



July 19, 2011

Mr. Mark Rasmussen, President  
Coalition for Buzzards Bay  
114 Front Street  
New Bedford, MA 02740

Dear Mr. Rasmussen,

By now, you are in receipt of the latest Dam Safety Order issued by the DCR Office of Dam Safety as it relates to the Hathaway Pond Dam.

To be clear, the Office of Dam Safety is agnostic on the issue of whether the Hathaway Dam is repaired or breached. As a regulator in this case, our only concern is that one of those actions be taken in a timely fashion in order for compliance to be reached. Until such time as the dam is repaired or breached according to the approved regulatory processes, the Office of Dam Safety is requiring the impoundment level of water behind the dam not exceed the levels proscribed in the dam safety order issued on July 12, 2011. To the extent that said levels are determined to be insufficient to meet the needs of any party that may have water rights associated with the maintenance and operation of the dam, then the responsibility lies with you as the dam owner to bring the dam into compliance with our regulations in a fashion that meets your obligations. Nothing in the order should be construed to absolve you from any other obligations or to suggest support for breaching the dam over repairing the dam.

Additionally, in your July 7, 2011, letter you reference a letter from Mr. Bill Salomaa dated January 13<sup>th</sup>, 2011. The January 13, 2011, letter was in response to your request for advice based on your stated plans to purchase and remove the dam. You indicated to ODS that your project timeframe would be 18 to 24 months. The response you received from ODS indicated that such a timeframe would be acceptable if you chose dam removal as your compliance option and that you would comply with any ODS order issued during that period. It cited dam removal as an acceptable option. It is not the only option. Further, subsequent events and inspections of the dam, particularly from March, 2011, onward, make the information in that January letter irrelevant as the situation regarding the condition of the dam has changed since that time.

COMMONWEALTH OF MASSACHUSETTS · EXECUTIVE OFFICE OF ENERGY & ENVIRONMENTAL AFFAIRS

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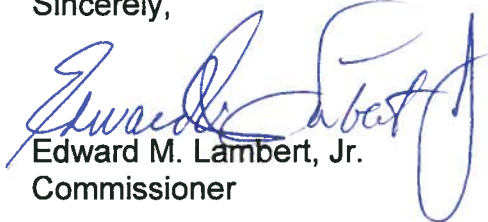
Deval L. Patrick  
Governor

Timothy P. Murray  
Lt. Governor

Richard K. Sullivan Jr., Secretary  
Executive Office of Energy & Environmental Affairs  
Edward M. Lambert Jr., Commissioner  
Department of Conservation & Recreation

Once your selection of an engineer of record has been communicated to us, we would be happy to discuss further your plans going forward. If we can be of further assistance, please let us know.

Sincerely,



Edward M. Lambert, Jr.  
Commissioner

Cc: State Senator Michael J. Rodrigues  
State Representative William M. Straus  
Richard LaCamera, Rochester Town Administrator  
Paul Ciaburri, Rochester Emergency Management Director  
Laurell J. Farinon, Agent, Rochester Conservation Commission  
Liz Kouloheras, DEP  
Jason Zimmer, DFG  
Dave Keddell, U.S. Army Corps of Engineers  
Maeve Vallely Bartlett, MEPA  
Jack Murray, DCR  
Michael Misslin, DCR  
William Salomaa, DCR  
Edward Hughes, DCR  
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