



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



**Thomas S. Burack, Commissioner**

April 1, 2015

The Honorable Regina Birdsell, Chair  
Public and Municipal Affairs Committee  
Legislative Office Building, Room 102  
Concord, NH 03301

**RE: HB 275, relative to the encroachment of a town cemetery on state-owned land**

Dear Chairman Birdsell and Members of the Committee:

Thank you for the opportunity to testify in support of HB 275. Passage of this bill would assist the Town of New Ipswich in working cooperatively with the Department of Environmental Services (DES) to eliminate the encroachment of the town-owned cemetery on land and easements owned by DES at its flood control dam, known as Souhegan Flood Control Site #35 in New Ipswich.

The Souhegan Flood Control Site #35 was constructed in 1965 by the U.S. Department of Agriculture Soil Conservation Service (SCS), now the Natural Resources Conservation Service (NRCS) under the Watershed Protection and Flood Prevention Act (PL-566). The local sponsor for the project was the New Hampshire Water Resources Board, a predecessor agency to DES. As the local sponsor, the Water Resources Board signed an agreement with the SCS that obligated the State of New Hampshire to acquire and hold all lands and easements needed to construct, operate and maintain the flood control dam, and also obligated the State to operate and maintain the dam for the life of the project. These obligations are now the responsibility of DES.

In early 2013, DES received a report that the Town of New Ipswich was constructing a baseball field upstream of the dam on land which is subject to a State flowage easement. Further investigation revealed that the Town had expanded its cemetery onto State-owned land immediately downstream of the dam. The construction of the ball field reduces the flood control storage provided by the project, and the encroachment of the town cemetery has compromised the safety of the structure by locating graves and burial plots near the toe of the dam and the dam's internal drainage system, and eliminating access needed to maintain these project features.

Since discovery of these encroachments, DES has been working with the Town of Ipswich to correct this situation. The Town has discontinued work on the ball field and is considering options to maintain the flood control storage provided by the project. In addition, for those burial plots that have been sold and are on State-owned land, the Town has been considering offering to exchange those plots for others within the cemetery boundary. For graves on State-owned property, the Town has been considering reinterring the bodies in other plots within the cemetery boundary. DES is willing to work

with the Town on a lot line adjustment, between the cemetery and the State-owned property, to limit the amount of burial plots that are affected while maintaining the land needed to ensure the safety of the dam.

By providing the Town with authority to use their undesignated fund balance or hold a special town meeting, the bill facilitates the implementation of these solutions. For this reason, DES supports the bill.

Thank you for the opportunity to comment in support of this bill. If you have questions or need additional information, please contact Mark Stevens, DES Land Agent, at 271-1960 or [mark.stevens@des.nh.gov](mailto:mark.stevens@des.nh.gov), 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).

Sincerely,

A handwritten signature in blue ink that reads "Thomas S. Burack". The signature is written in a cursive style with a large, stylized initial 'T'.

Thomas S. Burack  
Commissioner

cc: Representative James Coffey  
Representative James Parison