



IP-SE-2009-41-06757

January 12, 2015

John Dargle, Jr., Director
Milwaukee County Parks, Recreation and Culture
9480 Watertown Plank Road
Wauwatosa, WI 53226-3560

Subject: Time Extension for Estabrook Dam (Field File 40.08, Milwaukee County)

Dear Mr. Dargle:

Thank you for your December 23, 2014 letter which provides an update on Milwaukee County's actions related to Estabrook Dam and requests a time extension to the Administrative Order to Repair or Abandon the Estabrook Dam (Order). The Department of Natural Resources (Department) is extending the deadline in the Order with several conditions described below.

Timeline History

On July 28, 2009, the Department issued the Order which was required to protect public health and safety and to ensure the dam meets acceptable design standards. The County adopted a capital budget project in 2010 for structural repairs. If the County chose to repair the dam, the repairs were to be completed by July 27, 2012. To account for the typical construction season, the Department extended the timeline to October 31, 2012. The Department then extended the timeline to December 31, 2014 to coordinate repairs with the Lincoln Park Phase II Sediment Remediation Project.

Your letter states that Milwaukee County has made progress on actions related to the dam and is now endorsing removal. However, you are requesting the Department extend the timeline to December 31, 2016 due to the uncertainty of an open lawsuit.

Extension and Conditions

The Department is extending the deadline for repair or removal to accommodate the Milwaukee River sediment remediation schedule, open lawsuit, limited construction seasons, and Milwaukee County's efforts to secure grants. By December 31, 2016, the County shall complete the following:

- Submission of final plans, specifications, and a copy of the draft Environmental Analysis for either repair or removal. Documentation of access easements also needs to be included.
- If removal is selected, you will also need to submit an application for a permit to abandon the dam pursuant to Section 31.185, Wis. Stats. Milwaukee County shall remain responsible for the dam until a permit to abandon the dam is issued and all conditions of that permit have been met.
- Selection of competent contractor(s) to complete the repair or removal project.
- Structural repairs and removal of debris and co-mingled sediment or removal of the Estabrook Dam.

Please note that other requirements in the Administrative Order still apply. The County shall maintain the current drawn down condition of the impoundment by keeping all gates fully open and secured in place. The dam shall remain drawn down until all conditions within the Order are in compliance. The Department will need to provide written authorization that requirements of the Order are complete.

In addition, the County shall continue to inspect the dam to ensure that no additional materials are placed in the structure that would obstruct flow, and shall promptly remove any such obstructions. Obstructions could include debris trapped on the ice breakers or unauthorized activities to re-impound water.

Grants

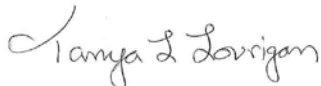
Estabrook Dam is included on the priority ranking list of eligible applicants for Wisconsin's 2011 Municipal Dam Grant Program. The County's application was originally for a repair project. If the County has decided that their grant application type will now be a removal project, you will need to request a variance as considered by Wis. Admin. Code, Chapter NR 335.15. Please include a brief description of good cause and/or special circumstances that make such a variance in the best interest of the dam grant program. The documentation for dam abandonment and removal as listed in Wis. Admin. Code, Chapter NR 335.07(2)(f) will also need to be submitted.

You sent a written request on December 23, 2014, asking that costs associated with the Milwaukee River Phase II Sediment Remediation Project be considered a grant eligible expense. The Department is still reviewing your request. You will also need to request a variance from Wis. Admin. Code, Chapter NR 335.08(2)(c) which states that construction costs incurred prior to the grant award are ineligible.

The Estabrook Dam project is also eligible for funding transferred from the Stewardship Fund for dam maintenance, repair, modification or removal.

Kari Beetham, Grant Manager can be contacted at (608) 264-9207 or kari.beetham@wisconsin.gov. If you have any other questions, please contact me at (608) 275-3287 or Tanya.Lourigan@wisconsin.gov.

Sincerely,



Tanya L. Lourigan, P.E.
Water Management Engineer
Fitchburg Service Center

cc: Don Pirrung, P.E., Senior Engineer – AECOM (email)
Anthony Jernigan – Army Corps of Engineers (email)
Michael Hahn, P.E., Deputy Director – Southeastern Wisconsin Regional Planning Commission (email)
Bill Sturtevant, P.E., State Dam Safety Engineer – DNR GEF II, WT/3 (email)