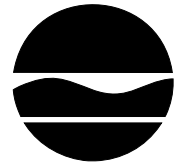


**New York State Department of Environmental Conservation
Regional Supervisor of Natural Resources, Division of Administration
Office of Natural Resources, Region 5**

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Peter M. Iwanowicz
Acting Commissioner

December 28, 2010

Tom Wemett
Webmaster - www.nptrail.org
PO Box 38093
Albany, NY 12203

Dear Mr. Wemett:

This letter is in response to your recent inquiry for an update on the New York State Department of Environmental Conservation (Department) position with regard to Duck Hole Dam. It also describes the procedural issues involved in allowing a group like Lean2Rescue to make repairs to the dam.

Historic Information

The following table briefly outlines the history of Duck Hole Dam:

Year	Event
1912	Dam constructed by Santa Clara Lumber Company
1937	Dam rebuilt by Civilian Conservation Corps
1980	C.T. Male Associates inspected dam in July, noting no deleterious changes in condition
1995	A Department inspection revealed significant deterioration of superstructure
1999	High Peaks Wilderness Complex Unit Management Plan (UMP) acknowledges deterioration
2000	Regional Dam Safety Engineer found dam and former footbridge to be in poor condition
2001	Department removed bridge in October for public safety reasons
2007	A topographic survey of dam and vicinity was conducted by Region 5 survey crew in March
2008	Region 5 staff and Albany Engineering staff inspected the dam in September

Reconstruction/Rehabilitation Issues

Important points to consider regarding any proposal to rehabilitate the dam are presented below:

- The 12-year old UMP allows reconstruction or rehabilitation of the dam in accord with Department policy.
- Based on old estimates, repair and reconstruction of the 14-foot-high, 110-foot-long structure and its 62-foot-long spillway, would likely cost the Department \$0.5-\$1.0 million using native materials and rocks from the old dam.

- Significant access restrictions exist due to the remote location of the dam and the restrictions associated with the High Peaks Wilderness Area.
- Any construction at the dam would have to be done without "motor vehicles" including trucks, bulldozers, and excavators. Use of helicopters and "motorized equipment" like chain saws, generators and rock drills may be permitted with the Commissioner's written permission during "off peak seasons" (October 16 through May 24). A limited construction season would lead to increased project costs.
- The timber cribbing composing the primary span of the dam spillway was in good condition in fall 2008 with no signs of rot or displacement.
- Most likely, if the dam fails, it will be a gradual deterioration of the structure rather than a catastrophic breach and release of the impoundment, and the result would be a jumbled pile of rocks impounding a limited amount of water with a smaller pond area surrounded by wetlands.
- Duck Hole is annually stocked by aircraft with brook trout. Its maximum depth is about 12 feet and the head height of the dam is nearly 8 feet. Total breach of the dam would result in the area impounded above the dam becoming more stream-like, similar to other portions of Cold River. It may still support brook trout, but it would probably no longer be stocked.
- A recent court ruling regarding a federal wilderness area in the American West stated that dams in wilderness were non-compliant structures. Although Duck Hole Dam is in a state wilderness area, the definitions of wilderness in each jurisdiction are nearly identical.
- The presence and maintenance of a man-made dam in a New York state wilderness area is already thought by some to be a non-conforming use.
- Obtaining state funding is unlikely as New York faces grave budget problems in the wake of the severe economic recession.

Procedural Issues

The New York State Department of Environmental Conservation has not committed to any plan of action regarding the dam on Duck Hole at this time. That is, there are no plans to breach or repair the dam.

Steps that must take place to allow a group like Lean2Rescue to repair the dam are listed below:

- To stimulate an initiative like this in difficult economic times, a non-government organization or sponsor group would need to prepare a convincing proposal and present it in a respectful manner to influential policy makers at the highest levels in the Department.

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- The Department may be willing to entertain a proposal if it can be subsequently supported with plans by a licensed engineer paid for by the sponsor group. Any volunteer group should bear in mind that materials probably would have to be air-lifted to the site without New York State aircraft support, driving up costs.
- A public process led by the Department in cooperation with the sponsor group should be undertaken. It would provide an opportunity for public comment and a vehicle to decide whether repairs to the dam should be authorized. This could be done in the form of a UMP update, which requires Adirondack Park Agency approval.
- Options and alternatives should be identified and evaluated, including the costs of the repairs, policy issues, the impacts on wildlife and fishery populations, impacts on other natural resources and habitats, and the impacts on the recreational users, before a final determination is made.
- Prior to beginning any on-site volunteer work, a formal agreement must be executed, such as an Adopt-A-Natural-Resource Agreement with the volunteers who would provide plans, materials and labor for the project.
- With the governor elect's administration change underway, it is likely months will pass before such a proposal would be examined at levels within the Department appropriate for making such decisions.

Thank you for your interest in this complex forest preserve issue. Please contact me if you have any additional questions.

Sincerely,



Lawrence J. Nashett
Regional Supervisor of Natural Resources