

Town of Washington, NH  
Board of Selectman  
7 Halfmoon Pond Road  
Washington, NH 03280

5 July 2023

RE: APDVD Redistricting Petition

Dear Selectman:

Enclosed, please find a petition (see Appendix A), requesting that the village district boundaries of Ashuelot Pond Dam Village District (APDVD) be changed and redrawn to include, at a minimum, all of Lake Ashuelot Estates, all of the Ashuelot Pond Association properties, and all other properties on Ashuelot Pond. Further consideration should be given to including properties on the Ashuelot River and downstream watershed.

New Hampshire Revised Statutes Annotated (RSA) 52:5 (see Appendix B), outlines the process for changing boundaries. RSA 52:1 (see Appendix C) outlines the process for the initial establishment of the boundaries and is included as RSA 52:5 II specifies that changes in boundaries shall be ratified before taking effect by the voters currently within the district and those being proposed to be added to the district in the same manner as the initial establishment of the district. For additional reference, we have included an Environmental Fact Sheet outlining the formation of a village district for the purpose of impounding water (see Appendix D) and a Village Districts Frequently Asked Questions (FAQ) document produced by the NH Department of Revenue Administration (see Appendix E). The last question on page 3 of the FAQ document pertains to the process of changing the district boundaries. While RSA 52:5 does not specify the number of petitioners nor whether the petitioners are district residents, as RSA 52:1 specifies the number and residency of petitioners for establishing a village district, we have included at least 10 voters domiciled in APDVD, as indicated on the petition.

In 2007, the Board of Selectman voted to deny a similar petition citing two major findings: (a) lack of evidence of financial hardship to the APDVD residents in costs of dam upkeep or insurance that would warrant an expansion of the district, and (b) no evidence that the residents to be included within the APDVD receive some benefit from the APDVD that they should otherwise not be entitled to receive.

Property owners on Ashuelot Pond and Ashuelot River who do not reside within the APDVD enjoy both financial (e.g., property values, rental values) and recreational values (e.g., boating, swimming, snowmobiling, fishing, access to properties) that would not otherwise exist if the dam were removed. Moreover, the APDVD has struggled to keep up with the increasing financial responsibility of maintaining the dam and meeting conditions outlined in a 2012 Letter of Deficiency (see Appendix F) and 2022 Letter of Deficiency (see Appendix G) issued by the New Hampshire Department of Environmental Services, Dam Bureau (NHDES). It is extremely important to remedy the deficiencies to ensure the safety of the dam, which was recently reclassified as a high hazard dam. Please note item #11 in the 2022 Letter of Deficiency (see Appendix G) which requires by August 1, 2024 the submission of an application for the reconstruction or removal of the dam consistent with the findings and recommendations from the engineering analysis and approvals from NHDES. Consideration should be given to the impact of property values should the dam be removed and the extent to which these properties contribute to the tax base.

Expanding the boundary of the APDVD would help mitigate costs per APDVD taxpayer. The 2023 APDVD Updates and Dam Repairs letter (see Appendix H) issued to APDVD voters along with the 2023 warrant (see Appendix I) outlines the extent of completed work over the past year and upcoming costs. Expected costs to complete dam repairs and come into compliance with the 2022 Letter of Deficiency are estimated, by NH DAMS LLC, to be between \$200,000 and \$250,000. Updates and repairs dating back to July 2021 can be found on the APDVD website, <https://www.laeinc.org/copy-of-dam-district>. Moreover, upon request, we can supply additional financial evidence of the increasing costs from 2007 to maintain the dam.

The APDVD commissioners and the undersigned respectively request that you grant this petition, notice current and prospective village district residents of a public hearing to discuss the changes in the APDVD boundaries as determined by the Board of Selectman and through the discussions at the hearing, and allow the voters an opportunity to ratify new boundaries.

Sincerely,

Rich Andrusiak  
Gary Carney  
Gary Mahaffy  
APDVD Commissioners







## Appendix B—RSA 52:5 Changing Boundaries

### TITLE III TOWNS, CITIES, VILLAGE DISTRICTS, AND UNINCORPORATED PLACES

#### CHAPTER 52 VILLAGE DISTRICTS

##### Section 52:5

###### 52:5 Changing Boundaries. –

- I. The selectmen of towns in which any such district has been established upon petition, after notice to parties interested and a hearing, may change the boundaries thereof; and the district shall cause the petition and the return of the selectmen's proceedings and decision thereon to be recorded in the records of the district, and of the towns in which it is situated, within 60 days after the decision.
- II. In the case of any district formed for the purpose of impoundment of water, any such change of boundaries shall be ratified before taking effect by the voters domiciled in the district and in any area proposed to be added to the district in the same manner as is required for the initial establishment of the district.
- III. In the case of any district formed for the purpose of the supply of water for domestic and fire purposes, which may include the protection of sources of supply, any such change of boundaries shall be ratified before taking effect by the voters domiciled in the district and in any area proposed to be added to the district in the same manner as is required for the initial establishment of the district.

**Source.** 1853, 1421. GS 97:6. GL 107:6. 1887, 28:1. PS 53:4. PL 57:5. RL 70:5. RSA 52:5. 1975, 13:2. 2002, 174:2. 2003, 289:17, eff. Sept. 1, 2003.

<https://www.gencourt.state.nh.us/rsa/html/iii/52/52-mrg.htm>

## Appendix C—RSA 52:1 Establishment of District Boundaries

### TITLE III TOWNS, CITIES, VILLAGE DISTRICTS, AND UNINCORPORATED PLACES

#### Chapter 52 VILLAGE DISTRICTS

##### Section 52:1

###### 52:1 Establishment. –

I. Upon the petition of 10 or more voters, persons domiciled in any village situated in one or more towns, the selectmen of the town or towns shall fix, by suitable boundaries, a district including such parts of the town or towns as may seem convenient, for any of the following purposes:

- (a) The extinguishment of fires;
- (b) The lighting or sprinkling of streets;
- (c) The planting and care for shade and ornamental trees;
- (d) The supply of water for domestic and fire purposes, which may include the protection of sources of supply;
- (e) The construction and maintenance of sidewalks and main drains or common sewers;
- (f) The construction, operation, and maintenance of sewage and waste treatment plants;
- (g) The construction, maintenance, and care of parks or commons;
- (h) The maintenance of activities for recreational promotion;
- (i) The construction or purchase and maintenance of a municipal lighting plant;
- (j) The control of pollen, insects, and pests;
- (k) The impoundment of water;
- (l) The appointing and employment of watchmen and police officers;
- (m) The layout, acceptance, construction, and maintenance of roads; and
- (n) The maintenance of ambulance services.

II. The voters who are domiciled in any village shall cause a record of the petition, pursuant to paragraph I, and their proceedings thereon to be recorded in the records of the towns in which the district is situate.

Source. 1849, 852:1. CS 116:1. GS 97:1. GL 107:1. 1889, 82:1. PS 53:1. 1909, 27:1. 1911, 5:1. PL 57:1. 1939, 108:1. RL 70:1. RSA 52:1. 1957, 179:1. 1961, 120:3. 1975, 13:1; 455:1. 1977, 154:1. 1981, 375:1. 2003, 289:14, eff. Sept. 1, 2003.

<https://www.gencourt.state.nh.us/rsa/html/iii/52/52-mrg.htm>

## Appendix D—Environmental Fact Sheet (NHDES): Forming a Village District for the Purpose of Impounding Water

### ENVIRONMENTAL Fact Sheet



29 Hazen Drive, Concord, New Hampshire 03301 • (603) 271-3503 • [www.des.nh.gov](http://www.des.nh.gov)

DB-12

2020

### Forming a Village District for the Purpose of Impounding Water

A village district may be formed for many reasons. This fact sheet is limited to the formation for the intent of impounding water.

#### Petition and Town Meeting

A Village District is formed upon petition of 10 or more legal voters of a town. The petition is then brought to the town, at which time the selectmen of the town call a meeting of the legal voters to establish the district. At the meeting the voters may establish the district boundaries, name the district and name the officers. After this, the district becomes a corporate and political body. The newly formed Village District has the powers of the town. Upon formation of a village district the following information should be filed with the New Hampshire Secretary of State: the name of the district, the powers granted and the territorial boundaries.

#### Officers and Annual Meetings

The officers required for the formation of a Village District are moderator, clerk, three commissioners, treasurer, and others that may be required to assure proper management of the district. If the Village District is in more than one town, a joint board is formed. The duties of the officers are similar to those of the town. The annual meetings of Village Districts are held on the second Tuesday in March, unless a vote is held to change this date. The notification of upcoming meetings of a Village District is performed in the same manner as town meetings.

#### Tax Reports

If the Village District is completely within one town, the commissioner shall annually, within 10 days after the annual meeting, certify to the tax commissioner a certificate of the several appropriations and estimated revenues and other information that the tax commission may require. The district treasurer shall report to the state tax commission on the district officers. Selectmen assess the properties of the Village District and submit evaluation with tax assessment to the town clerk. The selectmen then collect district taxes from the properties and pay the treasurer of the district. The Village District has the authority to acquire property by eminent domain.

For more information relative to the design, construction, maintenance and operation of dams, please contact the NHDES Dam Bureau at (603) 271-3406 or email [damsafety@des.nh.gov](mailto:damsafety@des.nh.gov).

This fact sheet is accurate as of December 2019. Statutory or regulatory changes or the availability of additional information after this date may render this information inaccurate or incomplete.

1

<https://www.des.nh.gov/documents/db-12-forming-village-district-purpose-impounding-water>



## **Appendix E—NH Department of Revenue Administration: Village Districts Frequently Asked Questions**

Please see <https://www.revenue.nh.gov/mun-prop/municipal/technical-assistance.htm> for the full document, *Village Districts: Frequently Asked Questions*.

### **Can a village district’s boundaries be changed? By whom?**

Yes, boundaries may be changed. Per RSA 52:5, in general, upon the receipt of a petition, the selectmen shall notice a hearing to change the boundaries, after which they may change the boundaries. Village districts for impoundment or distribution of water must have the boundary change ratified by vote at the annual meeting.

### **What happens if the district is in more than one town?**

---

## Appendix F—2012 NHDES Letter of Deficiency Dam #D245005

Mr. Robert Adamek  
Commission Chairman  
Ashuelot Pond Village District  
306 Coolidge Drive  
Washington, NH 03280

July 10, 2012  
**Letter of Deficiency**  
DSP #12-056

RE: Ashuelot Pond Dam #245.05, Washington

### NEW STATUTORY PENALTY PROVISIONS PLEASE READ CAREFULLY

Dear Chairman Adamek:

The Department of Environmental Services, Dam Bureau (DES) is responsible for ensuring the safety of dams in New Hampshire through its dam safety program. One of the many tools that help us to reach this goal is our dam inspection program.

In accordance with RSA 482:12 and Env-Wr 302.02, an inspection of the subject dam was conducted on September 13, 2011. Based upon the results of that inspection, as well as upon additional investigation or analysis that may have been conducted, DES is issuing this Letter of Deficiency (LOD) to advise you that it believes the following deficiencies can be remedied in accordance with the deadlines indicated:

**On a Continuing Basis:**

1. Monitor the leak near the right side of the gate section of the dam (See photos H-J);
2. Monitor the condition of the secondary spillway to assure it is free-flowing and not blocked by debris;

**By October 31, 2012:**

3. Prepare the enclosed Operations, Maintenance, and Response form (OMR) and return it to the Dam Bureau;
4. Engage the services of a consultant qualified\*\*\* in dam-related work to complete an engineering evaluation or analysis of, at a minimum, the items noted below and submit a report to DES. The report should include all investigation findings and include recommendations and a schedule for repair, as warranted, to make the dam compliant with the current standards for Significant Hazard dams:
  - A. Assess the hydrology of the watershed to determine if the dam is capable of safely passing the runoff from the 100-year storm event or the inflow design flood with a minimum of one foot of remaining freeboard and without manual operations. The inflow design flood is the flood flow above which a failure of the dam causes no incremental damages consistent with the dam's current hazard classification;
  - B. Prepare a revised breach analysis using the data gathered in item (a), above in the event that the 100-year storm is different than that used for the breach analysis in 1997. The breach analysis used a number of 2525 cfs for the base flow of a 100-year storm, which is from the old Kinnison-Colby inflow hydrograph;

Letter of Deficiency  
Dam #245.05/DSP #12-056  
July 10, 2012  
pg. 2

- \*\*\* Env-Wr 403.03 of DES's dam safety regulations requires consultants to have a minimum of 5 years of engineering experience related to the design and construction of similar dam projects, as determined by the department after a review of the engineer's resume.
5. Level and re-seed the crest of the dam so that it is consistent in elevation in all areas and well-vegetated (See photos B-G);
  6. Remove the brush and trees from the upstream and downstream faces of the dam (See photo A, H, K, L, M, N, O, and P);
  7. Remove the brush and trees from the left spillway abutment of the primary spillway and left end of the dam to a distance of 15 feet surrounding the left spillway abutment (See photos Q-S);
  8. Since actual events have shown that an overtopping failure of the Village Pond Dam can be reasonably expected to occur during a failure of the Ashuelot Pond Dam under certain conditions, this should be added to the EAP for this dam. The EAP revision submitted April 18, 2012 should be updated to reflect this information, and should then be distributed and the notification flowchart tested in accordance with Env-Wr 507.01. The EAP should be tested every 4 years thereafter for a "Significant hazard" dam;

**By May 31, 2013:**

9. Submit to the Dam Bureau the results of the investigation/analyses requested in item #4, above, as well as any permit applications required. Any Inflow Design Flood (IDF) analysis can be included if utilized. The activity of modifying the outlet will likely require a formal permit from both the Dam Bureau and the Wetlands Program;

**By December 31, 2014:**

10. Reconstruct the dam, as necessary, in accordance with the permit issued as part of item #9, above, such that it meets the current requirements for Significant hazard dams; and
11. Submit deeds and/or property agreements to allow the APDVD to flow water through the primary and secondary spillways and to access and maintain all components of each, as appropriate.

Our intent in issuing this LOD is to make you aware of items that require your attention to ensure the continued safe operation of your dam. It is our hope that, through the return of the attached form and correction of the identified deficiencies, you will develop and maintain a commitment to keeping a safe and well-maintained dam.

Please note that effective January 1, 2009, significant changes to the penalty provisions of New Hampshire's dam safety statute (RSA 482) became effective. These changes require DES to commence proceedings to levy fines of up to \$2,000 per violation per day against a dam owner who does not respond within 45 days of receipt of a written order, directive, or any notice of needed maintenance, repair, or reconstruction issued by DES. To avoid proceedings under this provision, you **must respond** to this LOD. We believe the easiest way to respond is to sign and return the attached "Intent to Complete Repairs" form, either agreeing to correct the identified deficiencies by the dates indicated OR by proposing amendments to the listed work items or dates, which you may do by writing directly on the form. DES will evaluate and respond to any reasonable requests for proposed amendments in a timely

Letter of Deficiency  
Dam #245.05/DSP #12-056  
July 10, 2012  
pg. 3

manner. We have enclosed a self addressed stamped envelope for you to return this form. You may also scan and e-mail the completed form to [damsafety@des.nh.gov](mailto:damsafety@des.nh.gov) or fax it to (603) 271-6120. **If you fail to return this form within 45 days or fail to otherwise respond in writing within 45 days indicating your intent to remedy the identified deficiencies, you will not have the benefit of the compliance deadlines indicated on the form and DES will commence a proceeding under RSA 482:89 to seek administrative fines for the identified deficiencies.** Please note that responding as required does not preclude DES from pursuing other appropriate action for the identified deficiencies, in accordance with the DES Compliance Assurance Response Policy, available on-line at <http://des.nh.gov/organization/commissioner/legal/carp/index.htm>.

If you have any questions or comments regarding this LOD or would like to be present at future inspections, please contact Brian Desfosses, P.E. at 271-3406 or write to the address for the Water Division listed on the bottom of the cover page.

Sincerely,

Steve N. Doyon, P.E., Administrator  
Dam Safety and Inspection

Attachments: Dam Report, Photos, Drawing, Copy of 2008 OMR form and blank form for update, DB8, DB13  
cc: DES Legal Unit  
Town of Washington

Certified # \_\_\_\_\_

SND/BAD/was/h:/damfiles/24505/LOD/20120710 24505 LOD.doc

## **Appendix G—2022 NHDES Letter of Deficiency Dam #D245005**

Please contact the APDVD Commissioners if you require the entire letter detailing the Dam Inspection Form, supporting photographs, and additional referenced materials. The main contents of the letter begin on the next page.



The State of New Hampshire  
**DEPARTMENT OF ENVIRONMENTAL SERVICES**



**Robert R. Scott, Commissioner**

Mr. Gary Carney, Chairman  
Ashuelot pond Dam Village District  
P.O. Box 105  
Washington, NH 03280

August 9, 2022  
**Letter of Deficiency**  
DSP #22-003

RE: Ashuelot Pond Dam #D245005, Significant to High, Washington

Dear Chairman Carney:

The New Hampshire Department of Environmental Services, Dam Bureau (NHDES) is responsible for ensuring the safety of dams in New Hampshire through its dam safety program. In accordance with RSA 482:12 and Env-Wr 302.02, an inspection of the subject dam was conducted on July 12, 2022. Based upon the results of that inspection, NHDES is issuing this Letter of Deficiency (LOD) to advise you that it believes the following deficiencies can be remedied in accordance with the deadlines indicated:

**By October 1, 2022:**

1. Provide plans for the replacement of the gate and repair of the voids in the gate sluiceway for review. We understand that the owner is working with NH Dams, LLC and M&K Commercial Diving. Once the exact scope of work has been established a determination will be made on the need for a dam safety program permitting. The work will also require a permit from the NHDES Wetlands program.
2. Provide documentation (deed, easement, agreement etc.) indicating that the APVD has an access and maintenance rights to access the far (east) spillway for routine maintenance, repairs and reconstruction.
3. Debris or other material was noted in the following outlet structures and should be removed as soon as possible. Such material will obstruct flow, lessen the dam's ability to function efficiently and increase the risk that the dam may be overtopped – which could lead to failure.
  - a. Debris including a large tree stump were observed on the spillway crest (Photos: 9 – 10).
4. Provide copies of the seepage monitoring logs for review.
5. Provide a written plan for implementation of the items in this LOD to NHDES for review and approval.

**By November 15, 2022:**

6. Review and update the existing Operation, Maintenance and Response (OMR) form for the dam. Please submit the revised form to NHDES. The form should include all pertinent dam and contact information, as well as describe the type and frequency of the maintenance and monitoring items that routinely occur at the dam. A blank form may be found at: <https://www.des.nh.gov/water/dam-maintenance-and-management>. Scroll down and select the Dam Permitting and Forms tab and then the Find Permit Applications box.

[www.des.nh.gov](http://www.des.nh.gov)  
29 Hazen Drive • PO Box 95 • Concord, NH 03302-0095  
(603) 271-3503 • Fax: (603) 271-6120 • TDD Access: Relay NH 1-800-735-2964



Letter of Deficiency  
Dam #D245005/DSP #22-003  
August 9, 2022  
pg. 2

7. Complete the installation of a new gate and repair of the voids in the gate sluiceway per the plans approved by NHDES.
8. The current Emergency Action Plan (EAP) was last updated and last tested in 2016. Please update, at a minimum, the Notification Flow Chart and distribute the updates. Once the updates have been distributed, the EAP should be tested.
9. Trees, brush or other unwanted vegetation was noted in the following locations. Such vegetation should be removed and kept at least 15 feet from the entire footprint of the dam and all components of the dam to preserve a buffer for inspection, access and maintenance/repair. After clearing occurs, any disturbed areas should be properly regraded and protected with an appropriate ground cover (grass, riprap stone or other treatments) to prevent erosion of or damage to the dam and its components.
  - a. Minor brush on the crest (Photos: 1, 8, 11 & 12);
  - b. Minor brush observed on the upstream stone face/slope (Photos: 1 & 8);
  - c. Brush and trees were observed on the downstream stone face and within 15-ft of the downstream face (Photos: 2 - 5);
  - d. Minor brush within 15-feet of the left and right spillway abutments for the near (West) (Photos: 6 - 8); and
  - e. Brush and trees within 15-feet of the left and right spillway abutments for the far (East) (Photos: 9 - 10)

**By January 1, 2023:**

10. Engage the services of a consultant qualified in dam-related work to complete an engineering evaluation or analysis of, at a minimum, the items noted below and submit a report to NHDES. The report should include all investigation findings and include recommendations and a schedule for reconstruction, as warranted, to make the dam compliant with the current standards for High hazard dams. In order to ensure that the selected consultant meets the requirements of Env-Wr 403.03(a)(1), NHDES recommends that you submit the resume of your proposed engineering consultant for review in accordance with Env-Wr 403.03 (a)(1) prior to contracting services.
  - a. Assess the hydrology of the watershed to determine if the dam is capable of safely passing the runoff from the 2.5 x 100-year storm event with a minimum of one foot of remaining freeboard and without manual operations or otherwise comply with Env-Wr 303.12;
    - i. NHDES approved a model in March 2021 for use in evaluating the dam. This model can be used at the discretion of the approved engineering consultant.
    - ii. Discharge capacity of the far (east) spillway can only be included if the APVD has an access and maintenance easement or similar legal document allowing them access to this spillway.
  - b. Perform a breach analysis to evaluate impacts to downstream infrastructure and development. Breach modeling should consider base flows from sunny day to 100-year conditions. This analysis should be used to provide an inundation map for the Emergency Action Plan (EAP).
  - c. Provide plans for a permanent gate replacement if the 2022 gate work was intended to be temporary.

Letter of Deficiency  
Dam #D245005/DSP #22-003  
August 9, 2022  
pg. 3

Note: As part of the most recent inspection, NHDES performed a breach analysis to evaluate the impacts associated with potential dam failure. The results indicate that the dam is more appropriately classified as a High hazard structure and that it has insufficient discharge capacity to pass the required design event for such dams. NHDES will provide related information to your or your engineering consultant upon request.

**By August 1, 2024:**

11. Submit an application for reconstruction or removal of the dam consistent with the findings and recommendations of your engineering consultant and related approvals by NHDES. Permits from the NHDES Dam Safety and/or Wetlands programs will likely be required depending on the proposed scope of work.
12. Submit a fully updated Emergency Action Plan (EAP). Please visit NHDES's Dam Safety, Maintenance and Management webpage and click the Emergency Action Plans tab to access the complete set of administrative rules related to EAPs, as well as to view the current template and other EAP guidance.

**On a continuing basis:**

13. Leakage, seepage, wet areas or standing water was noted in the following areas. All such areas should be monitored periodically with a log of specific observations and a notation of the water level of the lake/pond. It is recommended that you include attention to these areas in your written OMR form so that individual observations may be compared over time to note changes or trigger the need to take remedial action. Should existing conditions worsen notably or new areas develop, or if discharge becomes cloudy/muddy (an indication that soil material may be moving within the dam or its foundation), please contact NHDES immediately.
  - a. Historic leakage/seepage from the gate outlet and right of the gate outlet.
14. Monitor the condition of the concrete in the near (west) spillway, repairing deterioration as needed.
15. Routinely clear debris from the spillways to allow for unrestricted flow.
16. Routine brush and tree removal from the dam, abutments and within 15-ft of the dam and spillways.

Please note that under New Hampshire's state statute RSA 482:89, NHDES may commence proceedings to levy fines of up to \$2,000 per violation per day against a dam owner who does not respond within 45 days of receipt of a written order, directive, or any notice of needed maintenance, repair, or reconstruction issued by NHDES. To avoid proceedings under this provision, you **must respond** to this LOD. If you fail to return this form within 45 days or fail to otherwise respond in writing within 45 days indicating your intent to remedy the identified deficiencies, you will not have the benefit of the compliance deadlines indicated on the form and NHDES will commence a proceeding under RSA 482:89 to seek administrative fines for the identified deficiencies. Please note that responding as required does not preclude NHDES from pursuing other appropriate action for the identified deficiencies, in accordance with NHDES Compliance Assurance Response Policy, available on-line at <https://www.des.nh.gov/rules-and-regulatory/rulemaking-and-enforcement>.



Letter of Deficiency  
Dam #D245005/DSP #22-003  
August 9, 2022  
pg. 4

We believe the easiest way to respond is to sign and return the attached "Intent to Complete Repairs" form, either agreeing to correct the identified deficiencies by the dates indicated OR by proposing amendments to the listed work items or dates, which you may do by writing directly on the form. NHDES will evaluate and respond to any reasonable requests for proposed amendments in a timely manner. We have enclosed a self-addressed stamped envelope for you to return this form. You may also scan and e-mail the completed form to [damsafety@des.nh.gov](mailto:damsafety@des.nh.gov) or fax it to (603) 271-6120.

Our intent in issuing this LOD is to make you aware of items that require your attention to ensure the continued safe operation of your dam. It is our hope that, through the return of the attached form and correction of the identified deficiencies, you will develop and maintain a commitment to keeping a safe and well-maintained dam. If the condition of the dam or the status of any of the noted deficiencies has changed since the inspection, please note this information on the attached intent form.

If you have any questions or comments regarding this LOD or would like to be present at future inspections, please contact Jim Weber, P.E. at 271-8699 or me at 271-3406 or write to the address for the Water Division listed on the bottom of the cover page.

Sincerely,



Steve N. Doyon, PE  
Chief Dam Safety Engineer  
Dam Safety & Inspection Section

Attachments: Inspection Report, Inspection Photos, Failure Impact Table, Drawing, Copy of 2012 OMR,  
Blank OMR form, DB13  
cc: NHDES Legal Unit  
Town of Washington  
Town of Marlow

Certified # 7017 3040 0000 7493 4513  
SND\JRW\was\s:\WD-Dam\damfiles\D245005\LOD\20220722 D245005 LOD.docx

## Appendix H—2023 Letter to APDVD Voters

Ashuelot Pond Dam Village District Inhabitants  
Washington, NH 03280

16 June 2023

RE: APDVD Updates and Dam Repairs

Dear APDVD Member:

The purpose of this letter is to provide updates relative to the work completed on Ashuelot Pond Dam, Dam #D245005, since the 2022 Annual Meeting, outline the agenda for future work, and justify the funding requested in Warrant Articles 3 and 4.

### Temporary Gate Work

At the July 2022 APDVD Annual Meeting, the discussion focused on the installation of a new temporary gate, as the existing gate, at the time, was deteriorating resulting in substantial leakage impacting the water level of the pond and the safety of the downstream watershed. Moreover, a discussion ensued as to whether we were waiting on the NH Department of Environmental Services (NHDES) approval of dam reconstruction permits. After the 2022 Annual Meeting, it was determined that we were not waiting for the approval of permits for the temporary gate work.

As such, the APDVD Commissioners contracted NH DAMS, LLC, and M&K Commercial Diving to begin the work on the temporary gate replacement in preparation for a permanent gate. Substantial repairs and concrete work needed to be done to the gatehouse (the concrete structure, in the water, that contains the gate) prior to the installation of the temporary gate. The concrete work and temporary gate replacement were completed in December 2022 and a traditional three-foot drawdown was initiated.

When the temporary gate was lowered to dewater the gatehouse water pit (area between the temporary gate and existing gate), substantial leakage was observed through the existing gatehouse inlet lintel. The leakage prevented the dewatering of the water pit, a necessary step for qualified engineers to evaluate the water pit. Additional details can be located on the Lake Ashuelot Estates (LAE) website, <https://www.laeinc.org/copy-of-dam-district>, by viewing the Preliminary Temporary Gate Plans and Observation Report from February 2023.

### NHDES Issues Letter of Deficiency

On August 9, 2022, the APDVD Commissioners received a Letter of Deficiency (LoD) from NHDES outlining numerous action steps to ensure the safety of the dam, based upon an inspection conducted in July 2022. The full LoD can be viewed on the LAE website. Highlights include:

- Completion of the temporary gate work and repair of voids in the gate sluiceway;
- Required updates to several forms;
- Hiring qualified engineers to evaluate the water pit and assess the hydrology of the watershed to determine if the dam can pass runoff from a 100-year storm event;
- Providing plans for a permanent gate replacement; and

- Maintaining the spillways.

After receiving the LoD, the dam was reclassified as a High Hazard dam. This classification allows APDVD to pursue grants for dam repairs. Unfortunately, to date, we have been unable to identify any relevant grants. We continue to monitor the opportunities with NHDES. Failure to respond to the LoD, per RSA 482:89, can result in the NHDES fining the dam owner up to \$2000/day.

### **Work Completed in the Past 12 Months & Ongoing Repairs**

To ensure compliance with the LoD, the APDVD Commissioners have completed the items outlined below since the 2022 Annual Meeting.

- Contracted NH DAMS, LLC, and M&K Commercial Diving to work on the items in the LoD.
- Completed the temporary gate work as described above.
- Updated and submitted the Operations, Management, and Response (OMR) form to NHDES.
- Posted safety signs at the dam.
- Issued a letter to Lucky 7 Farm informing them that their wilderness retreat and educational center campers are not to swim in front of the dam due to safety concerns.
- Monitored the dam for leakage/seepage.
- Drafted and secured a real-estate agreement with Ray Britton to obtain an easement to access the far (east) spillway for routine maintenance, repairs, and reconstruction.
- Updated the Emergency Action Plan (EAP) Notification Flowchart.
- We will run a test of the EAP Notification Flowchart soon.
- The leakage over the existing gatehouse inlet lintel is currently being remedied.

### **Future Work**

To continue compliance with the LoD, among other items, APDVD needs to continue to work toward a permanent gate, update the entire EAP, conduct an engineering analysis to evaluate the water pit and deem the structure stable and able to withstand the full pond hydrostatic pressures, assess the hydrology of the watershed to determine the capability of safely passing the runoff from the 100-year storm event, perform continued maintenance on the spillways, reinforce the dam and level the dam crest, install a baffle system to allow maintaining consistent water levels during drawdowns, and install an actuator for the operation of the gate. Moreover, NHDES expects us to be able to safely access the far (east) spillway in a high-water event. That access requires the installation of a bridge over the spillway closest to the dam. Ray Britton purchased the bridge. The installation of posts and piers is contingent upon many factors including a structural design and wetland permit application.

### **Redistricting**

The APDVD Commissioners have also researched redrawing district lines to include the non-LAE side of Ashuelot Pond and the downstream watershed in Washington. We have been in contact with attorneys from the NH Municipal Association (NHMA) related to RSA 52:5 which outlines the steps in drawing new boundaries.

In short, a petition needs to be sent to the Washington selectmen requesting that the boundaries change. It is their discretion to grant the petition. If so, a notice of a public hearing will be issued to all current and prospective village district residents. The boundary change requires ratification by a vote of current and prospective district residents, who are eligible to vote, at a district election held for that purpose. A previous attempt was rejected by the Washington selectmen in 2007 citing a lack of evidence of financial hardship in costs of dam upkeep to the residents of APDVD that would require an expansion. The APDVD Commissioners will work to put such evidence together to submit with a petition for expansion.

### **Budget**

As outlined in this letter, there is extensive work that still needs to be completed to bring the dam into compliance with the LoD. Please review the additional details in the documents referenced herein that are posted on the LAE website. Presently we have approximately \$36,000 in our Capital Reserve and Donation Accounts (\$30,000 in Capital Reserves; \$6000 in donations). We owe approximately \$24,500 upon the completion of the gate work. See Warrant Article 3 for additional details on registration fees, insurance, and other expenses. NH DAMS, LLC estimates about \$200,000 to \$250,000 to complete the additional work as outlined in the LoD and described within this letter. We are seeking \$100,000 for the Capital Reserve Fund so we can continue to comply with the LoD for the safe operation of our dam.

### **2023 Annual APDVD Meeting**

Please see the enclosed Warrant outlining the Articles to be acted upon on July 7, 2023, at 7 P.M. at Camp Morgan Lodge in Washington, NH. We encourage you to view the dam updates and additional details on the LAE website at <https://www.laeinc.org/copy-of-dam-district>. We have invited Bob Carter, owner of NH DAMS, LLC, and James Weber, NHDES Dam Safety Engineer, to our meeting to answer technical questions and provide additional details.

Sincerely,

Rich Andrusiak  
Gary Carney  
Gary Mahaffy  
APDVD Commissioners

## Appendix I—2023 APDVD Annual Meeting Warrant

### THE STATE OF NEW HAMPSHIRE ASHUELOT POND DAM VILLAGE DISTRICT VILLAGE DISTRICT ANNUAL MEETING WARRANT

To the inhabitants of the Ashuelot Pond Dam Village District in the Town of Washington and the County of Sullivan, qualified to vote in the Village District Affairs:

You are hereby notified to meet at Camp Morgan Lodge, Washington, NH, on Friday, July 7, 2023, at 7 p.m. to act on Articles 1-6.

Article 1. To vote to elect, by official ballot, one commissioner for 1 year; a moderator, a clerk, and an auditor, each, for a one-year term.

Article 2. To hear reports of all officers, committees, and agents of the Village District and take any action in relation thereto.

Article 3. To raise and appropriate the sum of thirty-two thousand dollars (\$32,000) for the purpose of:

Administration Expenses	\$7000
Legal Expenses	\$3000
Operation, maintenance, and repair expenses of the dam	\$15,000
Insurance	\$4000
Dam Registration Fees	\$2000
Regional Association Fees	\$1000

The Commissioners recommend this appropriation.

Article 4. To see if the Village will vote to raise and appropriate the sum of one hundred thousand dollars (\$100,000) to be added to the Ashuelot Pond Capital Reserve Fund, previously established.

The Commissioners are agents to expend.  
The Commissioners recommend this appropriation.

Article 5. To see when the District will schedule its 2024 Annual Meeting, or to take any action thereto.

Article 6. To transact any other business that may legally come before this meeting.