



The State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES



Thomas S. Burack, Commissioner

April 8, 2013

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

RE: SB 64, relative to public informational meetings on dams

Dear Chairman Chandley:

Thank you for the opportunity to testify in support of SB 64, which would modify the requirements under RSA 482:13 for notification and a public information meeting whenever a dam is to be breached or its water level lowered, except for the normal scheduled lowering of the water level.

Under the current statute, a dam owner is required to provide 30 days advance notification to the local governing body in the cities and towns in which the dam or water body is located in the event of any unscheduled lowering of the water level or breach of the dam. Thereafter, the local governing body is required to hold a public information meeting within 15 days of receiving the notification and to publish notice of this meeting 7 days in advance of the meeting. Under the bill, the dam owner, and not the local governing body, would be responsible for conducting the public information meeting, but the local governing body would cooperate with the dam owner in conducting the meeting. The bill also makes the dam owner, and not the local governing body, responsible for publishing the public notice of the meeting. In addition, the bill requires that the dam owner provide notification to the Department of Environmental Services (DES) at the same time notification is provided to the local governing body. DES supports these changes to the existing notification procedures for the unscheduled lowering of water levels behind dams.

DES agrees that the local governing body should not be solely responsible for conducting public information meetings when water levels behind dams are to be lowered, or for publishing the public notice of those meetings. These requirements should be the responsibility of the dam owner. The dam owner, whether it is the state or a municipality or a private party, has the most knowledge about the reasons for lowering the water levels and the details regarding the depth and duration of the lowering. Thus, the owner is in the best position to respond to any concerns raised by the public.

DES also believes that, as provided under the bill, the local governing body should still receive advance notification of an unscheduled lowering of a water body because such an event could have a significant impact on many of its citizens. The dam owner should also be required to notify DES at the same time, so DES is prepared to respond to any inquiries it receives. In addition, if the dam owner is going to be responsible for the public information meeting, the timing of the meeting should no longer

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be based on when the local governing body receives notice of the action, but, instead, should be based on a sufficient time in advance of the action.

The current requirements in RSA 482:13 were established by enactment of Chapter 215 of the Laws of 1985 (HB 312). That bill was recommended by the Legislative Dam Management Review Committee, a former statutory committee made up of four members of the House Resources, Recreation and Development Committee and four members of a predecessor committee to the Senate Energy and Natural Resources Committee. In its 1984 report recommending the bill, the Committee indicated that the requirement was needed "to alleviate the public hardship that results when the level of a water body is unexpectedly lowered. There are instances of private wells going dry when the water levels in lakes have been lowered. If the surrounding property owners had been notified, other arrangements could have been made; or, at the very least, private property owners would have had fair warning".

In the 28 years since the notification procedures specified in RSA 482:13 have been effect, they have generally worked well. Typically, the public information meeting has been held as an agenda item at a board of selectmen's meeting. However, the bill improves these procedures by shifting the burden of the public information meeting and public notice from the local governing body to the dam owner, while requiring the local governing body to cooperate with the dam owner in providing a forum for the dam owner to conduct the public information meeting.

Thank you for the opportunity to comment on 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: Senator Jeff Woodburn