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Our Ref:
Your Ref:
Date: 25 April 2014

Dear Stella

RESERVOIRS BILL COMMITTEE MEETING 8 APRIL 2014

Your letter of 10 April refers.

The Committee has sought information on a number of issues and the Department has provided the following comments:-

a) Supplementary financial memorandum

Thank you for sharing the costs on supervision, inspection and maintenance of reservoirs provided by NI Water and the Department for Social Development. These, together with the costs incurred by the Department on reservoirs for which it has responsibility, will assist with the preparation of the supplementary financial memorandum, which will be forwarded to the Committee soon.

b) Draft amendment to give Rivers Agency an oversight role, but not a regulatory role, in the costs for various engineers required under the Bill

This matter is still being considered and a response will be provided in due course.



c) Draft amendment that would accommodate the removal of operational requirements of all reservoirs that are low risk

The management requirements of a Low Risk reservoir are set out at Annex A and the Department has kept these to a minimum. A further discussion on this may be useful.

d) Rivers Agency should make the Minister aware of very real concerns that a consequence of this Bill could be the decommissioning of reservoirs

The Department will make the Minister aware of the Committee's concern regarding the possibility of reservoirs being decommissioned.

e) Consideration of a licensing regime with inspection and full cost recovery

The option of a Reservoir Licensing System was considered at the policy development stage. Key Stakeholders preferred the Panel Engineer System. These two options were subject to public consultation and the Panel Engineer System was the preferred option. This was subsequently agreed by the Executive. A summary of the Reservoir Licensing System considered is provided at paragraph 17 of the Explanatory and Financial Memorandum. Additional information on this System is provided at pages 11, 12, and 13 of the Consultation on Draft Proposals document, which was published March 2012.

f) Existing legislation namely Article 33 of the Drainage (NI) Order 1973 and Article 297 of the Water and Sewerage Services (NI) Order 2006

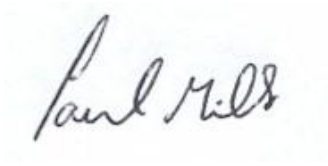
Article 33 of the Drainage (NI) Order 1973 and Article 297 of the Water and Sewerage Services (NI) Order 2006, were considered but were found not to be suitable for introducing comprehensive reservoir safety legislation.

Article 33 of the Drainage Order provides some controls in relation to dams and sluices. It provides powers for the Department, by notice served on the person in control of the dam, to require that person to *'to keep open or closed any sluice forming part of the dam, or otherwise to control the quantity of water in the dam'* for the purpose of *'preventing or arresting injury to land'*. However these powers cannot be served on a Government Department and, therefore, cannot be applied to the reservoirs owned by the Department, NI Water, or the Department for Social Development. Nor do they require inspection, maintenance or improvement to the structure in the interests of public safety.

Article 297 of the Water and Sewerage Services (NI) Order 2006 provides the Department for Regional Development with powers to make regulations regarding reservoir safety and construction *'the Department may make regulations with respect to the construction, inspection, maintenance and repair of reservoirs and dams'*. It was considered that this provision is limited to safety of reservoirs used for water abstraction and supply purposes and it therefore does not cover other public sector, private or 3rd sector reservoirs.

I would be grateful if you would bring this to the attention of the Committee.

Yours sincerely

A handwritten signature in black ink that reads "Paul Mills". The signature is written in a cursive style with a large initial 'P'.

Paul Mills
Departmental Assembly Liaison Officer

Reservoir Manager Duties for Low Risk Structures

A reservoir will be designated as Low Risk where an uncontrolled release of water would cause no appreciable detrimental effect on human life, economic activity, cultural heritage, or the environment.

The Low Risk reservoir manager is required to:-

- **Register the reservoir with the Department;**
- **Provide notice to the Department where they cease to be a reservoir manager, and provide name of person who is or will become the manager;**
- **Maintain Basic Records;**
- **Display Emergency Response Information;**
- **Permit entry of authorised persons;**
- **Provide Information to the Department on request.**

Additional requirements may be introduced by regulations. These may require the Low risk reservoir manager to:-

- **Report Incidents;**
- **Have a Flood Plan.**

Should a Low Risk reservoir manager wish to carry out relevant works, as defined under the clauses on construction and alteration, the Bill requires the following:-

- **Give notice to the Department of relevant works;**
- **Commission a construction engineer and give notice of this to the Department;**
- **Follow directions in a safety report which has been produced by the construction engineer;**
- **Comply with requirements of a Preliminary or Final certificate.**