



SMUGGLERS' NOTCH
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To: Members of the Senate Natural Resources and Energy Committee

From: Mark Delaney
Chief Planning and Development Officer
Smugglers' Notch Resort

4/21/14

Re; H590 Dam Safety

Greetings;

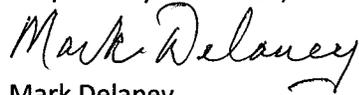
Thank you for the opportunity to comment on the proposed legislation. Smugglers' Notch Resort owns three dams, two of which meet the current jurisdictional threshold of the Department of Environmental Conservation. Two dams that meet the 500,000 cubic foot size cutoff are off stream reservoirs used for snowmaking water storage and summer recreation, impounding 20 Mg and 6 Mg respectively. The third is a 2.5 Mg on-stream impoundment used as a water supply for snowmaking, domestic water, and fire protection. All three are constructed earthen dams. I offer the following comments:

- **Definitions:** My friends in the agricultural community won't like to hear this but I don't agree with excepting agricultural waste impoundments that meet the jurisdictional threshold for dams. I don't believe many of these impoundments will meet the threshold but the ones that do are certainly large enough to be worthy of some oversight from a safety perspective. Perhaps the Agency of Agriculture already performs this function?
- **Jurisdiction:** While I concur that the Public Service Board should regulate the generation of electricity through the Certificate of Public Good process, I do not believe that both the PSB and DEC should be regulating dams. In the interest of efficiency and effectiveness, I would suggest that the oversight of permitting, construction, and safety of dams should rest with one entity, probably DEC, no matter what the purpose of the dam. We are a small State; why not invest in developing the appropriate expertise to regulate these structures in one entity, not two?
- **Safety:** Given my experience with Smugglers' structures and my involvement with emergency planning at the local and regional level, I would point out that on-stream impoundments are a completely different matter compared to off-stream ones. It may be appropriate to consider a lower jurisdictional threshold for on-stream impoundments than the 500,000 cubic foot level. I would be interested to hear the DEC perspective on this.
- **Registration:** I would suggest that all dams should be registered, regardless of size. A town by town inventory could be very helpful for emergency planners in an Irene type event. The fee can be limited to those that fall within the jurisdictional threshold. As for the annual registration fees, they are not especially onerous for a business of our size but they are yet another financial burden and could present a barrier to smaller entities. However, if some perceptible value is derived by the dam owner, then they are more justifiable. For example, in Smugglers' case, the permit for our 20 Mg reservoir contains a condition requiring annual inspection and reporting thereof by a qualified PE. Since we already have him on site, we inspect our other two dams at the same time; a fact which our insurance company takes note of although they do not require

it. DEC will come by about every three years and perform their inspection. The system should provide for one or the other; either DEC performs the inspections or they are required of the dam owner and reported to DEC but the redundancy could be eliminated.

- Inspections: Once again, I would differentiate between on-stream and off-stream impoundments. On-stream impoundments take a lot more abuse from Mother Nature, may present a greater hazard and probably should be inspected annually. Off-stream-impoundments, on the other hand, could probably be inspected less often, perhaps every three years.

Respectfully submitted,



Mark Delaney
Smugglers' Notch Resort

Cc/Parker Riehle, VSAA
Senator Richard Westman