

Subject: David Pond update

11/13/2018

Hi Tom-

I want to provide a summary of our November 2nd meeting regarding the compliance/permitting status of the David Pond dam. Based on the information you presented, the Department accepts that there has been some type of dam structure in the stream that has impounded and regulated water levels in David Pond, as evidenced by the normal high water marks around the pond and the overall shape and volume of the pond.

I understand that the pond association would like to repair and maintain the existing dam; that the association will not change the horizontal dimensions or area of the dam footprint; and, will not alter its dimensions by making it taller or wider. You stated that the pond association will only be repositioning or replacing existing rocks and natural materials and not bringing in any other materials. You stated that the plastic tarps and sandbags will be removed to the extent that these materials can be removed without affecting the integrity of the dam. You also noted that you only want to maintain the pond water levels as they currently exist.

Under the Natural Resources Protection Act (NRPA), there is a permitting exemption for repair and maintenance of existing structures. (38 MRS Section 480-Q(2)). In pertinent part, this section of the law states:

“A permit is not required for the following activities if the activity takes place solely in the area specified below:

2. Maintenance and repair of a structure, other than a crossing, in, on, over or adjacent to a protected natural resource if:

- A. Erosion control measures are taken to prevent sedimentation of the water;
- C. There is no additional intrusion into the protected natural resource; and
- D. The dimensions of the repaired structure do not exceed the dimensions of the structure as it existed 24 months prior to the repair, or if the structure has been officially included in or is considered by the Maine Historical Preservation Commission eligible for listing in the National Register of Historic Places, the dimensions of the repaired structure do not exceed the dimensions of the historic structure.” [<https://www.mainelegislature.org/legis/statutes/38/title38sec480-Q.html>]

Due to the nature of the dam repairs you are proposing, a NRPA permit is not required for your proposed repairs as long as you conform with the language of the NRPA law. The Department will assist you by visiting the site with you to take sufficient measurements and photographs of the dam structure as it currently exists to establish its baseline dimensions, before any repairs or changes are made. Then please notify the Department at least 2 weeks prior to doing any repair work to the dam this year, if possible, so that staff may also visit the site to document that the repairs meet the

permitting exemption. Please remember that any expansion of the dimensions or modification of the impounding capacity of the dam will require a permit.

If you would like to make changes to the dam in the future, such as shoreline stabilization or reconstruction of the dam for greater resiliency, we would be happy to assist you with the permitting process.

Thank you.

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