

In consideration of the increased deteriorated condition of the dam observed on March 16 and 31, 2011, and your new ownership of the dam, ODS hereby issues an Amended Dam Safety Order. In accordance with the authority of G.L. c. 253, section 47, 302 CMR 10.07 and 10.08. you are hereby **ORDERED** to comply with the following:

1. Hire a qualified registered professional engineer with dam engineering experience (engineer) and notify ODS of your hire no later than August 20, 2011.
2. Prior to Refilling Hathaway Pond, Prepare and Implement Plans and Specifications Sufficient to Bring the Dam into Compliance with Dam Safety Regulations.

The DCR Commissioner is authorized to establish the maximum allowable water elevation for impoundments pursuant to G.L. c. 253, section 47 and in accordance with 302 CMR 10.08 (6) and the Memorandum of Understanding between DEP and DCR relative to lake water level draw-downs/dam repairs projects. You are ordered to maintain the current operation, as observed by ODS staff on March 31, 2011 at Hathaway Pond Dam until such time as permitted repairs to the dam have been completed. (On March 31, 2011, ODS observed weir boards placed no higher than one foot above the spillway concrete floor elevation in the furthest left and furthest right weir bays and weir boards removed from the top of the concrete weirs in the 3 center weir bays.)

You are ordered to engage your engineer to prepare a compliance plan. The compliance plan, which must include preliminary conceptual design sketches and technical description, must demonstrate how you will correct current deficiencies in order to bring the dam into compliance with dam safety regulations. You must submit your plan to achieve compliance with Dam Safety regulations to the Office of Dam Safety no later than **September 15, 2011.**

3. Monitoring during significant rainfall events:

Following any rain event in the impoundment watershed exceeding 2.0 inches of rain in 24 hours, you shall verify that the approach and discharge areas and the spillway remain open and free of obstructions and that current operating levels are maintained or are receding to the (non-runoff or flood) level. You shall keep written records of all such verification site visits which shall include, at a minimum, the date, time, impoundment level, and estimated rainfall totals over the storm event.

4. Notifications:

You must notify the Rochester Conservation Commission and other applicable local parties of this ORDER to maintain the above-specified operation at Hathaway Pond dam. It is your responsibility as the owner of the dam to file the necessary federal, state or local permit applications that apply to changes in water level and any work you plan to conduct at the dam site.

5. Apply for a Chapter 253 Dam Safety Permit.

Massachusetts Dam Safety Regulations 302 CMR 10.09 require "Any person(s) who propose to construct, repair, materially alter, breach or remove a dam, pursuant to M.G.L. c. 253, must file with the Commissioner a permit application to determine whether or not a Chapter 253 Dam Safety Permit is required. Following completion and submittal of your plan to achieve compliance with Dam Safety regulations your engineer must prepare final plans and specifications and submit a proper application for a Chapter 253 Dam Safety Permit to the Office of Dam Safety. The application package must include the proper application form, as well as stamped plans and other engineering exhibits and calculations as are judged necessary. Information on filing a Chapter 253 Dam Safety Permit Application may be found at our website: <http://www.mass.gov/dcr/pe/damSafety/index.htm> .

Work performed under a chapter 253 Dam Safety Permit must be designed and supervised by a qualified registered professional engineer with dam engineering experience. Additional permits from other agencies may be necessary before work at the dam under a Chapter 253 Dam Safety Permit may begin. Work may not begin at the dam until all required permits are issued. The Chapter 253 Dam Safety Permit Application must be submitted to ODS no later than **January 15, 2012**.

6. Conduct Follow-Up Inspections:

Considering the current operation will be maintained, in accordance with 302 CMR 10.07, you are now required to complete follow-up visual inspections, conducted by a registered professional engineer qualified to conduct dam inspections, at your cost, at 6-month interval following receipt of this ORDER until the dam is brought into compliance with Dam Safety regulations.