



The State of New Hampshire
Department of Environmental Services

Thomas S. Burack, Commissioner



November 15, 2014

Her Excellency, Governor Margaret Wood Hassan
and The Honorable Council
State House
Concord, New Hampshire 03301

REQUESTED ACTION

Authorize the Department of Environmental Services (DES) to extend the completion date of the Memorandum of Agreement (MOA) between the DES and the New Hampshire Fish and Game Department (NHFG) (VC# 177911) from June 30, 2015 to June 30, 2017 to complete remaining repairs to Akers Pond Dam in Errol, effective upon Governor and Council approval. The original MOA was approved by Governor and Council on September 22, 2010 (Item #126), and an amendment was approved April 18, 2012 (Item #87) to extend the completion date from June 30, 2012 to June 30, 2015. This is a no-cost time extension for the project. 100% Dam Project Funds.

EXPLANATION

Under RSA 482:57, DES is responsible for the maintenance, repair and reconstruction of state-owned dams. The Akers Pond Dam, owned by the NHFG, impounds the 276-acre Akers Pond in Errol. The dam is classified as a low hazard dam because its failure would likely result in major damage to a downstream town road.

Phase I of the repairs to the Akers Pond Dam has been completed under the terms of the MOA. These repairs included re-facing the badly deteriorated concrete spillway, repairing other areas of concrete deterioration on the abutments, reconstruction of a downstream boulder training wall, tree removal and reconfiguration of the flashboards.

Although the work completed to date addressed many of the outstanding deficiencies at the dam, the earthen embankment on the right side of the dam has yet to be repaired. The embankment requires extensive reshaping, stump removal, and rip-rap armoring on the upstream slope. During construction of the Phase I repairs, it was discovered that a large portion of the existing embankment is not located within the property boundaries of the project. As the entire embankment is necessary to impound Akers Pond, NHFG pursued obtaining ownership and easement rights to complete the necessary repairs to the embankment.

Under RSA 482:44, no dam or any real property appurtenant to a dam, or any rights and easements in either, may be acquired without an act of the legislature, which authorizes the acquisition of a particular dam, real property or easement. Legislative authorization for the acquisition of the necessary easement rights at Akers Pond Dam was granted with enactment of Chapter 17 of the Laws of 2013. Following the passage of that law, NHFG negotiated and obtained an easement deed to the property from the property owner, and following the acquisition of the easement rights, DES obtained the permits required for the embankment work. However, because the work has to be conducted early in the fall during the seasonal drawdown of Akers Pond, work cannot be performed until the fall of 2015, necessitating this amended MOA, which extends the completion date for the repairs. A two-year extension is requested in the event that unforeseen circumstances force a construction delay until fall of 2016.

Of the \$219,538 provided under the MOA for the repair of Akers Pond Dam, approximately \$142,047 has been spent on design/permitting and construction efforts, with a balance of \$77,491 remaining available. DES

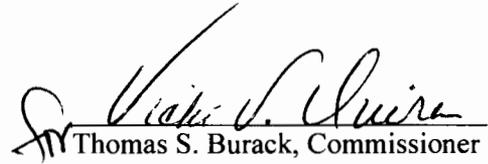
Her Excellency, Governor Margaret Wood Hassan
and The Honorable Council

November 15, 2014

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anticipates this balance is sufficient to complete the remaining repairs as described above.

We respectfully request your approval.


Thomas S. Burack, Commissioner



**MEMORANDUM OF AGREEMENT
BETWEEN
THE NEW HAMPSHIRE DEPARTMENT OF ENVIRONMENTAL SERVICES
AND
THE NEW HAMPSHIRE FISH AND GAME DEPARTMENT**

Akers Pond Dam, Errol, Dam #080.02

Pg. 1 of 1

I. PURPOSE

The purpose of this Memorandum of Agreement (MOA) is to extend the end date of the previous MOA and Amendment #1 executed for the completion of the design and reconstruction of the Akers Pond Dam in Errol. The original MOA became effective upon Governor and Council approval on September 22, 2010 (Item #126) and is hereinafter referred to the 2010 MOA. Amendment #1 became effective upon Governor and Council approval on April 18, 2012 (Item #87), extending the duration of the project from June 30, 2012 to June 30, 2015, and is hereinafter referred to as the 2012 MOA.

II. PARTIES

The parties to this agreement are the New Hampshire Department of Environmental Services (hereinafter NHDES) and the New Hampshire Fish and Game Department (hereinafter NHFG).

III. AUTHORITY

The 2010 MOA was entered into pursuant to RSA 482:55 which states that the State of New Hampshire has a commitment to maintain its dams and impoundments for future generations and promote the safety of the public. The NHFG is the owner of the Akers Pond Dam in Errol.

IV. DURATION

It is agreed that the termination date outlined in Section VII of the 2010 MOA and in Section IV of the 2012 MOA shall be further amended to extend from June 30, 2015 to June 30, 2017, unless terminated earlier by either party, or extended in writing by subsequent agreement of the parties.

V. AGREEMENT

In WITNESS WHEREOF, the parties hereto have executed this Agreement, which shall become effective on the date the Governor and Council of the State of New Hampshire approve this Agreement.

Starting Date: _____

NH Department of Environmental Services

NH Fish and Game Department

Thomas S. Burack

Thomas S. Burack, Commissioner

Glenn Normandeau

Glenn Normandeau, Executive Director

11/18/14

Date

11/12/14

Date

Approved as to form, substance and execution:

Chet G. Ali

Department of Justice

11/25/14

Date



The State of New Hampshire
Department of Environmental Services

Thomas S. Burack, Commissioner

*Celebrating 25 Years of Protecting
New Hampshire's Environment*



March 27, 2012

APPROVED G & C.

His Excellency, Governor John H. Lynch
and The Honorable Council
State House
Concord, New Hampshire 03301

DATE 4/18/2012
ITEM # 87

REQUESTED ACTION

Authorize the Department of Environmental Services (DES) to amend the completion date of the Memorandum of Agreement (MOA) between the DES and the New Hampshire Fish and Game Department (NHFG) (VC# 177911) from June 30, 2012 to June 30, 2015 to complete remaining repairs to Akers Pond Dam in Errol, effective upon Governor and Council approval. The original MOA was approved by Governor and Council on September 22, 2010 (Item #126). This is a no-cost time extension for the project. 100% Dam Project Funds.

EXPLANATION

Under RSA 482:57, DES is responsible for the maintenance, repair and reconstruction of state-owned dams. The Akers Pond Dam, owned by the NHFG, impounds the 276-acre Akers Pond in Errol. The dam is classified as a low hazard dam because its failure would likely result in major damage to a downstream town road. Phase I of the repairs to the Akers Pond Dam have been completed under the terms of the MOA. These repairs included re-facing the badly deteriorated concrete spillway, repairing other areas of concrete deterioration on the abutments, reconstruction of a downstream boulder training wall, tree removal and reconfiguration of the flashboards.

Although the work completed to date addressed many of the outstanding deficiencies at the dam, the earthen embankment on the right side of the dam has yet to be repaired. The embankment requires extensive reshaping, stump removal, and rip-rap armoring on the upstream slope. During construction of the Phase I repairs, it was discovered that a large portion of the existing embankment is not located within the property boundaries of the project. As the entire embankment is necessary to impound Akers Pond, NHFG is pursuing obtaining ownership/easement rights to complete the necessary repairs to the embankment. Once appropriate rights have been obtained by NHFG, DES will proceed with completion of the repairs to the entire embankment. NHFG and DES anticipate that these rights will not be obtained until after the current MOA expires, necessitating this new MOA which extends the completion date for the repairs.

Of the \$219,538 provided under the MOA for the repair of Akers Pond Dam, approximately \$135,267 has been spent on design/permitting and construction efforts, with a balance of \$84,271 remaining available. DES anticipates this balance is sufficient to complete the remaining repairs as described above.

We respectfully request your approval.

Thomas S. Burack
Thomas S. Burack, Commissioner



**MEMORANDUM OF AGREEMENT
BETWEEN
THE NEW HAMPSHIRE DEPARTMENT OF ENVIRONMENTAL SERVICES
AND
THE NEW HAMPSHIRE FISH AND GAME DEPARTMENT**

Akers Pond Dam, Errol, Dam #080.02

Pg. 1 of 1

I. PURPOSE

The purpose of this Memorandum of Agreement (MOA) is to extend the end date of the previous MOA executed for the completion of the design and reconstruction of the Akers Pond Dam in Errol. The original MOA became effective upon Governor and Council approval on September 22, 2010 and is hereinafter referred to the 2010 MOA.

II. PARTIES

The parties to this agreement are the New Hampshire Department of Environmental Services (hereinafter NHDES) and the New Hampshire Fish and Game Department (hereinafter NHFG).

III. AUTHORITY

The 2010 MOA was entered into pursuant to RSA 482:55 which states that the State of New Hampshire has a commitment to maintain its dams and impoundments for future generations and promote the safety of the public. The NHFG is the owner of the Akers Pond Dam in Errol.

IV. DURATION

It is agreed that the termination date outlined in Section VII of the 2010 MOA shall be changed from June 30, 2012 to June 30, 2015, unless terminated earlier by either party, or extended in writing by subsequent agreement of the parties.

V. AGREEMENT

In WITNESS WHEREOF, the parties hereto have executed this Agreement, which shall become effective on the date the Governor and Council of the State of New Hampshire approve this Agreement.

Starting Date: _____

NH Department of Environmental Services

Thomas S. Burack
Thomas S. Burack, Commissioner

3/29/2012
Date

NH Fish and Game Department

Glenn Normandeau
Glenn Normandeau, Executive Director

3/26/12
Date

Approved as to form, substance and execution:

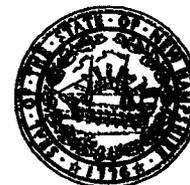
Evan Mulholland
Department of Justice
Evan Mulholland, AAG

April 2, 2012
Date



The State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES

Tim Carney



Thomas S. Burack, Commissioner

September 22, 2010

APPROVED G & C

His Excellency, Governor John H. Lynch
and The Honorable Council
State House
Concord, New Hampshire 03301

DATE 9/22/10
ITEM # 126

REQUESTED ACTION

1. Authorize the New Hampshire Department of Environmental Services (DES) and the New Hampshire Fish and Game Department (NHFG) (V# 177911) to enter into a memorandum of agreement in the amount of \$219,538 for the repair of Akers Pond Dam spillway in Errol, effective upon Governor and Council approval through June 30, 2012.
2. Further authorize the NHFG to provide an advance payment of \$219,538 to DES for the purpose of repairing the Akers Pond Dam spillway in Errol, effective upon Governor and Council approval.

Funding is available as follows:

030-07500-04420000-034-500157
NH Fish and Game Dept, Dam Reconstruction

FY 2011
\$219,538

EXPLANATION

Under RSA 482:57, DES is responsible for the maintenance, repair and reconstruction of state owned dams. This request is for authorization, pursuant to RSA 482:57(II), for the DES Dam Maintenance Section to carry out the design, engineering and repair of Akers Pond Dam in Errol. The FY11 operating budget for Account 442010-3831, includes the funds for this work in anticipation of the requested transfer of funds from NHFG.

The Akers Pond Dam, owned by NHFG, creates an impoundment of 276 acres that provides recreation for the public. The dam is classified as a low hazard dam, because its failure would likely result in major damage to a town road. The concrete spillway and associated components are badly weathered in several locations leaving 3 to 4 inch deep holes and cracks in the surface. The concrete walkway above the stoplog bay and the concrete abutments are similarly deteriorated. The repair project will include the removal of deteriorated surface concrete and re-facing of the concrete spillway, replacement of the concrete walkway above the stoplog bay, repair to the concrete abutments and regrading of the earth adjacent to the abutments.

We respectfully request your approval.

Department of Environmental Services

Fish and Game Department

Thomas S. Burack
Commissioner

Glenn D. Normandeau
Executive Director



MEMORANDUM OF AGREEMENT
BETWEEN
THE NEW HAMPSHIRE DEPARTMENT OF ENVIRONMENTAL SERVICES
AND
THE NEW HAMPSHIRE FISH AND GAME DEPARTMENT



Akers Pond Dam, Errol - Dam #080.02

Pg. 1 of 2

I. PURPOSE

The purpose of this Memorandum of Agreement (MOA) is to outline the responsibilities for the performance of the repair of Akers Pond Dam in Errol.

II. PARTIES

The parties to this agreement are the New Hampshire Department of Environmental Services (hereinafter DES) and the New Hampshire Fish and Game Department (hereinafter NHFG).

III. AUTHORITY

This agreement is entered into pursuant to RSA 482:55 which states that the State of New Hampshire has a commitment to maintain its dams and impoundments for future generations and promote the safety of the public. The NHFG is the owner of the Akers Pond Dam in Errol.

IV. SCOPE OF WORK

The purpose of this project is to repair the Akers Pond Dam spillway and abutments in Errol.

The DES agrees to complete, under this MOA, all of the following:

1. Apply for and obtain, on behalf of the NHFG, all state and local permits required for the completion of the project.
2. Perform the engineering and detailed design of the project.
3. Conduct the proposed work on a force account basis.
4. Leave all disturbed areas with a neat and clean appearance.

The NHFG agrees to complete, under this MOA, all of the following:

1. Furnish and execute any easements and leases necessary for the work.
2. Allow the pond to be lowered.

V. FUNDING

The NHFG will provide funding from NHFG 2005 Capital Budget Account #30-07500-04420000-034-500157, Dam Reconstruction, to the Dam Maintenance Program, Dam Projects, Account #03-44-44-442010-3831-009 RA#407634, in the amount of \$219,538. These funds will be transferred to the Dam Maintenance Program account prior to the start of the project.



**MEMORANDUM OF AGREEMENT
BETWEEN
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THE NEW HAMPSHIRE FISH AND GAME DEPARTMENT**



Akers Pond Dam, Errol - Dam #080.02

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VI. TERMINATION

Either party may terminate this agreement upon providing written notice to the other, thirty (30) days prior to termination.

VII. DURATION

This agreement shall continue in effect through June 30, 2012 unless terminated earlier by either party, or extended in writing by subsequent agreement of the parties.

VIII. AGREEMENT

In WITNESS WHEREOF, the parties hereto have executed this Agreement, which shall become effective on the date the Governor and Council of the State of New Hampshire approve this Agreement.

Starting Date:

NH Department of Environmental Services

NH Fish and Game Department

Thomas S. Burack
Thomas S. Burack, Commissioner

Glenn Normandeau
Glenn Normandeau, Executive Director

August 19, 2010
Date

8/24/10
Date

Approved as to form, substance and execution:

Evan Mitchell
Evan Mitchell, AAG
Department of Justice

8-27-10
Date