



STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION



JANET T. MILLS
GOVERNOR

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) ORDER OF OFFICIAL NOTICE
L-30629-36-A-N)

As set forth in the First Procedural Order, the Maine Department of Environmental Protection (Department), pursuant to the *Maine Dam Registration, Abandonment, and Water Level Act*, 38 M.R.S. § 840(1), will be conducting an adjudicatory hearing (or, public 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).

Pursuant to the Department’s *Rules Governing the Conduct of Licensing Hearings*, 06-096 ch. 3, § 20(C):

“**Official Notice.** Official notice may be taken of any facts of which judicial notice could be taken; of any general, technical, or scientific matters within the Department’s specialized knowledge; and of statutes, regulations, and non-confidential agency records. Parties will be notified of material so noticed and will be afforded an opportunity to contest the substance or materiality of the matters noticed. Facts officially noticed will be included and indicated as such in the record.”

The hearing officer in this proceeding hereby takes official notice of the following attached facts and exhibits as provided by Claire Briggs, Environmental Specialist II for the Bureau of Land Resources of the Maine Department of Environmental Protection:

<u>Exhibit</u>	<u>Description</u>
DEP-1	Copy of water level law (38 M.R.S. §§ 817-843)
DEP-2	North Pond Dam Location and MDIFW Depth Map
DEP-3	Department Order #L-14807-02-A-N dated October 1, 1987, Water Quality Certification
DEP-4	Dam Height and Jurisdiction Letters

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) THIRD PROCEDURAL ORDER
L-30629-36-A-N)

DEP-5 MDIFW Comment

DEP-6 Division of Environmental Assessment letter to Kennebec County Soil and Water Conservation District
RE: 604b Grant Project #20210010 North Pond Watershed-Based Management Plan

DEP-7 North Pond Watershed-Based Management Plan (2024-2033)

DEP-8 Division of Environmental Assessment letter to Kennebec County Soil and Water Conservation District
Accepting the North Pond Watershed-Based Management Plan as an approved Nine Element plan for protection.

DEP-9 Department Fact Summary Sheet

All parties may file objections to any of the attached facts or exhibits on or before **Friday, February 21, 2025, at 5:00 P.M.**

All parties may file rebuttals to any of the attached facts or exhibits on or before **Friday, March 21, 2025, at 5:00 P.M.**

Dated: January 22, 2025

/s/ Ronald Mongeon

Ronald Mongeon, Presiding Officer