue while still allowing non-menace dams to remain as such, as long as they have sufficient discharge capacity based on the downstream impacts should a failure of that non-menace dam occur.

Thank you again for the opportunity to comment on HB 1277. Should you have questions or need additional information, please feel free to contact Corey Clark, Chief Engineer, at 603-271-1961 or corey.j.clark@des.nh.gov.

Sincerely,



Robert R. Scott, Commissioner

Attachment: SB 549 & Amendment 2024-0567s
ec: Sponsor of HB 1277: Representative Harrington