



JANET T. MILLS
GOVERNOR

STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION



MELANIE LOYZIM
COMMISSIONER

IN THE MATTER OF

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

Pursuant to the *Maine Dam Registration, Abandonment, and Water Level Act*, 38 M.R.S. § 840(1), the Maine Department of Environmental Protection (Department) will be conducting an adjudicatory hearing regarding the establishment of a water level regime for North Pond in the Towns of Smithfield, Mercer and Rome. This proceeding is being initiated as a result of a petition filed with the Department by 58 littoral/riparian owners (petitioners) along North Pond. The 58 petitioners represent more than 50 littoral or riparian proprietors of North Pond. The water levels of North Pond are controlled by a dam at the outlet of North Pond on Great Meadow Stream, which flows to Great Pond. The dam is owned and operated by the North Pond Association, Inc. (dam owner). As the issues set forth in the petition remain unresolved, the Department is proceeding with an adjudicatory hearing. The Commissioner delegated to Ronald Mongeon authority to serve as the Presiding Officer (or Hearing Officer) for purposes of carrying out the adjudicatory hearing on the matter.

This Order sets forth the Presiding Officer's decision with respect to certain procedures relating to the Petitions for Leave to Intervene and sets the date for a pre-hearing conference.

PETITIONS FOR LEAVE TO INTERVENE

1. On July 31, 2024, the Presiding Officer issued a Notice notifying interested persons that they could submit Petitions for Leave to Intervene by Friday, August 30, 2024.
2. The Department received Petitions for Leave to Intervene from 4 persons.
 - A. Christine Keller, Merrow Lane Road Association and Serpentine Stakeholders
 - i. 91 Merrow Lane, Smithfield ME 04978
 - ii. miltoncpk@gmail.com
 - B. Melvin Croft, resident of Smithfield
 - i. 90 Eastwood Lane, Smithfield ME 04978

AUGUSTA
17 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0017
(207) 287-7688 FAX: (207) 287-7826

BANGOR
106 HOGAN ROAD, SUITE 6
BANGOR, MAINE 04401
(207) 941-4570 FAX: (207) 941-4584

PORTLAND
312 CANCO ROAD
PORTLAND, MAINE 04103
(207) 822-6300 FAX: (207) 822-6303

PRESQUE ISLE
1235 CENTRAL DRIVE, SKYWAY PARK
PRESQUE ISLE, MAINE 04769
(207) 764-0477 FAX: (207) 760-3143

IN THE MATTER OF

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

ii. mcroftnlw@yahoo.com

C. Edith E. Cornwall, resident of Oakland, President of East Pond Association

i. 289 Brickett Point Ests., Oakland ME 04963

ii. ediened@roadrunner.com

D. 7 Lakes Alliance, Laura Rose Day, Chief Conservation and Special Initiatives Officer

i. P.O. Box 250, Belgrade Lakes ME 04918

ii. laura.roseday@7lakesalliance.org

3. In addition to the intervenors, other parties include:

A. North Pond Association, Inc., owner and operator of the dam, Katie Meikle, North Pond Association, Inc. President

i. P.O. Box 44, Smithfield ME 04978

ii. meiklekatie@gmail.com

B. 58 littoral/riparian owners, represented by Tim Downing

i. P.O. Box 24, Smithfield ME 04978

ii. timothypdowning@gmail.com

4. Prior to making a final decision on the Petitions for Leave to Intervene, the Department will review any objections made by the petitioners or dam owner, as well as any responses to those objections. The schedule for objections and responses relating to the 4 Petitions for Leave to Intervene are due as follows:

A. Petitioners and the dam owner have until Tuesday, October 8th, 2024 at 1:00 P.M. to submit any objection to the Department and all other parties/petitioners regarding the 4 Petitions for Leave to Intervene.

IN THE MATTER OF

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

- B. Those 4 persons filing Petitions for Leave to Intervene shall have until Friday, October 18th at 1:00 P.M. to submit any response to the Department and all other parties/petitioners regarding any objections raised by the petitioners or dam owner.

If an objection or a response to an objection, as described in paragraphs 4(A) and 4(B) of this Order, is filed electronically with the Department, a signed identical paper version must subsequently be timely mailed to the Department at its Bangor mailing address and received by the Department within five (5) working days. Objections or responses must be provided to all other parties and petitioners for intervention, which may be provided to all other parties via electronic mail or US mail at the addresses listed in this order.

5. The Department must allow any person to intervene upon a showing that they are or may be “substantially and directly affected by the proceeding, or any other agency of federal, state or local government.” 5 M.R.S. § 9054(1). The Department has discretion to allow any other interested person to intervene. 5 M.R.S. § 9054(2).

6. The intervenors shall attend all conferences and the public hearing. All parties, including intervenors, are expected to comply with deadlines and filing requirements established by the Presiding Officer. Failure to comply may result in appropriate sanctions, including the rejection of argument, evidence or testimony the party seeks to offer. All participants in the hearings are expected to conduct themselves professionally, both in their dealings with the Department and with each other, throughout the proceedings. If a party is unable to conduct themselves professionally, the Presiding Officer reserves the right to take any appropriate action, including excluding the individual from further participation in these proceedings.

7. The Presiding Officer may require consolidation of presentation of evidence and argument by Intervenors on one or more issues and may otherwise limit participation by Intervenors as deemed appropriate for an orderly hearing. 5 M.R.S. § 9054(4).

CLARIFICATION OF PARTIES

8. Each signer of the petition for the regulation of water levels and minimum flows is a “party” to the hearing under Department rules. Henceforth, all signers will be consolidated together as “the petitioners” or “petitioners”. For the purposes of this hearing and notice requirements of this hearing, the petitioners shall have one spokesperson, Timothy Downing.

IN THE MATTER OF

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

The term “all parties” shall refer to the petitioners through their spokesperson and North Pond Association, Inc.

PRE-HEARING CONFERENCE

9. A pre-hearing conference shall be held on Friday, November 8th at 1:30 P.M. at the Department’s Central Maine Regional Office, located at 32 Blossom Lane, Augusta ME 04330, Conference room 118 in the Marquardt Building. All parties, as well as those granted intervenor status must attend the conference. Any party or persons granted intervenor status that is not present waives their right to object to matters discussed and resolved by way of procedural order following the conference. Members of the public may attend the pre-hearing conference but may not otherwise participate.

Dated: September 25, 2024

/s/ Ronald Mongeon
Ronald Mongeon, Presiding Officer