



**NATURAL RESOURCES BOARD**  
National Life Drive  
National Life Records Center Building  
Montpelier, Vermont 05620-3201

May 23, 2012

Jean Brewster Giddings, Esq.  
Fitts, Olson & Giddings, PLC  
16 High Street  
Brattleboro, VT 05301

*Re: Petition for Kenny Pond*

Dear Jean:

I presented your petition regarding Kenny Pond in Newfane to the Water Resources Panel on May 8. The Panel has some questions that it believes that it needs to have answered before it decides whether to proceed to rulemaking.

1. Paragraph 2 of the petition states that the pond is smaller than 20 acres. Do you have a survey to confirm this statement? If so, can that be provided to the Panel?
2. Can you provide a copy of the deed that shows the Palmer Trust's land?
3. The petition states at page 2 that the "pond abuts a public highway." Do you know the width of the town's right of way? Does the ROW extend to the water's edge?
4. The map which you have provided indicates that there may be parts of the pond that lie on both sides of the road. Is there a water or a wetland on the other side of the road? Does a culvert connect the two waterbodies? Are the water levels the same?

As you may be aware, Section 23 of S. 202 transfers the Panel's Use of Public Waters rulemaking authority to the Secretary of the Agency of Natural Resources. There is no provision in the bill to address matters which commenced before the act's effective date, and we are in the process of determining whether your petition should be addressed by the Panel or by the Secretary. I am certain that the Secretary would have the same questions for you as the Panel has, so, in the meantime, if you could respond to the Panel's questions, it will help to move this matter forward.

Sincerely,

  
John H. Hasen  
General Counsel

