



City of Corunna

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June 8, 2010

David A. Hamilton, P.E., Chief
Water Management Section
Land and Water Management Division
Michigan Department of Natural Resources & Environment
PO Box 30458
Lansing, MI 48909-7958

RE: Corunna Dam, Dam ID 379, Shiawassee County

Dear Mr. Hamilton:

The City is following up on your December 4, 2009 letter and your Department's Order on the Corunna Dam, Dam ID 379, Shiawassee County. This letter is intended to clarify our initial response dated January 25, 2010, to comment on Mr. Lane's response letter dated February 10, 2010, and to request clarification and a response to our questions below.

As public agencies, we must agree on the safe operation of the Corunna Dam. The City desires to work with your Department to meet this goal neither to oppose nor initiate litigation. Mr. Lane states in his February 10, 2010 letter (a copy not included in our FOIA request) that he anticipated "...full cooperation and ... to meet ...to discuss the condition of the dam and implementation of the Dam Safety Order". However, it also contained a threat of "...escalated enforcement as necessary." Because of this threat of litigation, we desire all correspondence to be in writing until we reach a mutual agreement on how we will work together.

With all due respect to Mr. Lane's comments regarding the change in Michigan's Dam Safety Law, the new law does not change the poor structural condition of the dam nor does it change the potential impacts to the public from a dam failure. The change in the Dam Safety Law outlines the Department's and a dam owner's respective responsibilities and due diligence in regards to inspections and the operation and maintenance of the dam.

Since your last letter, your staff is aware that we have retained Mr. Gary F. Croskey, P.E. to review this matter and advise us accordingly. It is our hope that a review of the information provided will help facilitate a resolution that is amiable to both of us. However, a resolution will

require an agreement on a proper evaluation of the dam's condition, the danger the dam may pose to the public health, safety, welfare, natural resources and the public trust, and technical and procedural details. With such an agreement, we can mutually develop a Plan and Schedule to address the obvious structural and hydraulic deficiencies of the dam.

Our January 25, 2010 letter noted our disagreement on what the "danger" is to the public or as you stated in your order the "dam." Mr. Croskey, P.E. has advised us that he concurs that the dam is in poor condition based on portions of your Department's 2009 Dam Safety Inspection Report. However, based on the enclosed memo from Mr. Croskey, P.E., the dam does not appear to be a hazard or danger to the public. Again, this was your Department's position in your letter dated August 26, 1974 written by Mr. Leon A. Cook, P.E., which we have enclosed. Mr. Croskey's enclosed memo is an account of the issues before us. We would like to note that the City acquired the dam in 1979 based on your Department's conclusions provided in its August 26, 1974 letter. The dam's condition and apparent lack of threat, danger and liability posed to our public institution allowed us the comfort to proceed with its acquisition.

Except for the permitted repair in 2006, structural conditions of the overflow spillway are relatively the same since your first inspection in 1997 and last inspection in 2009. The 2009 Inspection Report neither clearly identifies an immediate danger nor did it recommend an order to drawdown the impoundment level. As we review Section 31518(7), we question your position of danger. We are concerned that the DNR's 1997 and 2001 Reports had advised us on other structural and hydraulic deficiencies without direct monitoring recommendations. We are also concerned that by basing your December 4, 2009 department order under this Section, you have side stepped our right to an administrative hearing on this matter, which is a right your Order did not advise us of. We are hereby notifying you of our right to require an administrative hearing under Section 31526. Maybe, we should agree on how to best manage the "progressive failure" of this dam and it should be noted that progressive failure is not defined under Part 315.

Mr. Croskey, P.E. and the City have reservations with the ordered drawdown of the impoundment level. These reservations are outlined in the following questions. We respectfully request a response to these questions before we initiate any drawdown action as ordered. Please be advised the City will not be applying for a permit to comply with the conditions of your Department's Order. We are of the opinion that your Department has already made the determination of the action it wants taken and has set conditions to accomplish these within its public trust responsibilities.

We are requesting a response to the following questions on potential impoundment drawdown impacts:

1. Did the Department evaluate the specific impacts that a drawdown would cause to both the impoundment and downstream environments? Please note that Part 315 requires environmental assessments for major actions at a dam, and the administrative rules only direct a downstream evaluation.
2. Did the Department conduct its own internal review on potential wetland and sediment transport issues before issuing this Order?

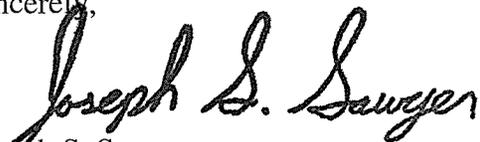
3. Did the Department consider how a drawdown would affect the need for adequate energy dissipation through the existing stop log section?
4. Did the Department calculate the change in impoundment level fluctuations in a drawdown state that will result in restricted flows through the stop log section and evaluate the potential impacts to both the impoundment and Dam structure?
5. Did the Department evaluate the potential detrimental impact to the remaining timber cribbing from repeated wetting and drying cycle frequencies under drawn down impoundment levels?
6. Did the Department consider that a drawdown action may accelerate and exacerbate the "...progressive failure" to a more structural failure that may result in downstream impacts?
7. Did the Department conduct a simplified Dam break analysis to determine downstream impacts to property, residences, and natural resources? Such an analysis would be beneficial to update the Emergency Action Plan (EAP).

At the present time, the City has limited funding to alter, repair, remove, or construct a new dam. The Corunna City Council is proceeding forward with a charter amendment request in an attempt to provide a funding source. In the meanwhile, it is the opinion of the city, based on the review by Mr. Croskey, that a draw down to the impoundment would create more hazards than it would alleviate. Although any such order to draw down is ultimately the responsibility of the MDNR&E, we believe any such order should exclude the requirement for a permit. In the event we are unable to come to agreement on the necessity for and hazards associated with a draw down, the city recognizes the authority of the MDNR&E to perform the draw down on your own accord. Mr. Croskey, P.E. has advised us that "abandonment" of the dam is another alternative provided for under Part 315.

Upon your response, we will develop a more detailed plan and schedule to address the structural and hydraulic deficiencies of the dam. Once a decision has been made, we will proceed with proper permit applications, e.g. abandonment, alteration, repair, removal or new construction as outlined in Part 315.

I look forward to your reply. If you have any questions, please do hesitate to contact me.

Sincerely,



Joseph S. Sawyer
City Manager, City of Corunna

Enclosures

- Gary F. Croskey letter of review dated May 21, 2010
- Leon A. Cook letter dated August 26, 1974