



October 7, 2013

Mr. Will Shea
SPTMNR Properties Trust
2 Newton Place
255 Washington Street
Newton MA 02458

Subject: Plan approval for modifications to Dam
Field File 68.28 – Dam known as Auld Rohrer Dam – Waupaca County

Approval: IP –NE-2013—69-02330

Dear Mr. Shea:

This is to notify you that the plans for the modification of the Auld Rohrer Dam submitted under the seal of William Rosnow, PE, are conditionally approved. Your acceptance of this conditioned plan approval and your efforts to begin work on this project signify that you have read, understand and agree to follow all conditions of this plan approval.

FINDINGS OF FACT

1. The Auld Rohrer Dam is located in the E ½ of the NW ¼ of the NW1/4 of Section 4, Town 25N Range 15E. The address nearest the dam is 1675 East Main Street.
2. The Auld Rohrer Dam is within the Village of Embarrass.
3. The Auld Rohrer Dam is on Matteson Creek, a warm water fish and aquatic life stream.
4. Matteson Creek and the dam are in a FEMA mapped Zone “A” floodplain.
5. The dam was first permitted to be built in 1939 to flood a former cranberry marsh. 2-WP-412
The approval states:
 - A. The dam is built of stone masonry wing walls and reinforced spillway.
 - B. There are two 5.3 foot wide stop log bays separated by a 6” H column.
 - C. An earthen dike extends to high ground from each side of the spillway.
 - D. The top of the walkway across the dam is at is at elevation 95.97ft. based on bench mark 705C.
 - E. The top of the flash boards in the stop log bay shall not exceed elevation 91.00ft. until the flowage rights have been secured.

6. Wisconsin Administrative Code NR 333 is applicable to the dam since it has a structural height greater than 6 feet and has a maximum storage volume greater than 50 ac-ft.
7. A dam failure analysis has not been completed for the dam.
8. A dam stability analysis has not been completed for the dam.
9. The dam owner was issued an “after the fact” plan approval for spillway modifications on February 27, 1995. 3-LM-94-0683
 The plan approval states:
 - A. The dam was adequate for a pool elevation of 5.0 feet (799.1ft. MSL)
 - B. The dam as designed will pass a flow greater than Q100.
 The plans show a walkway elevation of 100.00 and a high water mark elevation of 97.12ft.
10. The Department did a survey of the bench marks in the area of the Auld –Rohrer Dam in 2010 and determined:
 - A. The elevation of the bench mark on top of the right abutment (approximate walkway) is 801.69ft. NGVD 29 or 96.16ft. based on a Public Service Commission (PSC) Datum.
 - B. An impoundment elevation greater than 796.53ft. NGVD29 or 91.00ft. PSC or 1.36ft. below zero on the dam staff gauge would require flowage easements.
11. The Department received an application for the modification of the Auld Rohrer Dam on July 31, 2013 from William A Rosnow, PE, E-21576, Green Bay, WI.
 The plans propose a reduction in height of the embankment to less than six feet so NR 333 would not be applicable. The plans show:
 - A. A toe elevation of 794.90ft. NGVD29
 - B. A proposed excavated top of berm elevation of 800.8ft. NGVD29
 - C. A proposed excavated area approximately 90 feet long and 12 feet wide south of the concrete spillway.
12. The Department surveyed the dam on September 27, 2013 and found the following NGVD 29 elevations in feet:
 - A. Right apron is 794.73
 - B. Left apron is 794.36
 - C. The elevation of rocks placed about 12 feet down stream of the apron are:
 - a. Left 794.65
 - b. Right 794.62
 - c. Middle 794.62
 - D. Rocks at the end of the apron (shown as toe of dam on plans) area
 - a. Right 795.43
 - b. Center 794.93
 - c. Left 795.03
 - E. There are few to no rocks beyond 20 feet downstream of the dam apron.
13. The Department received a modification to the proposed plans on October 2, 2013 from William Rosnow. The modification called for the excavated top of the berm to be at elevation 800.40 NVGD 29.

CONCLUSION OF LAW

1. The Department has authority under Section 31.12 Wisconsin Statutes to issue plan approvals for dam modifications.

CONDITIONAL APPROVAL

The plans are approved in accordance with Chapter 31, Wisconsin Statute with the following conditions:

1. That the top of the earthen berm that is to be excavated have an elevation no greater than 800.39 ft. NVGD 29 to ensure the dam's structural height is less than six feet.
2. That you notify DNR Water Management Engineer Joe Behlen at 715 421-9940 or joseph.behlen@wi.gov at least 3 days before starting construction.
3. That the Department be notified within 10 days of the completion of construction with a verified statement that the dam was constructed in accordance with the plans approved by the Department as required in Chapter 31.12(4). Photos should be part of the verification.
4. That proper erosion control methods be in place to prevent runoff from the excavated area until vegetation is established.
5. That the excavated area be mulched and seeded.
6. That within 30 business days after completion of your project you supply 2 copies of signed and sealed as-constructed plans documenting the work performed. The plans should have surveyed elevations in NGVD29 datum for every ten feet of embankment length and 5 feet of embankment width in the project area.
7. That the Department be granted free and unlimited access to the dam as stated in Wisconsin Statute Chapter 31.02(3.) to verify that the approved modifications have been maintained, to check the adequacy of the dam, and that the dam is being operated as permitted.

The approved plans are not transferable and shall become null and void unless construction is completed within 3 years from the date the plans are approved.

The plans and specifications have been prepared to acceptable engineering standards. Approval of these plans and specifications does not imply that the dam will perform under any or all conditions.

Other approvals may be required for this project. It is the responsibility of the owner to obtain any other local, state, or federal permits or approvals that may be needed.

NOTICE OF APPEAL RIGHTS

If you believe that you have a right to challenge this decision, you should know that the Wisconsin statutes and administrative rules establish time periods within which requests to review Department decisions must be filed. For judicial review of a decision pursuant to sections 227.52 and 227.53, Wis. Stats., you have 30 days after the decision is mailed, or otherwise served by the Department, to file your petition with the appropriate circuit court and serve the petition on the Department. Such a petition for judicial review must name the Department of Natural Resources as the respondent.

To request a contested case hearing pursuant to section 227.42, Wis. Stats., you have 30 days after the decision is mailed, or otherwise served by the Department, to serve a petition for hearing on the Secretary of the Department of Natural Resources. All requests for contested case hearings must be made in accordance with section NR 2.05(5), Wis. Adm. Code, and served on the Secretary in accordance with section NR 2.03, Wis. Adm. Code. The filing of a request for a contested case hearing does not extend the 30 day period for filing a petition for judicial review.

STATE OF WISCONSIN DEPARTMENT OF NATURAL RESOURCES

For the Secretary

By  _____

Joseph R. Behlen, P.E.

Water Management Engineer

C: William A. Rosnow, PE – Green Bay
Scott Koehnke, WDNR- E-mail
Michele Lehner, WDNR – E-mail
WDNR Dam Safety Section- Madison
Village of Embarrass
US Army Corp