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H.P. 738

House of Representatives, February 26, 2019

An Act To Exempt from Permit Requirements the Repair of Low-head Dams

Reference to the Committee on Environment and Natural Resources suggested and ordered printed.

A handwritten signature in cursive script that reads "Robert B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative KESCHL of Belgrade.
Cosponsored by Representatives: ALLEY of Beals, BRENNAN of Portland, CAMPBELL of Orrington, COREY of Windham, DUNPHY of Old Town, MILLETT of Waterford, TUELL of East Machias, Senators: BLACK of Franklin, TIMBERLAKE of Androscoggin.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 38 MRSA §480-Q, sub-§2,** as amended by PL 2011, c. 205, §1, is further
3 amended to read:

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

6 A. Erosion control measures are taken to prevent sedimentation of the water;

7 C. There is no additional intrusion into the protected natural resource; and

8 D. The dimensions of the repaired structure do not exceed the dimensions of the
9 structure as it existed 24 months prior to the repair, or if the structure has been
10 officially included in or is considered by the Maine Historical Preservation
11 Commission eligible for listing in the National Register of Historic Places, the
12 dimensions of the repaired structure do not exceed the dimensions of the historic
13 structure.

14 This subsection does not apply to: the repair of more than 50% of a structure located in a
15 coastal sand dune system; ~~the repair of more than 50% of a dam, unless that repair has~~
16 ~~been approved by a representative of the United States Natural Resources Conservation~~
17 ~~Service;~~ or the repair of more than 50% of any other structure, unless the municipality in
18 which the proposed activity is located requires a permit for the activity through an
19 ordinance adopted pursuant to the mandatory shoreland zoning laws and the application
20 for a permit is approved by the municipality;

21 **Sec. 2. 38 MRSA §480-Q, sub-§2-D,** as enacted by PL 2011, c. 205, §3, is
22 amended to read:

23 **2-D. Existing crossings.** A permit is not required for the repair and maintenance of
24 an existing crossing or for the replacement of an existing crossing, including ancillary
25 crossing installation activities such as excavation and filling, in any protected natural
26 resource area, as long as:

27 A. Erosion control measures are taken to prevent sedimentation of the water;

28 B. The crossing does not block passage for fish in the protected natural resource
29 area; and

30 C. For replacement crossings of a river, stream or brook:

31 (1) The replacement crossing is designed, installed and maintained to match the
32 natural stream grade to avoid drops or perching; and

33 (2) As site conditions allow, crossing structures that are not open bottomed are
34 embedded in the stream bottom a minimum of one foot or at least 25% of the
35 culvert or other structure's diameter, whichever is greater, except that a crossing
36 structure does not have to be embedded more than 2 feet.

37 For purposes of this subsection, "repair and maintenance" includes but is not limited to
38 the riprapping of side slopes or culvert ends; removing debris and blockages within the

1 crossing structure and at its inlet and outlet; and installing or replacing culvert ends if less
2 than 50% of the crossing structure is being replaced;

3 **Sec. 3. 38 MRS §480-Q, sub-§2-E** is enacted to read:

4 **2-E. Low-head dams.** A permit is not required for the repair of any extent of a low-
5 head dam that is not a hydropower dam, whether privately or publicly owned, including
6 the reconfiguring of the low-head dam, as long as the water levels of the body of water
7 impounded by the dam do not vary by more than 24 inches;

8 **SUMMARY**

9 This bill exempts low-head dams from the permitting requirements for repair under
10 the Natural Resources Protection Act.