

IN THE MATTER OF

TIMOTHY DOWNING,) REGULATION OF WATER LEVELS
SMITHFIELD, MERCER, ROME) AND MINIMUM FLOWS
KENNEBEC AND SOMERSET COUNTIES)
NORTH POND) SIXTH PROCEDURAL ORDER
L-30629-36-A-N)

North Pond Association Closing Brief

The North Pond Association has reviewed the transcripts from the public at the evening session of the hearing on April 14th as well as the emails and letters to the Maine DEP. A significant majority of the comments were in favor of the current water level and the NPA's management of the dam.

The North Pond Association has provided testimony and evidence regarding the management of the dam on Great Meadow Stream taking into account the elements set forth in the *Maine Dam Registration, Abandonment, and Water Level Act*, 38M.R.S. § 840(1) as follows:

A. The water levels necessary to maintain the public rights of access to and use of the water for navigation, fishing, fowling, recreation and other lawful public uses

The NPA operates the dam to allow for safe access at the public boat launch in Smithfield on Bog Stream. One or both beams are closed in the Spring after ice out and trees are budding. The beams are opened in mid-Autumn to lower the water level while allowing sufficient time and water levels for residents to reach the boat launch and take their boats out of the pond at season's end.

B. The water levels necessary to protect the safety of the littoral or riparian proprietors and the public

Based on the consistent water level from Spring to Fall maintained by the NPA dam keepers, many property owners have planted vegetative buffers and in some cases installed riprap to protect against rainwater runoff which carries phosphorus into the pond.

C. The water levels and minimum flow requirements necessary for the maintenance of fish and wildlife habitat and water quality

Maintaining steady water levels through the Spring and early Summer is important for bass spawning and water dependent nesting birds like loons. If the water level is too low, the loons would not be able to reach their nests.

D. The water levels necessary to prevent the excessive erosion of shorelines

Each Fall, both beams on the dam are raised to draw down the water level as much as the dam will allow thus minimizing erosion due to the ice.

E. The water levels necessary to accommodate precipitation and run off of waters

There is always some flow under and around the beams. Once or twice a week, a member of the NPA Dam Committee checks the water level at the dam. The measure on the upright is checked to keep the water level consistent. The keeper communicates with the other two members of the Dam Committee and a consensus is reached on best management. In periods of heavy rainfall, one or both beams are raised or a spacer is placed between the beams to increase the flow across the dam.

F. The water levels necessary to maintain public and private water supplies

The NPA is mindful that in addition to the full time residents, there are many seasonal camps on the pond. Both make significant contributions to the local economy. Many of the seasonal camps rely on sufficient water level for domestic use such as washing dishes and flushing toilets.

G. The water levels necessary for any ongoing use of the dam to generate or to enhance the downstream generation of hydroelectric or hydro mechanical power

Not applicable

H. The water levels necessary to provide flows from any dam on the body of water to maintain public access and use, fish propagation and fish passage facilities, fish and wildlife habitat and water quality downstream of the body of water.

North Pond has suffered from algal blooms each of the past 7 years. When the water quality in North Pond is compromised, the dam is closed to minimize sending potential toxins downstream into Great Meadow Stream and Great Pond. Fish passage is evident in the Spring as migrating fish have been seen swimming between the beams and over the bottom beam.

The North Pond Association is aware that the original order for the dam in 1987 stipulated a flow rate of 14.5 cfs; however, it is not clear how that rate was determined nor how flow rate is to be measured. The rate of 14.5 cfs seems quite high given that a nearby lake in the Belgrade Chain, Salmon Lake, has a dam flow rate of just 1 cfs. The previous NPA Board of Directors asked the Maine DEP for guidance on the matter of reasonable flow and how to achieve/measure the flow, but received no response.

The NPA supports Maine DEP determining a feasible and reasonable minimum flow through the dam provided that a minimum water level is maintained. There must be provisions to control flow in periods of high rainfall or drought or if water quality is compromised and would present a risk to water bodies downstream.

The management of the Great Meadow Stream Dam by the NPA strikes a reasonable balance to protect the interests of the North Pond property owners, the public who recreate on the pond and the wildlife who depend on the water.

Respectfully,

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