

Dam Sequence No 00120



Formal Action



Year:

1857



of Leonard J. Farwell and William
of Robert V. Bogert and William
last two names are hereby stricken
to said last above mentioned chap-
and as section three, in the words and
Sec. 3. The act of which this act is
reby further amended, by striking
Dodge county," wherever it occurs;
thereof "Wisconsin State," and
name "Beaver Dam," wherever it
instead thereof the name "Madison;"
in which said company shall com-
and commence business, is hereby
nited to the first day of July, A. D.
so organized at any time within or
above limited; and section four of
amended, by adding after the word
"to the amount of two hundred and
section five of said act is hereby
ting the word "twelve" instead of
ng after the word "exchange," the
ates for money due to stockholders
ney shall be deposited with the said
inserting the word "loans" instead
tion six of said act is hereby amend-
word "and" after "months;" and
d act is hereby amended, by insert-
reby appointed or" after the word
t first occurs; and section eight is
striking out the word "subject to
insurance;" and section ten is here-
ing to it the words "except as afore-
thirteen of said act is hereby re-
ing shall stand as section three of
et mentioned, and shall have in all
orce and effect as if all of said act,
dment thereto, were passed at one
shall take effect and be in force from
; and from and after the passage
name of the "Dodge County Fire
nce Company," shall be and is
the "Wisconsin State Fire and
company," and its place of doing
office shall be Madison instead of
Beaver Dam.

Beaver Dam, and by that name only shall it be known
in all its business and dealings; and an act entitled
"An Act to incorporate the Dodge County Fire and
Marine Insurance Company," approved April 2, 1853,
shall be deemed, taken and construed as above and
heretofore amended, and all the powers conferred upon
said insurance company, by the several acts mentioned
in this act, shall belong to and be exercised by the
Wisconsin State Fire and Marine Insurance Company,
with such further powers as are herein conferred.

Approved March 9, 1857.

Chapter 412.

An Act to authorize the erection and maintenance of a Mill Dam.
The people of the State of Wisconsin, represented in
Senate and Assembly, do enact as follows:

SECTION 1. It shall be lawful for John C. Hall, his
heirs and assigns, and he or they are hereby authorized
and empowered to apply to any justice of the supreme
court of this State, in term time or vacation, for the ap-
pointment of three disinterested persons as commissioners
to examine, adjudicate and determine, as to the necessity
of authorizing, for the benefit and convenience of the
public, and for the public good, the erection and main-
taining or the keeping up and maintaining a dam on
the west half of the north-west quarter of section (4)
four, in town eleven, north of range fourteen, east, in
Dodge county, at or near the present location of his
mill dam; and also to examine, adjudicate and
determine the height that it is necessary that the
said dam shall be erected and maintained, or kept up
and maintained, for the benefit and convenience of the
public, and for the public good. The said persons so
appointed commissioners shall, after having been duly
sworn for that purpose, by any person having legal au-
thority to administer oaths, proceed to examine said
premises for the purpose of adjudicating and deter-
mining, first, whether the necessity and convenience
require it.

Persons au-
thorized to
erect a mill
dam.

Commission-
ers to deter-
mine the ne-
cessity of
erecting such
dam.

of the public and the public good, require the erection and maintaining or the keeping up and maintaining a mill dam at the point aforesaid; if the said commissioners, or a majority of them, shall be of the opinion that the necessity and convenience of the public, and the public good, require the erection and maintaining, or the keeping up and maintaining a mill dam at the point aforesaid, then the said commissioners shall adjudicate and determine the height that the necessities and convenience of the public, and the public good, require that the said dam should be erected and maintained, or kept up and maintained, and to report in writing under their hands and seals, or the hands and seals of a majority of them, to the clerk of the circuit court of said county, their finding upon each and every of the said matters so submitted to them as herein provided, which said report shall be duly acknowledged by the said commissioners or a majority of them, before the county judge or other persons authorized to take the acknowledgment of deeds, and shall be recorded in the office of the register of deeds for Dodge county.

Commissioners to estimate damages of overflowing land, &c.

SEC. 2. In case the said commissioners, or a majority of them, in their report, find that the necessity and convenience of the public and public good require the erection and maintaining, or the keeping up and maintaining a mill dam, at the point aforesaid; then it shall and may be lawful for the said John [C. Hall,] his heirs and assigns, to erect and maintain, or keep up and maintain a mill dam at the point aforesaid, on the north-west quarter of section four aforesaid, and the said John [C. Hall,] his heirs and assigns may and are hereby authorized, at any time after the recording of said report of said commissioners as above provided, to apply to any justice of the supreme court in term time or vacation, to appoint three disinterested persons as commissioners, to assess damages as herein provided, and upon such application the said justice shall appoint three disinterested persons of the same county, to act as commissioners, whose duty it shall be to make an examination of all the lands overflowed or liable to be overflowed, or lands upon which the water shall be set back, or liable to be set back, by reason of the erecting and maintaining, or the keeping up and maintaining said mill dam, and make an award in writing,

in which they shall award to the owner or owners of any such overflowed land or lands upon which the water shall be set back, or liable to be overflowed, or set back, the amount of damages to which such owner or owners of said land or lands shall be entitled, by reason of the keeping up and maintaining, or erecting and maintaining said mill dam aforesaid; said commissioners shall meet within sixty days from the time of their appointment, (unless such time shall be extended by an order of the justice for cause shown,) to make their examination and award by virtue of this act, and the owner or owners of the said lands shall be notified to appear before them at the time and place of such meeting, and shall be entitled to be heard before said commissioners in regard to the amount of damages by them sustained, in consequence of the erecting and maintaining of said mill dam, or of keeping up and maintaining said mill dam; such notice shall, at least six days before such meeting, be served personally, or by leaving a copy thereof at the residence of the owner or owners of said lands aforesaid; in case the owner or owners of said overflowed land or lands injured by the erecting and maintaining, or the keeping up and maintaining said dam, shall be non-residents of the said county, or in case the residence of any or either of them shall be unknown to the said John [C. Hall,] his heirs or assigns, then, and in that case, the commissioners last aforesaid, shall cause a notice to be published in one of the public newspapers of said county, for four successive weeks previous to such meeting, which notice shall specify the time, place and object of such meeting.

SEC. 3. The decision and award of said commissioners mentioned in the second section of this act shall be final unless appealed from as provided for in this act, and the said award together with due proof of the service of the notice or notices upon the owner or owners of said lands, shall be filed in the office of the clerk of the circuit court of said county of Dodge, and shall be *prima facie* evidence of the regularity of said proceedings, and the said award shall be and remain a lien upon the lands of said John, his heirs and assigns, until the term of the circuit court of said county held next after the making of such report of damages, when, upon motion made by any party interested therein, a

Award of commissioners final unless appealed from.

judgment may be entered up and execution issued to the same effect, and in the same manner as judgments are entered and execution issued upon suits of a civil nature commenced and tried in the said circuit court, unless such decision shall have been appealed from.

Appeal.

SEC. 4. Any person or persons considering himself or themselves aggrieved by the award of said commissioners, may appeal therefrom within ten days from the time of filing such award, to the circuit court of the county of Dodge, in the same manner as is provided by law, for appeals from the decisions of the estate of deceased persons.

No further suits entertained.

SEC. 5. No suit or proceeding at law or in equity, shall be hereafter brought, prosecuted or further maintained, but all such suits, shall abate absolutely except as is provided for in this act, against the said John, or either of them, their heirs and assigns, for any injury or damages arising from the overflowing or setting back of water upon any land by reason of the erecting and maintaining or keeping up and maintaining of said mill dam after the said John, his heirs or assigns shall have applied to have commissioners appointed to assess damages according to the provisions of this act.

To assess damages in certain cases.

SEC. 6. Any person or persons claiming to have been injured by the erecting and maintaining or keeping up and maintaining said mill dam, and whose damages shall not have been appraised in the manner herein provided for, may apply to any justice of the supreme court, upon ten days personal notice in writing to said John C. Hall, his heirs and assigns, (and in the Dodge County Citizen,) for the appointment of commissioners, to appraise and assess his or their damages in the same manner and with like effect as the said John, his heirs, and assigns (as) [are] herein authorized to do; *Provided*, The said John, his heirs and assigns shall have neglected or refused to have the damages of said person or persons aforesaid, in the manner therein provided, for the space of three months next after the passage of this act; *And provided further*, That such application shall be made within six months next after the passage and approval of this act. The expense of such assessment and proceedings shall be paid by the person or persons making such application in case no damages are awarded them.

Proviso.

Proviso.

SEC. 7. All proceedings under this act, and all actions, suits or proceedings either at law or in equity for any claim or injury to the lands belonging to the State of Wisconsin, or to the lands of any person or persons by reason of the erecting and maintaining or the keeping up and maintaining of such dam, shall be brought or instituted within six months after the passage of this act, and not afterwards.

SEC. 8. This act shall be deemed a public act, and Public act, shall take effect immediately after its passage and publication by the State printer.

SEC. 9. A change of venue may be had by either Change of party to any proceedings under the provisions of this venue, act, to another circuit or county for the same cause and in the same manner as in ordinary civil suits or proceedings.

Approved March 9, 1857.

Chapter 413.

An Act for an act to revive and continue in force an act to incorporate the Janesville, Fulton and Beloit Railroad Company.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. That an act to incorporate the Janesville, Fulton and Beloit Railroad Company, passed by the Legislature of this State, and approved June 6th, 1853, be and the same is hereby declared to be revived and continued in full force and effect.

SEC. 2. That John Bradley, James B. Crosby, Andrew Palmer, J. J. R. Pease, David Noggle, J. H. Knowlton, Shubael W. Smith, E. L. Dimock, L. G. Fisher, and Wm. F. Goodhue be and they hereby are appointed commissioners, and invested with all the powers conferred upon the commissioners named in the act hereby revived.

SEC. 3. Section ten of the act hereby revived, and Repealing any and all parts of the said act which conflict with the provisions of this act, are hereby repealed.

SEC. 4. This act shall take effect and be in force from and after its passage.

Approved March 9, 1857.

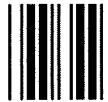
Dam Sequence No 120



Formal Action



Year: 1919



IN RE APPLICATION OF ADOLPH RAKE ET AL. FOR AN INVESTIGATION AND HEARING CONCERNING THE HEIGHT OF WATER HELD BY THE DAM OWNED BY THE PARAMOUNT POWER & REALTY COMPANY IN THE CITY OF BEAVER DAM

Submitted July 26, 1918. Decided March 23, 1919

The dam in question apparently has been reconstructed from time to time since it was first built in 1842. It was last rebuilt in 1913 and 1914, and it is the operation and maintenance of the water level above this new dam that is complained of, applicants alleging that the high level maintained, and the release of the flood waters by this dam causes damage below it; that since 1913, the practice of shutting off the water over and through said dam renders navigation of the river below the dam impossible, and by killing fish, etc., creates a condition detrimental to public health, especially in Beaver Dam.

Respondent contends that the dam next below it, the Upper Woolen Mills dam, has inadequate gate capacity, which condition should be remedied in order to facilitate the handling of floods at its own dam.

The heights at which the water has been maintained seem to vary; the square pin set in the wall in 1834, however, represented at the time, the extreme elevation at which the water could be held, although the holding of the water at the round pin, which was about $4\frac{1}{4}$ inches below the square, seems to have been the normal elevation. The ordinary height in operating a spillway of this character, however, was to maintain a height $1\frac{1}{2}$ feet below the square pin to allow for floods and heavy winds. It is alleged that this elevation is higher since rebuilding the dam in 1913, and that oak trees which, prior to 1913, had grown for many years, have since been killed by the high water, and that lands previously tilled or used for cropping hay have become useless due to the high water.

Held: That there should be some relief from conditions existing in the city of Beaver Dam and below the city caused by the draining off of the ponds below the Paramount dam; that very little water is allowed to pass said dam during the summer months from Saturday noon until Monday morning; that the two dams next below the Paramount dam are in a more or less leaky condition, allowing the water during such periods to drain out of their respective ponds; that, in order to protect public rights in navigable water, and to protect life, health, and property, the dams of the Paramount company and the Woolen Mfg. Co. should be regulated and controlled so that the elevation of the pond immediately above the former dam shall not exceed an elevation of 88.5 when referred to Railroad Commission's Bench Mark No. 35A; that between the first day of May and the thirtieth day of September, inclusive, in each year, not less than 10 cu. ft. of water per second shall be allowed to pass said dam during each day from 7 a.m. to 5 p.m. on any day or

half day when the water wheels of said Paramount dam are not in operation;

That the installation of gates in the Woolen Mfg. Co.'s dam will not materially aid in passing the flood waters through the Paramount dam, but that the dam and flume should be repaired to prevent excessive leakage so that a sufficient amount of water may be held in the pond below.

Order in accordance with foregoing.

Application in this case alleges that the respondent has unlawfully raised the height of water in the pond above this dam and that the high water damages the farm lands and drainage around the pond or lake created by said dam, and that the release of the flood waters by this dam causes damage to farm lands, public roads, bridges and drainage below respondent's dam; that since 1913 the practice of shutting off the flow of water over and through said dam renders navigation of the river below the dam impossible for boating or any other purpose and causes fish to die and creates a condition detrimental to the health of the inhabitants along the river.

The Paramount Power & Realty Company, the respondent in the above proceeding, filed complaint dated June 1, 1918, and received by the Commission June 3, 1918, alleging that the Upper Woolen Mills dam, Beaver Dam (which is next below the respondent's dam) has inadequate gate capacity, which fact operates to limit the rate at which water may be discharged at the respondent's dam. Respondent prays that the owner of the Upper Woolen Mills dam, namely, the Woolen Manufacturing Company, be made a party to the proceeding and that the Railroad Commission provide in its order for the installation of gates or similar equipment in said lower dam. The Woolen Manufacturing Company was accordingly made a party.

The city of Beaver Dam also became a party to the proceeding by filing a complaint alleging that the practice of not allowing water to pass over and through the Paramount Power & Realty Company's dam on Sundays and holidays causes an unbearable stench in the pond between the Paramount Power & Realty Company's dam and the Woolen Manufacturing Company's dam and also in the pond below the Woolen Manufacturing Company's dam. It is alleged that during hot weather fish die and decompose and that the odor from such fish and decomposed vegetable matter is a nuisance and a menace to the health of the citizens in Beaver Dam.

Hearings were held in the above-entitled matter on November 9, 1917, May 13, 1918, and July 26, 1918. The appearances were: For the petitioner, *C. A. Markham*; for the respondent, *Grotophorst, Thomas, Rieser & Quale*; for the city of Beaver Dam and the Woolen Manufacturing Company, *Healy & Healy*.

Considerable evidence was given at the various hearings by both the petitioner and the respondent in reference to the height of the water maintained by the dam. Also evidence was given by the petitioner and the respondent concerning flood conditions below the dam and the effect upon conditions in and below the city caused by not allowing water to pass the respondent's dam.

The dam in question was built about 1842. It seems to have been built without any special legislative franchise, but it is believed that the nature of the stream was such as to allow the construction under the mill dam act. Apparently the dam has been reconstructed from time to time, but barring these temporary interruptions it has been maintained in its present location since its first location. It was last rebuilt in 1913 and 1914 and it is the operation and the maintenance of the water level above this new dam that is complained of.

The respondent maintains that a certain square pin set in the sea wall at the dam in 1884 represents the high water mark as established by the circuit court of Dodge county in *Boetcher v. Beaver Dam Cotton Mills*, an action brought under chap. 146 of the Statutes of 1878, and that the respondent has gained by prescription and under said judgment the right to flow all lands that will be flooded at any time by holding the water at the height of the square pin, although the practice is testified to of holding the water normally around the round pin hereafter referred to, with the square pin as a maximum. The pleadings and record in this case, so far as they have been submitted to us, do not in our opinion satisfactorily establish such a contention. A record of the elevation of various parts of the dam referred to the square pin and taken at the time the pin was set has been submitted by the respondent in the present case. This record shows that the square pin was set at the same elevation as the top of the cap timber of the waste weir which was also the same elevation as the top of the earthen embankment of the dam. Also that cap timber was 13 inches deep and 15 inches wide. These levels indicate that the square pin represented at the time it was set the extreme elevation at which the water could attain

without doing material damage to the dam by washing over the embankment. The ordinary practice followed in operating a spillway of the character of the one existing at the time this pin was set is to maintain a water elevation such that the water will pass below the cap timber of the waste weir which in this case would be at least $11\frac{1}{2}$ feet below the top of the timber and the square pin. Also it would be necessary to maintain the pond at an elevation some distance below the top of the embankment, which in this case was at the same elevation as the square pin, in order to protect the embankment in case of floods or a raise in the pond due to heavy winds. It is not believed that the water could have been ordinarily maintained with safety at an elevation exceeding 1 to 2 feet below the top of the embankment. Petitioner's witness, who was a millwright and had repaired the dam in question prior to its ownership by the cotton mills people in about 1882, testified that prior to this time the head which could be maintained with safety was 9 feet and that if the elevation exceeded 9 feet the water washed through the flume and that the water passed out of the spillway below the cap timber above referred to. The head at present with an elevation of the pond at the square pin is about 11 feet. It is difficult to conclude that prescriptive rights could have been acquired prior to the *Boetcher Case* to maintain the water at the elevation of the round pin which is about $4\frac{1}{2}$ inches below the square pin as is claimed by the respondent. During the period from 1884, when the square pin was set, to 1913 when the present concrete dam was built, it appears that the embankment was raised somewhat and the waste way repaired and perhaps rebuilt. Witnesses for both petitioner and respondent testified that during this period, and in fact prior to 1884, the water attained such an elevation as to be dangerous to the dam. Prior to 1884 this would mean an elevation about equal to the square pin and since that time this water elevation would depend upon the height of the embankment. Records of pond level were submitted by the respondent for the years 1905 to 1908, inclusive. These records indicate that the pond level in 1905 reached a level 3 inches above the square pin for about five days. This high water was preceded by unusual rainfall and witnesses testified that at the time there was danger of the water passing over the embankment.

There is considerable evidence submitted by the petitioner indicating that the water has been maintained at a higher elevation since the dam was reconstructed in 1913 than previously. Testimony is submitted that oak trees which prior to 1913 had grown for many years have since then been killed by the high water and that grounds previously tilled or used for cropping hay have become useless due to the high water. With the embankment approximately 3 inches above the square pin in 1905 the ordinary pond elevation prior to that time must have been at least a foot below the square pin. During the period from 1905 to 1908, inclusive, the respondent's records of pond elevation indicate that the level for about half of the period was above 1 foot below the square pin. If we take into consideration variations of quantity of water in different years or different season's supply, we cannot say that the evidence establishes there was any ten year period when the water was ordinarily maintained as high as the level of the round pin, although it may at times have been higher, and there is evidence that the water must have been considerably below this point most of the time.

The respondent has filed a petition requesting the Commission to order gates installed in the Woolen Manufacturing Company dam, the dam next below the Paramount dam. Such gates, it is claimed by the respondent, will facilitate the handling of floods at respondent's dam. Some buildings are constructed over, and other buildings encroach upon, the river below the Paramount dam and above the Upper Woolen Mills dam. It has been the practice of the respondent to limit wastage of flood water at the Paramount dam for the purpose of protecting the safety of these buildings, a practice which will be countenanced by the order hereinafter entered. After carefully considering the ordinary flow in the stream and the wastage as it thus takes place, we do not think that the installation of gates in the Woolen Manufacturing Company's dam will materially aid in passing the flood waters through the Paramount dam. Flood waters will be expected to be discharged at the Paramount dam to the fullest extent consistent with the safety of the buildings in and along the stream in the city of Beaver Dam. Nothing herein, however, is in any way to be construed as casting upon the owners of the Paramount dam any responsibility for damage

to buildings encroaching upon the stream and which we found in our decision of May 13, 1914, to be an obstruction of navigation.

It is evident that there should be some relief from the conditions existing in the city of Beaver Dam and below the city caused by the draining off of the ponds below the Paramount dam and by the shutting off of practically all of the water at the Paramount dam. It appears that very little water is allowed to pass the Paramount dam during the summer months from Saturday noon until Monday morning; that the two dams next below the Paramount dam are in a more or less leaky condition allowing the water during such periods to drain out of their respective ponds; that the ponds of these two lower dams do not extend up stream to the next dam above and that this method of operation during such periods leaves but very little water in the ponds below the Paramount dam and exposes large portions of the bottoms of the ponds, creating, especially during the summer months, an obnoxious odor, and that the small amount of water passing between and through these ponds, together with the hot sun, causes fish to die, and that during such periods the quantity of water is insufficient for boat navigation and also the small flow renders the stream inaccessible for the watering of stock owned by certain farmers below the city of Beaver Dam. It cannot be said that such use of the water by the power owners constitutes a reasonable use. On the other hand there is no evidence that the shutting off of the water during week-day nights creates any detrimental conditions. Nor does the shutting off of the water during the winter months, in our opinion, create any detrimental conditions. If a continuous passage of water, not less than 10 cubic feet per second, is allowed to pass the Paramount dam during each day from 7 a.m. to 5 p.m., on such days as respondent's water wheels are not in operation, for the months of May to September, inclusive, and if the leaky condition of the Upper Woolen Mills dam is repaired, it is believed that these unsatisfactory conditions will be largely alleviated. The lower dams in the city of Beaver Dam will, of course, be expected to pass a like quantity of water as shall hereinafter be ordered to be discharged and during the same periods.

Bench Mark No. 35A consists of a bronze tablet marked "Railroad Commission of Wisconsin" set in a concrete post about

5 feet in length, the top of which is slightly below the surface of the ground and located 1 foot inside of the cement sidewalk and 115 feet upstream from the end of the boiler house of the Paramount Knitting Mills and 70 feet upstream from the head gates in the flume leading to the wheels. The top of the bench mark is given an assumed elevation of 100 feet.

When referred to Commission's Bench Mark No. 35A, the elevation of the top edge of the round pin is 89.16 feet and the elevation of the top edge of the square pin is 89.52.

The Commission finds that in order to protect public rights in navigable water and to protect life, health and property, the dams of the Paramount Power & Realty Company and the Woolen Manufacturing Company shall be regulated and controlled as hereinafter in this order provided. The levels hereinafter stated are referred to Railroad Commission's Bench Mark No. 35A.

IT IS THEREFORE ORDERED:

First. Whenever the water in the pond immediately above the dam of the Paramount Power & Realty Company reaches an elevation exceeding 88.5, all of the gates in said dam shall be opened to their fullest capacity for the discharge of water consistent with the safety of the buildings now existing in the stream below the dam, and this flow through said gates shall continue until the water has returned to a level of 88.5.

Second. Between the first day of May and the thirtieth day of September, inclusive, in each year, not less than 10 cubic feet of water per second shall be allowed to pass said dam during each day from 7 a.m. to 5 p.m. on any day or half day when the water wheels of said Paramount dam are not in operation.

Third. The Woolen Manufacturing Company shall within 90 days from the date of this order repair its dam and flume in the city of Beaver Dam so as to prevent excessive leakage.

WP-27 78

BEFORE THE
RAILROAD COMMISSION OF WISCONSIN

W. P.—57

IN RE APPLICATION OF ADOLPH RAKE ET AL. FOR AN
INVESTIGATION AND HEARING CONCERNING THE
HEIGHT OF WATER HELD BY THE DAM OWNED
BY THE PARAMOUNT POWER & REALTY COMPANY
IN THE CITY OF BEAVER DAM

C. A. MARKHAM for Petitioners

GROTOPHORST, THOMAS & QUALE, by H. H. THOMAS, and
JAMES F. MALONE, for Paramount Power & Realty Com-
pany

C. W. HARVEY for Masonic Temple Association

HEALY & HEALY, by JOHN C. HEALY, for Woolen Mills
Manufacturing Company

Decided June 14, 1919

OPINION AND DECISION OF THE COMMISSION

23 W. R. C.

IN RE APPLICATION OF ADOLPH RAKE ET AL. FOR AN INVESTIGATION AND HEARING CONCERNING THE HEIGHT OF WATER HELD BY THE DAM OWNED BY THE PARAMOUNT POWER & REALTY COMPANY IN THE CITY OF BEAVER DAM

Submitted June 9, 1919. Decided June 14, 1919

In its decision of March 28, 1919 (W. P. 53, 22 W. R. C. 751) in the above matter, the Commission fixed the height of the water in the pond above the dam at 88.5. The owners of the dam now maintain that the former decision is unsatisfactory in that it does not definitely determine the amount of water which could safely be discharged through the dam should the elevation of the water in the pond exceed 88.5, and ask that a minimum level be established in order that they may be protected from any claim of injury to property owners on the pond above the dam, and also as to any buildings bordering on the stream below.

Held: As to the buildings on the stream, it cannot be known exactly what conditions of discharge these buildings may be able to withstand from time to time, as this would depend upon their upkeep and repair, and the power company is not responsible for the results of such conditions. A discharge not exceeding 900 cu. ft. per second will, however, give reasonable protection to these buildings, and when the elevation exceeds 88.5 the water shall be discharged at the rate of not more than 900, and not less than 800, cu. ft. per second.

In the interest of public rights in navigable waters, and to promote safety and protect property, the minimum level should be fixed at the elevation 85.5, but under no circumstances must it be reduced below 85.3.

ORDER in accordance with foregoing; order of March 28, 1919, to remain in full force except as specifically modified.

The decision in this proceeding was rendered on the 28th day of March, 1919. Subsequent to the filing of such decision the owners of said dam set forth that the decision was unsatisfactory in that it did not definitely determine the amount of water which the owners of said dam could safely discharge through said dam when the elevation of the water in the pond exceeded the elevation 88.5, and that the owners of said dam should have a more specific decision in regard thereto in order that they might be protected on the one hand from any claim of injury to property owners on the pond above the dam, and on the other hand as to any buildings in the city bordering on the stream below the dam.

The original petitioners by their attorney filed a petition requesting the Commission to fix a minimum level of water to be maintained above the dam.

Due notice to all parties in interest was given by the Railroad Commission, and hearing was held at Beaver Dam, Wisconsin, on June 9, 1919. The appearances were: *C. A. Markham* on behalf of the petitioners; *C. W. Harvey* on behalf of the Masonic Temple Association; *Grotophorst, Thomas & Quale*, by *H. H. Thomas*, and *James F. Malone*, on behalf of the Paramount Power & Realty Company; and *Healy & Healy*, by *John C. Healy*, on behalf of the Woolen Mills Manufacturing Company.

It appears that some buildings have been erected, part of which are within the banks of the Beaver Dam river immediately below the Paramount Power & Realty Company's dam, and have existed in such position for a great many years,—some for over 20 years. The evidence shows that to permit the maximum flow of water during floods or to permit the discharge of water through the dam to its fullest capacity might endanger these structures. Again, it cannot be known exactly what conditions of discharge these buildings may be able to withstand from time to time, such question depending upon their upkeep and repair and general condition. It is entirely wrong to throw upon the power company the burden of in any way being responsible for the results of such conditions. We are inclined to say that very likely these buildings remain within the banks of this stream wholly at their own risk. The owners of the dam have expressed a willingness to observe a reasonable order limiting the discharge to such amount as the Commission shall find to be necessary or proper in order to protect the buildings as they now are. We find that a discharge not exceeding 900 cubic feet per second will give reasonable protection to the buildings. The investigation and evidence indicates that the buildings, if kept in good repair, will not be damaged by a discharge of 900 cubic feet per second. In fact, the discharge in the past has been substantially 900 cubic feet per second. As the discharge through the gates is regulated by the number of boards in position, some leeway should be permitted the mill owners as to the amount of water which they shall be required to discharge when the elevation exceeds the point 88.5. We find that when the elevation exceeds the point 88.5 the dam owners shall discharge the water at the

rate of not more than 900 and not less than 800 cubic feet per second.

In regard to the minimum level of water, we find that in the interest of public rights in navigable waters and to promote safety and protect property, the minimum level should be fixed at the elevation 85.5. At a point below this, however, it is likely that the mill operations will cease, and it is also possible that the discharge of 10 cubic feet per second provided for in the original order will lower the level of the lake below the point 85.5. In case the discharge of 10 cubic feet per second shall lower the level of the lake below the elevation 85.5, the discharge of all water through the dam shall cease when the elevation reaches the point 85.3. The levels herein referred to are in relation to the top of Bench Mark No. 35A, the top of which bench mark is given an assumed elevation of 100.

IT IS THEREFORE ORDERED, That the order as heretofore made in the above-entitled matter on the 28th day of March, 1919, be, and the same is hereby, supplemented and amended so as to provide as set forth in the following paragraph, said order of March 28, 1919, to remain in full force and effect, except as specifically by this order modified or changed.

The minimum level of water in the pond immediately above the dam shall not be less than the elevation 85.5, except that the water shall be allowed to pass through the dam at the rate of 10 cubic feet per second, subject to the provision that when the elevation of the water in the pond reaches the elevation 85.3 all discharge of water through the dam or through the wheels shall cease until a higher elevation has been reached.

IT IS FURTHER ORDERED, That when the elevation of the water in the pond exceeds the point 88.5, the discharge through the dam shall be at the rate of not more than 900 cubic feet per second and not less than 800 cubic feet per second.

Dam Sequence No

120



Formal Action



Year:

1935



BEFORE THE
PUBLIC SERVICE COMMISSION OF WISCONSIN

IN THE MATTER OF THE PETITION OF
L. H. ZIMMERMAN AND 24 OTHER PER-
SONS FOR AN ORDER ESTABLISHING A
NEW AND HIGHER MINIMUM LEVEL FOR
BEAVER DAM LAKE, IN DODGE COUNTY

2-WP-195

This is an application by L. H. Zimmerman and 24 other persons for an order establishing a new and higher minimum level to be maintained by the dam of the Paramount Power & Realty Company for Beaver Dam Lake, Dodge County. Beaver Dam Lake is entirely artificial. The lake is being maintained by a dam across Beaver Dam Creek at the outlet of the lake within the corporate limits of the City of Beaver Dam. The dam is owned by the Paramount Power and Realty Company, a corporation.

A hearing on the application was set for and held on due notice at the City of Beaver Dam on the 6th day of May, 1935. The appearances were: Adolph Kanneberg, Examiner. The petitioners appeared by H. J. Gergen, Attorney. The Paramount Power and Realty Company appeared by F. A. Crocker, Attorney, and L. F. Gray, Secretary. The Bear Brand Hosiery Company appeared by F. A. Crocker, Secretary and Attorney. The Lowell Rod & Gun Club appeared by Roland Wendt and Carl A. Krosse of Beaver Dam. Fred C. Yerges appeared by A. W. Lueck, his attorney. The Conservation Commission of Wisconsin was represented by B. O. Webster, Superintendent of Fisheries, and Robert A. Gray, Superintendent of Commercial Fishing. The City of Beaver Dam was represented by Miss Mary Spellman, Mayor. Individual farmers appeared in person, as will appear from the record.

1. From the evidence and files of the Public Service Commission, the following pertinent facts appear. Beaver Dam Lake was created by a dam about the year 1842 and has since been maintained

by reconstructed or new dams approximately at the original dam site. The drainage area above the dam is about 145 square miles. The water area of the lake at maximum elevation is approximately $8\frac{1}{2}$ square miles. The dam site and dam were acquired by the Paramount Power and Realty Company in December, 1911. This company is still the owner of the dam. In 1913, the owner had reconstructed the dam of concrete. The operating head is approximately ten feet. The dam until March, 1934, was used to develop hydraulic power to be used in the knitting mill adjacent to the dam. The mill, however, ceased operation about March, 1934.

2. In 1917, a petition signed by Adolph Rake and others was filed with the Railroad Commission, which alleges that the respondent, Paramount Power and Realty Company, had raised the pond level of Beaver Dam Lake to the damage of riparian farm lands around the lake. The petitioners requested an order fixing the maximum and minimum elevations of water to be maintained in the lake by the dam of the Power and Realty Company.

After a public hearing the Commission made the following order, dated March 28, 1919:

"First. Whenever the water in the pond immediately above the dam of the Paramount Power and Realty Company reaches an elevation exceeding 88.5, all of the gates in said dam shall be opened to their fullest capacity for the discharge of water consistent with the safety of the buildings now existing in the stream below the dam, and this flow through said gates shall continue until the water has returned to a level of 88.5.

"Second. Between the first day of May and the thirtieth day of September, inclusive, in each year, not less than 10 cubic feet of water per second shall be allowed to pass said dam during each day from 7 a.m. to 6 p.m. on any day or half day when the water wheels of said Paramount dam are not in operation.

"Third. The Woolen Manufacturing Company shall within 90 days from the date of this order repair its dam and flume in the city of Beaver Dam so as to prevent excessive leakage."

The elevations mentioned in said order are referred to Bench Mark No. 35A, which consists of a bronze tablet marked "Railroad Commission of Wisconsin" set in a concrete post about 5 feet in length, the top of which is slightly below the surface of the ground and located one foot inside of the cement sidewalk and 115 feet upstream from the end of the boiler house of the Paramount Knitting

Mills and 70 feet upstream from the head gates in the flume leading to the wheels. The top of the bench mark is given an assumed elevation of 100.00 feet.

3. On April 16, 1919, the petitioners moved for a reconsideration of the order of March 28, 1919, on the ground that the Commission had failed to establish a minimum level for Beaver Dam Lake as prayed for in the petition and requested that the order be modified to include in said order the lowest level of water at which the Power Company may use said water for production of power, and also to determine the amount of water to be released from the lake after the pond had dropped to elevation 85.5 feet, in order that the unwholesome conditions in the river below during the hot months might be prevented. The petitioners suggested that elevation 85.5 feet be established as the minimum level for the pond for power purposes. The petition was joined in by the City of Beaver Dam. The respondents, Paramount Power and Realty Company and the Knitting Company, objected to the granting of the motion of the petitioners on the ground that to establish a minimum level would result in depriving it of power, but the power company on its part requested that the order entered be modified so as to permit a higher maximum level than was established by the order of March 28, 1919. The Power Company also requested that the Commission determine the amount of water to be released during flood periods.

On the hearing on said application, respondent, Paramount Power and Realty Company, admitted that after the pond had dropped to elevation 85.5 feet, it would be useless for power purposes. No testimony was offered as to the reasonableness of a minimum elevation of 85.5 feet. The hearing was devoted entirely to the question of how much water was to be released during flood periods so as not to damage buildings below the dam constructed entirely or partly over the river channel and still comply with the order of the Commission not to raise the pond above elevation 88.5 feet, and to the question of the quantity of water to be released to prevent nuisance conditions in the river below when the pond level has dropped to elevation 85.5 feet. The order which followed cannot be regarded as fixing a final minimum pond level.

The order in full is as follows:

"IT IS THEREFORE ORDERED, That the order as heretofore made in the above-entitled matter on the 28th day of March, 1919, be and the same is hereby supplemented and amended so as to provide as set forth in the following paragraph, said order of March 28, 1919, to remain in full force and effect, except as specifically by this order modified or changed.

"The minimum level of water in the pond immediately above the dam shall not be less than the elevation 85.5, except that the water shall be allowed to pass through the dam at the rate of 10 cubic feet per second, subject to the provision that when the elevation of the water in the pond reaches the elevation 85.3 all discharge of water through the dam or through the wheels shall cease until a higher elevation has been reached.

IT IS FURTHER ORDERED that when the elevation of the water in the pond exceeds the point 88.5, the discharge through the dam shall be at the rate of not more than 900 cubic feet per second and not less than 800 cubic feet per second."

The order is dated June 14, 1919.

4. A differential of three feet between the high and low levels of a large and shallow lake on the border of which is located a large city of 8,000 people would seem to be too great. Two miles of the shore of the lake are within the city limits. The lowering of the water three feet below the maximum elevation will expose large areas of mud bottom. Petitioners demanded that the minimum be raised $1\frac{1}{2}$ feet or to elevation 87.00 feet. Objections to an order raising the minimum level were made by the respondents, Paramount Power and Realty Company and the Knitting Company, on the ground that it would deprive them of power and result in confiscating part of their property. The raising of the minimum level was objected to by riparian farmers on the ground that the raising of the minimum level would in flood times make it impossible for the respondent power company to prevent the water level from exceeding the maximum level set by the Commission. It was objected to by the owner of the dam at Lowell some 15 miles downstream on the ground that during low streamflow it would deprive him of water for power purposes. The Rod and Gun Club objected on the ground that a higher minimum level would lower the water

in the river below the dam to the damage of fish life. We will discuss these objections in the order named.

5. The respondent, Paramount Power & Realty Company, offered in evidence eleven charts showing the pond elevations by days from January 1, 1924, to March, 1935, inclusive. From these charts it appears that during the years 1927, 1928 and 1929, the pond never fell as low as 12" above the minimum established by the Commission. Table I shows the number of days each year the water was drawn below elevation 86.5 feet and the average number of inches it was drawn below that elevation during each year of the 11-year period, 1924 to 1934, inclusive.

TABLE I

Showing Drawdown of Beaver Dam Lake below Elevation 86.5'

<u>Year</u>	<u>Number of Days Water Level was Below Elevation 86.5'</u>	<u>Approximate Average Number of Inches Water Level was Drawn be- low Elevation 86.5'</u>	<u>Percent of Year</u>
1924	86	3 in.	23.6
1925	214	4 1/2 "	58.5
1926	82	4 "	22.4
1927	0	0	0.0
1928	0	0	0.0
1929	0	0	0.0
1930	137	2 1/2 in.	37.6
1931	365	4 1/2 "	100.0
1932	127	3 1/4 "	34.8
1933	25	1 "	6.8
1934	<u>148</u>	<u>4 "</u>	<u>40.5</u>
Average (11 yrs.)	108	2-3/8 in.	29.5
Average omitting 1931	82	2 1/4 in.	22.4

NOTE: 9.5% of the time noted above for the 11-year averages occurred during the months of June, July, August and September.

The low water levels of the pond, shown on the charts, indicate that there was an excessive withdrawal of water for power purposes for at least 20% of the time. There does not seem to be

a good correlation between the pond elevations shown on the charts and rainfall shown by the record hereto attached. Low pond elevations do not seem to have been caused in all instances by deficiencies in the average rainfall for the drainage area involved. For example, the year 1930 was a year of deficient rainfall, averaging 25.76 inches, as recorded by the U.S. Weather Bureau at the stations at Watertown, Portage and Fond du Lac, resulting in the depletion of the ground water levels and a decided drop in the levels of Beaver Dam Lake in the following year, 1931. The pond level in 1931 never reached elevation 86.5 feet, and during the months of August, September and October fell to an elevation below the minimum fixed by the Commission. The average rainfall for the same stations in 1932 was only 23.18 inches, and yet there were only 25 days the following year when the water was about one inch below elevation 86.5 feet, and 1933 was one of the most favorable years for good water levels according to the chart. It would appear that during the year 1931 the company was using more water from the pond than was being supplied by the inflow.

If the minimum pond level had been established 12 inches higher than it was by the order of the Commission, then during the years 1927, 1928, 1929 and 1933, except for 25 days in 1933, the operation of the dam would have been within the provisions of the order. Table I also shows that in an average year made up of the 11 charted years of operation it would have been possible to operate 70.5% of the time at or above elevation 86.5 feet, and if the year 1931 is omitted, to operate 77.6% of the time at or above elevation 86.5 feet, and in no case to average more than approximately 2-3/8 inches below that elevation. On the other hand, by building up the pond and maintaining a head of 8 feet instead of 7 feet, it is estimated the power from the waterwheels will be increased approximately 15%, so that more power will be obtainable from the pond when operation ceases

after the pond has dropped to elevation 86.5 feet. The increase in evaporation from the additional free water surface, if the minimum is raised to elevation 86.5 feet, will be largely offset by the fact that the rate of evaporation on a shallow pond is greater than on a deep pond.

6. Let us now consider whether the respondent power company would have suffered any loss by being required to waste water if a higher minimum level is established. According to the charts no water was wasted during any year, except possibly a small quantity one day in 1927, a few days in March and April, 1928, a small quantity for three or four days in 1929 and possibly 5 or 6 days in 1933. During the foregoing years, however, the minimum never fell below elevation 86.5 feet, except in 1933, when for 25 days the minimum reached 86.42 feet, or one inch below elevation 86.5 feet. The foregoing demonstrates that the company was able to keep a pond level below the maximum established by the Commission during good water years with a minimum pond level as high or higher than elevation 86.5 feet.

7. Now, with respect to the objections of the farmers who fear that respondent will be unable to prevent the pond from exceeding the maximum fixed by the Commission if the minimum is raised. As already pointed out, during good water years of 1927, 1928, 1929 and nearly all of 1933, the minimum level never fell as low as 86.5 feet, yet the company was able to operate the dam so as not to exceed the maximum level established by the Commission. It follows during years when there is less rainfall and runoff there would be less difficulty in keeping the pond below the maximum.

8. Concerning the objections raised by Mr. Yerges, whose grist mill is located downstream at Lowell: A riparian owner on a stream is entitled to have the water come to him from an upper riparian reasonably undiminished in quantity. Mr. Yerges, except

for reasonable interruptions, is entitled to the natural flow of the stream.

However, after the pond has lowered to its minimum level of 86.50 feet and continues to drop without any release of water through the dam, it is evident that the evaporation exceeds the inflow into the pond. Nevertheless, to prevent stagnant water in the stream below the dam and to protect fish life and supply a reasonable amount of water to the power owner below the dam, the order will provide that after the pond has lowered to elevation 86.50 feet, there shall be released through the dam 10 second feet until the pond has dropped to elevation 86.00 feet. After the pond elevation has dropped to elevation 86.00 feet, there shall be released through the dam 5 second feet until the pond has dropped to 85.30 feet when all release through the dam shall cease until the pond is again at or above elevation 85.30 feet.

IT IS THEREFORE ORDERED that the decision and order of March 28, 1919, and the supplemental and amended decision and order of June 14, 1919, be amended by striking from the order of June 14, 1919, the second paragraph and inserting in place thereof the following paragraph, viz.:

"The minimum level of water in the pond immediately above the dam for power purposes shall be elevation 86.50 feet. If the pond elevation drops below 86.50 feet and so long as it continues below that elevation there shall be released through the dam a maximum flow of 10 second feet until the pond level shall have dropped to elevation 86.00 feet. So long as the pond elevation continues at or below elevation 86.00 feet, there shall be released a maximum of 5 second feet until the pond level shall have dropped to elevation 85.30 feet when all discharge of water through the dam shall cease until the pond level is again at or above elevation 85.30 feet.

IT IS FURTHER ORDERED that except as herein amended the said orders of March 28, 1919, and June 14, 1919, shall remain in full force and effect.

Dated at Madison, Wisconsin, this 30th day of December,
1935.

PUBLIC SERVICE COMMISSION OF WISCONSIN

Chairman

W. M. McDaniel
Commissioner

Fred S. Hunt
Commissioner

Attest:

E. H. Dummer
Secretary

Dam Sequence No 120



Formal Action



Year: 1939



BEFORE THE
PUBLIC SERVICE COMMISSION OF WISCONSIN

Petition of Charles Krebs and 71 Other Persons for Relief from High Water in Beaver Lake, Dodge County	}	2-WP-430
Application of Adolph Rake et al. for an Investigation and Hearing Concerning the Height of Water Held by the Dam Owned by the Paramount Power & Realty Company in the City of Beaver Dam	}	WP-78

JOINT OPINION AND ORDER

On April 5, 1939 Charles Krebs and 71 other persons filed a petition with the commission requesting an order requiring the city of Beaver Dam to maintain a level of water in Beaver Dam Lake sufficiently lower than the level heretofore maintained by the city since its acquisition of the dam in the outlet stream so as to prevent the flooding of large areas of farm lands. It appeared from the records of the commission that the city of Beaver Dam has alleged that the city of Fox Lake has discharged flood waters from Fox Lake in large quantities without first notifying the city of Beaver Dam, thereby adding to the difficulty of the problem of preventing a sudden rise of water in Beaver Dam Lake. Consequently, this phase of the matter was also included in the notice of investigation.

W

Hearing: April 24, 1939 at Beaver Dam
before Examiner Samuel Bryan.

Appearances:

Charles Krebs and several others by
Eugene A. Clifford
Juneau

City of Beaver Dam by
Claude McCabe
City Attorney
Beaver Dam

Conservationists and some other private
parties and
Dodge County Sportsmen's Alliance by
W. A. Lueck and Wm. O. Lueck
Beaver Dam

Otto F. Jansen, chairman of
Fox Lake Cottage Owners Association and
Member of Beaver Dam Conservationists Club
Fox Lake

Harrison Phelps, chairman of
Town of Fox Lake
Fox Lake

Of the Commission staff:
K. C. MacLeish
Engineer

Opinion

At the hearing there was testimony by numerous
land owners that the water in Beaver Dam Lake has been
held at a level which has resulted in flooding farm lands
and causing material erosion and damage to crops. This
condition was particularly noticeable during the heavy
rains of the fall of 1938 when the water level of Beaver
Dam Lake remained above its high watermark for 59 days.

The testimony further shows that the city of Beaver Dam has constructed a sewage disposal plant at the outskirts of the city below the dam and that passing water through the dam in excess of 384 cubic feet per second results in flooding the working floors of this sewage disposal plant. The flow of water through the dam was therefore restricted to 384 cubic feet per second to prevent damage to the sewage disposal plant and resulted in keeping the water above the dam higher than necessary for approximately 40 days.

An order was issued in a previous proceeding on June 14, 1919 (WP-78, WROR Vol. 23, p. 118) wherein the commission determined that 900 cubic feet per second could be passed through the stream which runs through the city and under certain stores and buildings over the stream with reasonable safety. Since that time it appears that other structures have been built and debris accumulated in the stream so that it is questionable whether under present conditions 900 cubic feet per second of water could be safely passed through this stream. Subsequent to the hearing the city has instituted certain work in clearing debris from part of the stream below the dam but we are not advised as to the results of these improvements with respect to the present discharge capacity of the improved channel. In any event, it is clear that to pass an amount of water materially in excess of 384 cubic feet per second it would be necessary to make relatively costly additions and improvements to the sewage disposal plant so that it could operate

notwithstanding the high water and to enlarge and improve the river channel.

The record also shows that the commission called the attention of the contractor who was engaged in designing and building the sewage disposal plant to the requirement of the outstanding order of the commission of 1919 above referred to.

Because the outflow is restricted as above indicated it appears necessary that the level of the lake be so regulated that it will not rise to excessive levels during protracted rains. The order of the commission dated June 14, 1919 which requires the release of not less than 800 cubic feet per second and not more than 900 cubic feet per second through the dam when elevation 88.50 feet has been reached cannot be complied with if flooding of the sewage treatment plant is to be prevented. Under these circumstances we are of the opinion that the maximum level for Beaver Dam Lake, fixed by the 1919 order, should be lowered to prevent damage to riparian owners during periods of heavy rainfall. Such a regulation should be temporary in character pending appropriate action on the part of the city to protect its sewage disposal plant and to take such other steps in the matter of enlarging the outlet channel by removal of obstructions as will result in making possible the passing of water through the dam in the amount contemplated by the commission's 1919 order.

The city of Fox Lake and the town of Fox Lake which jointly operate the dam at Fox Lake have indicated a

willingness to cooperate with the city of Beaver Dam so that the city of Beaver Dam may be notified whenever any large amount of water is being discharged into Beaver Dam Lake.

Finding

THE COMMISSION FINDS:

That the requirements hereinafter made are necessary properly to regulate the flow of water through the dam at Beaver Dam so as reasonably to maintain the high water level of 88.50 feet in Beaver Dam Lake and to afford property owners on Beaver Dam Lake additional high water relief which the city of Beaver Dam is unable to provide by its present method of operating the dam.

Order

IT IS THEREFORE ORDERED:

1. That the city of Beaver Dam shall so regulate the flow of water through its dam at the outlet of Beaver Dam Lake with respect to the high watermark that each year during the period from March 15 to May 1 the water in said lake shall be not less than 10 inches below said high water level of 88.50 feet; that from May 1 to September 1 the water in said lake shall be not less than 4 inches below said maximum level; that from September 1 to October 15 the water in said lake shall be not

less than 10 inches below said maximum level; and that between October 15 and March 15 the water in said lake shall be not less than 4 inches below said maximum level.

2. That the regulation of the flow through the dam with respect to low watermarks shall remain in force as prescribed in the commission's order of December 30, 1935 in docket 2-WP-195 (PSCR vol. 11, p.268).

3. That docket WP-78 be reopened and that the effectiveness of paragraph 3 of our order therein dated June 14, 1919 (WRGR vol. 23, p.118) which reads as follows:

"IT IS FURTHER ORDERED, That when the elevation of the water in the pond exceeds the point 88.5, the discharge through the dam shall be at the rate of not more than 900 cubic feet per second and not less than 800 cubic feet per second."

be and is hereby suspended until further order of the commission.

4. That jurisdiction be retained to enter such further order as may be necessary if and when the city improves the bed of said stream and protects its sewage disposal plant to permit an additional flow of water through the dam with safety and to take such action as may be proper should the city of Beaver Dam fail to proceed with said improvements with reasonable promptness.

Dated at Madison, Wisconsin, this 1st day of August, 1939.

PUBLIC SERVICE COMMISSION OF WISCONSIN

Fred S. Hunt.
Chairman

Robert A. Rippe
Commissioner

Commissioner

BEFORE THE
PUBLIC SERVICE COMMISSION OF WISCONSIN

Petition of Charles Krebs and 71 Other Persons for Relief from High Water in Beaver Lake, Dodge County	}	2-WP-430
--	---	----------

Application of Adolph Rake et al. for an Investigation and Hearing Concerning the Height of Water Held by the Dam Owned by the Paramount Power & Realty Company in the City of Beaver Dam	}	WP-78
--	---	-------

ORDER GRANTING REHEARING

An order was entered in the above-entitled matters on August 1, 1939 specifying certain regulations with respect to the operation of the dam at the outlet of Beaver Lake in the city of Beaver Dam. On August 22, 1939 the city of Beaver Dam and other parties of record by their attorneys applied for a rehearing alleging in substance that the order of the Commission is not supported by the evidence and that said regulations will result in damage to property of persons residing in the city of Beaver Dam as more particularly set forth in said petition for rehearing which was duly served on all parties of record.

Upon consideration of the record and the petition for rehearing we are of the opinion that a rehearing should be granted.

Order

IT IS THEREFORE ORDERED:

That a rehearing in the above-entitled matters
be held, notice of the time and place thereof to issue
in due course.

Dated at Madison, Wisconsin, this 7th day
of September, 1939.

PUBLIC SERVICE COMMISSION OF WISCONSIN

Fred S. Hunt.

Chairman

Robert A. Tishman

Commissioner

Commissioner

Dam Sequence No 120



Formal Action



Year: 1947



BEFORE THE
PUBLIC SERVICE COMMISSION OF WISCONSIN

Petition of Charles Krebs and 71 Other Persons for Relief from High Water in Beaver Dam Lake, Dodge County	} } }	2-WP-430
---	-------------	----------

Application of Adolph Rake, et al., for an Investigation and Hearing Concerning the Height of Water Held by the Dam Owned by the Paramount Power and Realty Company in the City of Beaver Dam	} } } } }	WP-78
--	-----------------------	-------

DECISION AND ORDER

On August 1, 1939 the Commission on the petition of Charles Krebs and 71 other persons issued a joint opinion and order in the above-entitled proceedings.

The appearances were:

Charles Krebs and several others by

Eugene A. Clifford
Juneau

City of Beaver Dam by

Claude McCabe
City attorney

Conservationists and other private parties and
Dodge County Sportsmen's Alliance by

Lueck, Skupniewitz & Lueck by
W. A. Lueck and Wm. O. Lueck
Beaver Dam

Otto F. Jancen, chairman of
Fox Lake Cottage Owners Association and
Member of Beaver Dam Conservationists Club
Fox Lake

Harrison Phelps, chairman of
Town of Fox Lake
Fox Lake

Of the Commission Staff:

K. C. MacLeish
Engineer

The order of the Commission in that proceeding is as follows:

"IT IS THEREFORE ORDERED:

"1. That the city of Beaver Dam shall so regulate the flow of water through its dam at the outlet of Beaver Dam Lake with respect to the high watermark that each year during the period from March 15 to May 1 the water in said lake shall be not less than 10 inches below said high water level of 88.50 feet; that from May 1 to September 1, the water in said lake shall be not less than 4 inches below said maximum level; that from September 1 to October 15 the water in said lake shall be not less than 10 inches below said maximum level; and that between October 15 and March 15 the water in said lake shall be not less than 4 inches below said maximum level.

"2. That the regulation of the flow through the dam with respect to low watermarks shall remain in force as prescribed in the commission's order of December 30, 1935 in docket 2-WP-195 (P.S.C.R. vol. 11, p. 268).

"3. That docket WP-78 be reopened and that the effectiveness of paragraph 3 of our order therein dated June 14, 1919 (W.R.C.R. vol. 23, p. 118) which reads as follows:

'IT IS FURTHER ORDERED, that when the elevation of the water in the pond exceeds the point 88.5, the discharge through the dam shall be at the rate of not more than 900 cubic feet per second and not less than 800 cubic feet per second.'

be and is hereby suspended until further order of the commission.

"4. That jurisdiction be retained to enter such further order as may be necessary if and when the city improves the bed of said stream and protects its sewage disposal plant to permit an additional flow of water through the dam with safety and to take such action as may be proper should the city of Beaver Dam fail to proceed with said improvements with reasonable promptness."

On August 22, 1939 the city of Beaver Dam, by its attorney, Claude F. McCabe, and Conservationists and other private parties, by Lueck, Skupniewitz & Lueck, their attorneys, filed an application for rehearing. On September 7, 1939 the rehearing was granted, the time and place for the hearing to be determined later. On September 11, 1939 the Commission

scheduled the rehearing for September 21, 1939 at the offices of the Commission in the city of Madison.

As will appear from the record, the rehearing was thereafter, at the request of the parties, adjourned from time to time.

On December 15, 1939 the parties filed with the Commission a written stipulation dated December 5, 1939, wherein it was agreed that the rehearing be continued for an indefinite time and until it might be determined by tests the maximum amount of water which may be passed through the dam without causing damage to the sewage treatment plant of the city of Beaver Dam. It was further agreed that until the time such tests are made that the city do not permit the water of said lake to reach a level greater than 8 inches below the high watermark of 88.50 feet, Public Service Commission datum.

On December 26, 1939 the Commission made the following comment on receiving the stipulation:

"In acquiescing in this stipulation it is our understanding that the effectiveness of our order of August 1, 1939 is suspended by statute pending the disposition of the rehearing and that the provisions of our order of December 30, 1935 referred to in paragraph (2) of said order of August 1, 1939 continue to be effective."

On November 4, 1946, E. M. Hupf and eight other persons, six of whom appeared as petitioners on the original petition in this proceeding, filed a petition which reads as follows:

"The undersigned farmers and residents of Dodge County, whose land is adjacent to Beaver Dam Lake, hereby respectfully petition your honorable body for a hearing to be held at Beaver Dam, Wisconsin, for the purpose of presenting facts to show that the water level of Beaver Dam Lake should be lowered so as to prevent further erosion and loss of property along the lake shore."

The Commission thereupon, on January 23, 1947, gave

notice that the rehearing in said matter would be held in the city hall at Beaver Dam on February 17, 1947.

Hearing: February 17, 1947 at Beaver Dam before Adolph Kanneberg, examiner.

Appearances:

City of Beaver Dam by

Stanley C. Fruits, city attorney ✓
Beaver Dam

Beaver Dam Conservationists, Inc.
Beaver Dam Fishermen's Club
Property Owners:

Clifford Omik
Norbert Franke
Earl Quandt
Merrell Belling
Herbert Owen
Griffin N. Johnes by

Lueck, Skupniewitz & Lueck, attorneys ✓
Beaver Dam by
J. L. Skupniewitz ✓

Petitioning farmers by

E. M. Hupf ✓
Beaver Dam

Town of Fox Lake by

Harrison Phelps, chairman ✓
Beaver Dam

Wisconsin State Board of Health by ✓

George Bernauer
Assistant senior sanitary engineer
Madison

Wisconsin Conservation Commission by ✓ (not present)

Barney Wanle
Fisheries department
Horicon

W. H. Field
Game Division

Lowell Mill Owners:

F. C. Yerges ✓
Reeseville

A. B. Thompson
Reeseville

E. C. Brunner
Reeseville

Fox Lake Cottage Owners Association by

Otto F. Jancen, secretary ✓
Fox Lake

Peter Steinkellner, president
Milwaukee

Of the Commission Staff:

W. A. Muegge of the engineering department

At the hearing, no evidence was offered with reference to the validity of the Commission's decision and order of August 1, 1939. The only evidence offered was by the petitioning farmers represented by E. M. Hupf. The evidence indicated that due to high water and wave action farmers on Beaver Dam Lake are losing considerable shore land by erosion. Mr. Hupf requested that the Commission order Beaver Dam Lake to be lowered not less than 24 inches for a period of not less than 4 years in order to enable the farmers to plant willows along the lake shore and construct protection walls.

At the conclusion of the testimony, the city of Beaver Dam by its attorney, Stanley C. Fruits, moved that the petition for rehearing be dismissed. J. L. Skupniewitz moved that the stipulation entered into by the petitioners on December 5, 1939 be dismissed. There being no objection to said motions, the motions were granted by the examiner.

Findings

THE COMMISSION FINDS:

That the order made on August 1, 1939 with reference to the operation of the dam hereinbefore referred to is necessary for the protection of life and property.

Order

IT IS THEREFORE ORDERED:

That the decision and order issued in these

proceedings on August 1, 1939 be and the same is hereby affirmed.

Dated at Madison, Wisconsin, this 15th day of April 1947.

PUBLIC SERVICE COMMISSION OF WISCONSIN

Samuel Bryan
Commissioner

W F Whitney
Commissioner

Lyman H. Wiley
Commissioner

Dam Sequence No 120



Formal Action



Year: 1953



Podge
~~7/1/53~~

BEFORE THE
PUBLIC SERVICE COMMISSION OF WISCONSIN

Investigation on Commission's Motion)
of Obstructions in the Beaver Dam River } 2-WP-931
in the City of Beaver Dam)

FINDINGS OF FACT AND ORDER

This matter was set for formal investigation and hearing because of complaints which were investigated and which indicated that obstructions existed in the Beaver Dam River. Order to be submitted to Governor as a violation of section 31.23 unless obstructions are removed within 60 days from date hereof.

Hearing: May 1, 1953 at Beaver Dam before Examiner
Helmar A. Lewis.

Appearances:

Mrs. K. Stoddart
Owner of second property from the bridge, by

William J. P. Aberg, attorney
Madison 3

City of Beaver Dam by

Robert Baker, assistant city engineer
Beaver Dam

Leo Fromholz
Owner of property adjoining Mrs. Stoddart
Beaver Dam

Emerson Waldhier
Owner of property second door to the east
of Mrs. Stoddart
Beaver Dam

Dr. William Kohl
Beaver Dam

Of the Commission Staff:

W. H. Cartwright
William Sayles
Engineering department

Findings of Fact

THE COMMISSION FINDS:

1. The Beaver Dam River is a stream which is navigable in fact.

2. The city of Beaver Dam owns and operates the dam holding Beaver Dam Lake. The maximum water level for the lake was established at elevation 88.50 feet in docket WP-78 in 1919. This was superseded by the order in docket 2-WP-430 in 1939, which provided that the water level be not less than 10 inches below elevation 88.50 feet from March 15 to May 1 and from September 1 to October 15, and not less than 4 inches below elevation 88.50 feet in the remaining periods of the year. This last order is a temporary order with jurisdiction retained, its purpose being to provide storage in Beaver Dam Lake so that flood flows can be passed at a reduced rate and over a longer period of time to protect the sewage-disposal plant of the city of Beaver Dam which is located downstream and at such an elevation that its operation would be curtailed if the dam passed the maximum flow. Elevations are referred to bench mark 35-C which is a 2-inch square cut in retaining wall 3 feet from right abutment of waste gates. Its elevation is 92.67 feet.

3. The area under consideration herein extends from the South Center Street bridge to a point about 250 feet downstream. Buildings in this area which are constructed over the river and which have supports on the stream bed are:

1. On the north side beginning at the bridge:

- a. Fromholz
- b. First Wisconsin Trust Company
- c. K. Stoddart
- d. Kohl
- e. Woldhier

2. On the south side beginning at the bridge:

- a. Starkweather

All of these buildings, excepting Starkweather's, have been in place since 1913. The Stoddart building was rebuilt under authority of determinations made in docket 2-WP-833 in 1951, and the Starkweather building was constructed under authority of determinations made in docket 2-WP-842 in 1951.

4. The river bed has loose stones which move with the high velocities associated with flood flow. The presence of building supports in the river tend to cause an accumulation of such stone obstructions. Loose material presently exists under the first three buildings on the north side of the river at elevations above the normal stream bed which obstruct full flow and which should be removed. In addition to the accumulated obstructions a stone-filled crib, which does not serve as a building support, lies in the waterway under the Fromholz building, and the remains of abandoned pier foundations projecting above the natural stream bed exist under the Stoddart building.

5. The following obstructions project above the original stream bed and should be removed.

a. Fromholz building

Any material beneath the building located in the area south of a line joining the second pier from the north in the west wall of the Fromholz building and the west end of the foundation wall under the First Wisconsin Trust Company building which projects above elevation 95.5 feet.

b. The First Wisconsin Trust Company building

Any material beneath the building south of the solid foundation wall, which projects above elevation 95.5 feet.

c. Stoddart building

Any material beneath the building in the area south of a line joining the east end of the solid foundation wall of the First Wisconsin Trust Company building and the southwest corner pier of the Kohl building which is above elevation 95.0 feet.

d. City of Beaver Dam

That portion of the rubble-stone obstruction in the river bed located some 135 feet downstream from the west end of the retaining wall constructed along the southwest edge of the city parking lot which lies above elevation 92.5 feet.

6. Elevations in findings herein, except those in finding No. 2, are referred to Public Service Commission datum bench mark, being the top of the concrete cap of the first pier north from the southwest corner pier of the Stoddart building. Its assumed elevation is 100.00 feet.

Opinion

At the present time the location of the sewage plant makes inadvisable the operation of the dam to pass flood flows in excess of a maximum of about 900 cubic feet per second. It is deemed necessary, however, to maintain a channel adequate to carry that maximum flow when it can be passed with reasonable protection to the sewage plant operations. Deposits of silt and organic matter are accumulating in Beaver Dam Lake, and it is probable that the public interest will eventually require the establishment of water levels in Beaver Dam Lake at or above the maximum level heretofore established. This will not permit operation of the dam and the lake to provide storage capacity to decrease flood flows, and it is probable that the sewage plant will also be protected against the effects of high water. Under conditions obtaining at that time a sufficient channel will be necessary to pass maximum flood flows. In view of this it is not only necessary that present obstructions be removed but that no future obstructions be permitted in the Beaver Dam River at the location described in finding No. 3 above.

Conclusion of Law

THE COMMISSION CONCLUDES:

That it has authority under section 31.23, Statutes, to report obstructions in a navigable waterway to the Governor.

Order

THE COMMISSION THEREFORE ORDERS:

That unless the obstructions as described in finding No. 5, excepting existing building foundations, are removed to the indicated elevations within 60 days from date hereof, the matter will be submitted to the Governor as a violation of section 31.23, Statutes.

Dated at Madison, Wisconsin this 15th day of October 1953.

By the Commission.

Edward T. Kavely
Secretary

Dam Sequence No

120



Formal Action



Year:

1958



BEFORE THE
PUBLIC SERVICE COMMISSION OF WISCONSIN

Petition of Griffin M. Jones)	
and 39 Others for Establishment)	
of a Uniform Water Level for)	2-WP-1294
Beaver Dam Lake, Dodge County)	

FINDINGS OF FACT AND ORDER

Griffin M. Jones and 39 other persons filed a petition with the Commission on June 12, 1958 requesting establishment of water level in Beaver Dam Lake at elevation 88.20 feet, Public Service Commission datum. Order issued.

Pursuant to due notice hearing was held in Beaver Dam on July 14, 1958 before Examiner Samuel Bryan.

Appearances:

Petitioners by

Griffin M. Jones, also representing
Beaver Dam Lake Fishermen's Club
Beaver Dam

City of Beaver Dam by

Ray Ebert, assistant city engineer
Beaver Dam

Wisconsin Conservation Department by

Huber Wheeler, conservation biologist
Madison

Beaver Dam Conservation Club by

Grover Marlow
Beaver Dam

Riparian Farmers Around the Lake by

William F. Hemling
Beaver Dam

Of the Commission Staff:

W. H. Cartwright, engineering department

William F. Hemling requested continuance of the proceeding to an adjourned hearing, alleging insufficient notice.

The hearing was noticed in the usual way, which the Commission finds was adequate. The facts are fully before the Commission, and further hearing is not necessary.

Findings of Fact

THE COMMISSION FINDS:

1. The operation of the dam at the outlet of Beaver Dam Lake is presently prescribed by order in joint dockets 2-WP-430 and WP-78 dated August 1, 1939 and stated as follows:

"1. That the city of Beaver Dam shall so regulate the flow of water through its dam at the outlet of Beaver Dam Lake with respect to the high watermark that each year during the period from March 15 to May 1 the water in said lake shall be not less than 10 inches below said high water level of 88.50 feet; that from May 1 to September 1 the water in said lake shall be not less than 4 inches below said maximum level; that from September 1 to October 15 the water in said lake shall be not less than 10 inches below said maximum level; and that between October 15 and March 15 the water in said lake shall be not less than 4 inches below said maximum level.

"2. That the regulation of the flow through the dam with respect to low watermarks shall remain in force as prescribed in the Commission's order of December 30, 1935 in docket 2-WP-195 (PSCR Vol. 11, p. 268).

"3. That docket WP-78 be reopened and that the effectiveness of paragraph 3 of our order therein dated June 14, 1919 (WRGR Vol. 23, p. 118) which reads as follows:

"IT IS FURTHER ORDERED, That when the elevation of the water in the pond exceeds the point 88.5, the discharge through the dam shall be at the rate of not more than 900 cubic feet per second and not less than 800 cubic feet per second."

be and is hereby suspended until further order of the Commission.

"4. That jurisdiction be retained to enter such further order as may be necessary if and when the city improves the bed of said stream and protects its sewage disposal plant to permit an additional flow of water through the dam with safety and to take such action as may be proper should the city of Beaver Dam fail to proceed with said improvements with reasonable promptness."

2. The orders concerning minimum levels in Beaver Dam Lake were established during the time when the dam was being used for production of power. Presently the dam is used only for lake level control. The orders concerning seasonable maximum levels were established to provide storage in the lake because of conditions in the outlet stream which restricted the operation of the dam in the discharge of flood flow.

3. Flood flows ordinarily occur at the time of spring breakup, although maximum floods have also occurred in the summer and the fall as indicated by the gaging record for the Crawfish River at Milford, to which the Beaver Dam Creek drainage is tributary. The record at the above station started in 1931 and has continued to date.

4. The city of Beaver Dam has removed obstructions from the Beaver Dam River both above and below the location of the sewage disposal plant. The operation has resulted in improved flow conditions, which permits discharge of flood flow at a higher rate than was formerly possible.

5. The city of Beaver Dam, as operator of the dam, should in the course of normal operations lower the pool before spring breakup to provide storage in the lake to accommodate expected runoff.

6. The proposal herein is to hold a normal or constant level, excepting for the period when drawdown is required for storage before spring breakup.

7. The operation of the sewage disposal plant is a public necessity and requires flow in the river for dilution of effluent. Ideally, 15 cubic feet a second is desired, but when this rate cannot be maintained because of insufficient runoff, a lower rate will be required down to a minimum of 3 cubic feet a second.

8. Elevations herein are referred to Public Service Commission Benchmark 35-C which is a 2-inch square in top of retaining wall located 3 feet right of the south abutment of the gate section. Its elevation is 92.67 feet.

9. The interest of public rights in Beaver Dam Lake and promotion of safety, and the protection of life, health, and property require that the maximum level of said lake be continued at elevation 88.5 feet, Public Service Commission datum; and that the minimum level of said lake be established at elevation 88.17 feet, same datum, insofar as they can be maintained by the operation of the dam. Said maximum and minimum elevations are reasonable levels and will keep the level of the lake within a range which has been normal for said lake in the past.

Conclusion of Law

THE COMMISSION CONCLUDES:

That it has authority under section 31.02, Statutes, in accordance with the foregoing findings of fact to re-establish the elevation of water level in Beaver Dam Lake and to prescribe the operation of the dam.

Order

THE COMMISSION THEREFORE ORDERS:

1. That all preceding orders as to operation of the dam and maintenance of levels in Beaver Dam Lake be and they are hereby rescinded.
2. That the minimum level of Beaver Dam Lake be and it is hereby established at 88.17 feet, except as a lower level may be caused in time of low flow and to provide for storage prior to the spring breakup.
3. That the maximum elevation of Beaver Dam Lake be and it is hereby established at elevation 88.50 feet, Public Service Commission datum, insofar as it can be effected by the operation of the dam, due consideration being given to the capacity of the outlet stream to take flow.
4. The city of Beaver Dam shall so regulate the dam that:
 - (a) the lake shall be lowered to elevation 87.67 feet (6 inches below minimum elevation of 88.17 feet) beginning March 1 and completed before March 15 of each year for the purpose of providing storage for the usual spring flood;
 - (b) After the spring flood has passed, the above-stated minimum of 88.17 feet shall be adhered to; and

(c) A minimum flow of 3 cubic feet a second will be passed through the dam at all times.

5. That jurisdiction be retained for a period of 5 years for the purpose of making further order as to water levels or operation of the dam.

Dated at Madison, Wisconsin, this 13th day of November 1958.

By the Commission.

Edward D. Kauling
Secretary

Dam Sequence No 120



Formal Action



Year: 1973



BEFORE THE
DEPARTMENT OF NATURAL RESOURCES

Application of Beaver Dam Lake Property Owners)	
Corporation for the Establishment of New Maximum)	3-WR-1326
and Minimum Lake Levels for Beaver Dam Lake,)	
City of Beaver Dam, Dodge County)	

FINDINGS OF FACT AND ORDER

Beaver Dam Lake Property Owners Corporation, Beaver Dam, Wisconsin 53916, on May 31, 1972, filed a petition with the Department under section 31.02, Statutes, for the establishment of new maximum and minimum water levels for Beaver Dam Lake, Dodge County. Application denied.

Pursuant to due notice, hearing was held at the City Hall, Beaver Dam, Wisconsin, on July 13, 1972, before Examiner Maurice H. Van Susteren.

Appearances:

IN SUPPORT:

BEAVER DAM LAKE PROPERTY OWNERS CORPORATION by,

Earl G. Majors, President
Beaver Dam

Charles Wildrick
Beaver Dam

Stella Oehmen, Secretary
Beaver Dam

Patrick B. Sheahan
Beaver Dam

RUDOLPH KERNATS
Glendale

VERN C. ZIMPELMANN
Beaver Dam

BAY MARINA, INC. by,

Al Weber, Owner
Beaver Dam

GARRET KAREL
Beaver Dam

BEAVER BAY HIGHT by,

Lee Pollasch
Beaver Dam

ART QUADE
Beaver Dam

ALBERT KRANZ
Beaver Dam

RICHARD KAISER
Beaver Dam

HOWARD KRAHMER
Beaver Dam

MRS. HOWARD KRAHMER
Beaver Dam

IN OPPOSITION:

DEPARTMENT OF NATURAL RESOURCES by,

William Selbig, Area Fish Manager
Horicon

MR. & MRS. LESTER MAROSE
Mayville

CALVIN BEHREND
Beaver Dam

KENNETH HAAS
Beaver Dam

CLAIR KNOLL
Beaver Dam

NORBERT FRANKE
Beaver Dam

VIOLA SCHNEIDER, Resort Owner
Fox Lake

BEAVER DAM LAKE FISHERMAN'S CLUB by,

John Schoenfeld, Vice-President
Beaver Dam

GEORGE HANCOCK
Beaver Dam

LLOYD HILEY
Beaver Dam

LESTER STATZ
Milwaukee 53220

MILTON C. STATHAS
Milwaukee 53212

BEAVER SPRING LODGE RESORT by,

Donna J. Ohrmundt
Randolph

ELSIE OMICK
Beaver Dam

HICKORY POINT Residents and others by,

Gilbert Omick
Beaver Dam

R. A. MATHEUS
Beaver Dam

BEAVER DAM ASSOCIATION by,

Anthony J. Coles, Home owner
Beaver Dam

GENE E. NITSCHKE, Land owner
Beaver Dam

AS INTEREST MAY APPEAR:

DEPARTMENT OF NATURAL RESOURCES
Division of Environmental Protection
Bureau of Water & Shoreland Management by,

Robert W. Roden, Environmental Engineer
Madison

Pat L. Burhans, Conservation Warden
Horicon

DODGE COUNTY PLANNING AND DEVELOPMENT DEPT. by,

Garland E. Lichtenberg, Administrator
Juneau 35039

CONSTITUENTS OF DODGE COUNTY by,

Tom Hanson, State Representative
Beaver Dam

ROY CLARK
Beaver Dam

CITY OF BEAVER DAM by,

Bruce L. Gall, City Engineer
Beaver Dam

Raymond G. Ebert, Assistant City Engineer
Beaver Dam

FRANK DENTZ
Beaver Dam

MRS. ANTHONY (BILLIE) COLES
Beaver Dam

DAILY CITIZEN by,

Robert H. Kachelski, City Editor
Beaver Dam

FINDINGS OF FACT

1. The present levels of Beaver Dam Lake were established in docket No. 2-WP-1294, dated November 13, 1958.
2. Applicant contends that water levels of Beaver Dam Lake are not as high as they were previous to the chemical eradication project carried out by the Department in 1967.

3. Records kept by the City of Beaver Dam show that the same levels have been maintained at the dam before and after the drawdown for chemical eradication.

4. Water level fluctuations of up to 15 inches have been reported at the north end of the lake while the level at the dam has remained essentially the same. No explanation has been found for such a phenomenon.

5. Increasing the maximum level will increase shoreline erosion and reduce water quality in Beaver Dam Lake.

6. Raising the minimum lake level will reduce the effective flood storage capacity of the lake during spring runoff.

7. Water level fluctuations of the type reported are independent of the level held at the dam and would therefore not be eliminated by changing that level.

8. It is in the public interest to maintain lake levels in accordance with the existing order under docket 2-WP-1294.

CONCLUSION OF LAW

The Department has authority under section 31.02, Statutes, and in accordance with the foregoing findings of fact, to issue an order denying the application.

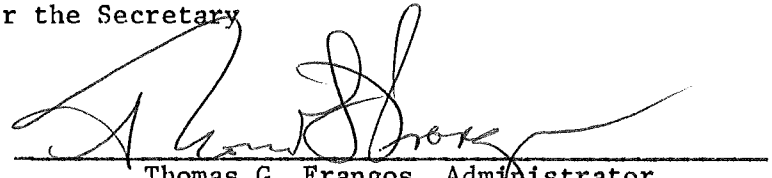
ORDER

IT IS THEREFORE ORDERED THAT the application of the Beaver Dam Lake Property Owners Corporation for the establishment of new maximum and minimum levels for Beaver Dam Lake be, and it hereby is, denied.

Dated at Madison, Wisconsin DEC - 7 1973

STATE OF WISCONSIN DEPARTMENT OF NATURAL RESOURCES
For the Secretary

By



Thomas G. Frangos, Administrator
Division of Environmental Protection

Dam Sequence No 120



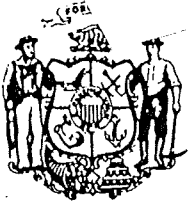
Formal Action



Year: 1984



NOV 29 1984



State of Wisconsin

DEPARTMENT OF NATURAL RESOURCES

Southern District

3911 Fish Hatchery Road

Fitchburg, Wisconsin 53711-5397

RWS
Carroll D. Besadny
Secretary

November 26, 1984

3500
3-SD-84-807

Mr. Bruce Gall
Director of Public Works
City of Beaver Dam
205 S. Lincoln Avenue
Beaver Dam, Wisconsin 53916

Dear Mr. Gall:

Re: Drawdown of Beaver Dam Lake, Dodge County

Your request for authority to draw down Beaver Dam Lake for the purpose of inducing winterkill of fish to reduce rough fish populations has been evaluated. The lake will be lowered to elevation 867.83, U.S.G.S. datum at the rate of 0.3 ft. per day beginning immediately.

It has been determined that the drawdown will be consistent with the public interest in the navigable waters involved. The Department of Natural Resources has concluded that granting of the authority requested would not be a major state action significantly affecting the quality of the human environment.

The request for authority to draw down Beaver Dam Lake is hereby approved under Section 31.02, Statutes, subject to the condition that a minimum of 5 cubic feet per second shall be passed through the dam during refilling.

Thank you for your cooperation in managing the resources of Beaver Dam Lake. Please keep in contact with our Horicon office during the drawdown and refilling of the lake.

STATE OF WISCONSIN DEPARTMENT OF NATURAL RESOURCES
For the Secretary

By

Douglas Morrisette

Douglas Morrisette
Southern District Director

RDH:jh

cc: Bureau of Water Regulation and Zoning
Horicon Area Office

BEFORE THE DEPARTMENT OF NATURAL RESOURCES

Drawdown of Beaver Dam Lake, Dodge County

FINDINGS OF FACT

1. Beaver Dam Lake covers 6,542 acres in northwestern Dodge County. The lake is controlled by the Beaver Dam Lake Dam which is owned by the City of Beaver Dam. The dam has a normal head of about 10 feet.
2. The Department of Natural Resources is undertaking a rehabilitation project to reestablish a sport fishery in Beaver Dam Lake. The project consists of draining the lake, treating the lake and the Beaver Dam River downstream to the Lowell Dam with fish toxicant, refilling the lake and restocking desirable fish.
3. Beaver Dam Lake will be drawn down beginning September 3, 1985 at a rate that will not cause downstream flooding. The lake will remain drained to the lowest level possible until completion of the chemical treatment.
4. The drawdown of the lake is necessary to reduce the volume of water in the lake that will need to be chemically treated and to concentrate the fish into smaller areas. The drawdown will also allow bottom sediment to compact.
5. The drawdown of Beaver Dam Lake is in the interest of public rights in navigable waters and will protect life, health and property.
6. The drawdown will not adversely affect water quality, will not increase water pollution in surface waters and will not cause environmental pollution as defined in Section 144.01(3), Wisconsin Statutes.
7. The proposed project will not adversely impact wetlands as defined in Section NR 1.95(4)(c), Wisconsin Administrative Code. /
8. The Department has prepared an Environmental Assessment for the project and has determined that this is not a major state action significantly affecting the quality of the human environment.

CONCLUSIONS OF LAW

1. The Department has authority under Sections 23.09, 29.62 and 31.02, Wisconsin Statutes, and in accordance with the Findings of Fact, to issue an order to draw down Beaver Dam Lake.
2. The Department has complied with Section 1.11, Stats.

RECEIVED

AUG 27 1985

Bureau of Water
Regulation & Zoning

ORDER

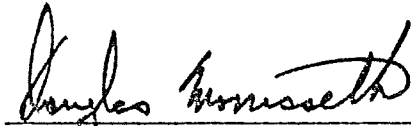
The Department therefore orders:

1. The City of Beaver Dam shall draw down Beaver Dam Lake beginning September 3, 1985 at the maximum rate possible that will not cause flooding downstream. The lake shall be drawn down to the lowest level possible.
2. Beaver Dam Lake shall remain drawn down until completion of the fishery rehabilitation project in November, 1986.

Any person aggrieved by this decision may seek judicial review by serving and filing a petition in accordance with the provisions of Sections 227.15 and 227.16, Stats., within thirty (30) days after service of this decision.

Any petition for judicial review of this decision shall name the Department of Natural Resources as the respondent. This notice is provided pursuant to Section 227.11(2), Stats.

FOR THE SECRETARY



Douglas Morrisette, District Director

Aug. 26, 1985
Date

RDH:sss

Dam Sequence No

120



Formal Action



Year:

1987



14.2

ORDER NUMBER 3-SD-87-901

FACT FINDING

NAME OF DAM Beaver Dam	DATE OF INSPECTION 11-18-87
DNR FIELD FILE NUMBER 14.2	NAME OF OWNER City of Beaver Dam
NAME OF STREAM Beaver Dam River	NAME OF AGENT Bruce Gall, City Engineer
IMPOUNDMENT Beaver Dam Lake	STREET OR ROUTE 205 South Lincoln Avenue
COUNTY Dodge	CITY, STATE, ZIP CODE Beaver Dam, WI 53916
	TELEPHONE NUMBER (INCLUDE AREA CODE) (414) 885-5541

INSPECTION PARTY

OWNER/AGENT None	DNR INSPECTOR Harland Steinhorst, John Gozdziwski
INTERESTED CITIZENS/GROUPS None	FERC None

NAVIGATION AND DAM FACTS

1. IN VICINITY OF DAM	
A. UPSTREAM Boating, fishing, swimming	B. DOWNSTREAM Fishing, wading
2. APPARENT EXISTING USE	
A. UPSTREAM Boating, fishing, swimming	B. DOWNSTREAM Fishing, wading
	C. PORTAGE Lawn on left (north) bank - city park

3. HAZARDS (USE APPROPRIATE ITEMS UNDER D 1-11 OR OTHERS.)

A. UPSTREAM 4 Penstock	D.
B. DOWNSTREAM 4	1. DANGEROUS CURRENTS
C. PORTAGE None	2. POTENTIAL FOR HIGH WAVE ENERGY
	3. GATED SPILLWAYS
	4. OPEN SPILLWAYS
	5. STEEP SLOPES
	6. UNFENCED DROPOFFS
	7. ELECTRICAL TRANSMISSION GEAR
	8. DANGEROUS TAKEOUT CONDITIONS
	9. POWER HOUSE INTAKE/OUTLET
	10. AUTOMATIC GATES
	11. BARBED WIRE HAZARDS

SIGNS, DEVICES AND PORTAGE FACILITIES

1. EXISTING	
A. SIGNS AND LOCATIONS None	
B. DEVICES AND LOCATIONS (INCL. LIGHTS, HORNS, SIRENS, ETC.) None	
C. PORTAGE FEATURES AND LOCATIONS Left (north) bank if necessary.	

CONCLUSIONS OF LAW

The Department has authority pursuant to ss. 31.02 and 31.18, Wis. Stats., and NR 330, Wis. Admin. Code, to require dam owners to install and maintain signs and devices necessary to provide adequate warning and safety for boaters and to prescribe portage requirements for appropriate dams. The order contained hereinafter is necessary and proper in accordance with the foregoing findings of fact to provide adequate warning and safety pursuant to ss. 31.02 and 31.18, Wis. Stats., and NR 330, Wis. Admin. Code.

ORDER

2. REQUIRED (IF EXISTING FEATURES ARE ADEQUATE, WRITE "SAME")

A. SIGNS LOCATIONS

Diamond "DAM" sign on upstream side of railing over dam spillway. Rectangular "TAKE OUT" sign on north bank west of metal culvert pipe.

B. DEVICES AND LOCATIONS (INCL. LIGHTS, HORNS, SIRENS, ETC.)

None

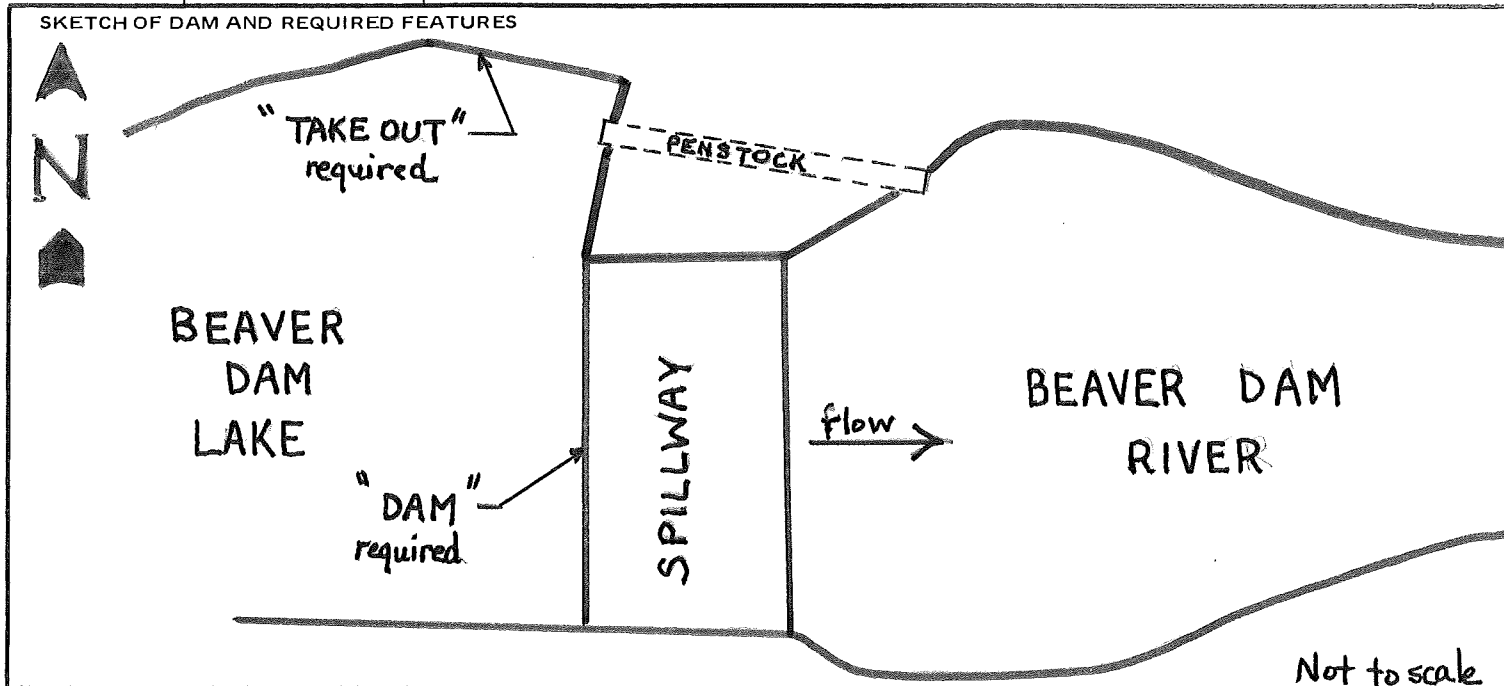
C. PORTAGE FEATURES AND LOCATIONS

Take out on left (north) bank within city park. Put in at park immediately downstream of dam.

INSTALLATION COMPLETION DATE

4-1-88 as per DNR dam inspection letter dated 10-23-87.

SKETCH OF DAM AND REQUIRED FEATURES



State of Wisconsin
Department of Natural Resources
For the Secretary

By John Godyziakski Date 12-2-87

Inspected By
Signature

John Godyziakski Date 12-2-87

Signs, devices and portage features for the _____ Dams were inspected and found

to conform with Wis. Administrative Code NR 330.04 and 330.05 on: _____

INSPECTED BY — SIGNATURE

DATE

NOTIFICATION OF APPEAL RIGHTS:

If you believe that you have a right to challenge this decision, you should know that Wisconsin Statutes and Administrative Code establish time periods within which requests to review Department decisions must be filed. These time periods are as follows: for judicial review of a decision pursuant to ss. 227.15 and 227.16, Wis. Stats., you have 30 days after service of the decision to file your petition for review. Some Wisconsin Administrative Codes sections provide for review of the Department decision pursuant to ss. 227.064, Wis. Stats. Review should generally be sought within 30 days of the service of the decision.

The respondent in an action for judicial review is the Department of Natural Resources. You may wish to seek legal counsel to determine if any of the above time periods apply to this decision. The notice is provided pursuant to s. 227.11(2), Wis. Stats.

Dam Sequence No 00120



Formal Action



Year: 2011



State of Wisconsin
DEPARTMENT OF NATURAL RESOURCES
3911 Fish Hatchery Road
Fitchburg WI 53711-5397

Scott Walker, Governor
Cathy Stepp, Secretary
Telephone 608-266-2621
Toll Free 1-888-936-7463
TTY Access via relay - 711



December 9, 2011

City of Beaver Dam
Dave Stoiser, P.E., Director of Facilities
640 South Center Street
Beaver Dam, WI 53916

[Handwritten signature]

Subject: Beaver Dam Lake Dam Gate Replacement Conditional Plan Approval, Field File #14.02, IP-SC-2011-14-06027, Beaver Dam River, City of Beaver Dam, Dodge County

Dear Mr. Stoiser:

We have reviewed the plans submitted for the gate replacement at the Beaver Dam Lake Dam, located in the City of Beaver Dam, Dodge County. You will be pleased to know that the plans are hereby approved with a few limitations.

I have attached a copy of your plan approval that lists the conditions which must be followed. A copy of the document must be posted for reference at the project site. Please read your plan approval conditions carefully so that you are fully aware of what is expected of you.

Please note that you are required to submit a verified statement to the Department within 10 days after completion of the repairs to the dam stating that it was reconstructed in accordance with the plans and specifications approved by the Department.

Please notify me when you plan to begin the project and again when the project has been completed.

If you have questions concerning this document please feel free to contact me.

Sincerely,

[Handwritten signature of Robert R. Davis]

Robert R. Davis, P.E.
Water Management Engineer
South Central Region
Robert.Davis@Wisconsin.gov
608-275-3316

RECEIVED

DEC 19 2011

Bureau of Watershed Mgmt

✓cc: Bill Sturtevant, P.E. - WT/3
Travis Schroeder - WMS (via e-mail)
Heather Gottschalk - Conservation Warden (via e-mail)
Dick Machata - Rawson Contractors (via e-mail)

**BEFORE THE STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES**

IN THE MATTER of Dam Plan Approval for)
the Gate Replacement at the Beaver Dam Lake)
Dam, located in the City of Beaver Dam, Dodge)
County, Wisconsin.)

IP-SC-2011-14-06027

FINDINGS OF FACT, CONCLUSIONS OF LAW, CONDITIONAL PLAN APPROVAL, AND ORDER

The City of Beaver Dam, 640 South Center Street, Beaver Dam, WI 53916 submitted final plans electronically, through their contractor Rawson Contractors, for the gate replacement at the Beaver Dam Lake Dam on December 1, 2011. The Beaver Dam Lake Dam is located in the City of Beaver Dam, Dodge County.
Conditional plan approval granted and order issued.

FINDINGS OF FACT

The Department of Natural Resources finds that:

1. The City of Beaver Dam, 640 South Center Street, Beaver Dam, WI 53916 submitted final plans electronically, through their contractor Rawson Contractors, for the gate replacement at the Beaver Dam Lake Dam on December 1, 2011 in accordance with Section 31.12, Wisconsin Statutes.
2. Final plans, dated November 30, 2011, for the gate replacement at the Beaver Dam Lake Dam were submitted under the professional engineering stamp of Thomas Wagner, P.E. and submitted electronically by Dick Machata of Rawson Contractors for the City of Beaver Dam on December 1, 2011.
3. The dam is on the Beaver Dam River, located in Section 4, Township 11 North, Range 14 East, City of Beaver Dam, Dodge County. The Beaver Dam Lake Dam is owned and operated by the City of Beaver Dam.
4. The proposed dam reconstruction will consist replacing the existing stoplogs with slide gates.
5. The Beaver Dam Lake Dam has been previously assigned a hazard rating of High Hazard.

CONCLUSIONS OF LAW

1. The Department has the authority under Sections 31.02 and 31.12, Wisconsin Statutes, and the foregoing Findings of Fact, to issue the plan approval requested, subject to the conditions in the Order which follows.
2. The Department has complied with the requirements of Chapter NR 150, Wisconsin Administrative Code and Section 1.11, Wisconsin Statutes.
3. The review has been conducted in accordance with Chapter 31, Wisconsin Statutes, and Chapter NR 333, Wisconsin Administrative Code.

CONDITIONAL PLAN APPROVAL

AND HEREBY THERE DOES ISSUE AND IS GRANTED to the applicant, a conditional plan approval under Section 31.12, Wisconsin Statutes, for gate replacement at the Beaver Dam Lake Dam across the Beaver Dam River located in Section 4, Township 11 North, Range 14 East, City of Beaver Dam, Dodge County, subject to the conditions of the order which hereinafter follows. A copy of this conditional plan approval shall constitute the certificate evidencing a grant of the permit as provided in Section 31.11, Wisconsin Statutes.

ORDER

THE DEPARTMENT OF NATURAL RESOURCES THEREFORE ORDERS:

1. You must notify Rob Davis at phone 608-275-3316 before starting construction and again not more than 5 days after the project is complete.
2. The approved plans are not transferable, and shall become null and void unless the repairs are completed within 2 years from the date the plans were approved.
3. Nothing may be stored near the waterway that may contain materials that would be hazardous to the waterway during times when the contractor is not at the site working. All work must be suspended and materials removed from the worksite during times of high water so that flow through the dam is not impeded.
4. This plan approval does not authorize any work other than what is specifically described in the plans or other work incidental to completing the project, and as modified by the conditions of this permit. If you wish to alter the project or conditions, you must first obtain written approval of the Department. Any change orders during construction must be approved by the Department prior to the work being completed.
5. You are responsible for obtaining any permit or approval that may be required for your project by local zoning ordinances or by the U.S. Army Corps of Engineers prior to starting your project.
6. Upon reasonable notice, you shall allow access to your project site during reasonable hours to any Department employee who is investigating the project's construction, operation, maintenance or plan approval compliance.
7. The Department may modify or revoke this approval if the project is not completed according to the terms of the plan approval or if the Department determines the activity is detrimental to the public interest.
8. You must post a copy of this plan approval at a conspicuous location on the project site, visible from the waterway, for at least five days prior to construction, and remaining at least five days after construction. You must also have a copy of the plan approval and approved plan available at the project site at all times until the project is complete.
9. Your acceptance of this permit and efforts to begin work on this project signify that you have read, understood and agreed to follow all conditions of this plan approval and order.
10. The sponsor shall implement and maintain proper soil erosion and sediment control best management practices (BMPs) during construction of the project. Erosion and sediment control BMPs shall be accomplished using the guidelines in the Wisconsin Stormwater Technical Standards available via the internet at <http://dnr.wi.gov/runoff/stormwater/techstds.htm>. BMPs shall be properly installed, inspected, and maintained to function as intended until the project site is stabilized. All temporary erosion and

sediment control practices (e.g. silt fence, etc.) shall be removed once the construction site has undergone final stabilization.

11. **Section 31.12(4), Wisconsin Statutes, requires a verified statement to be filed with the Department within 10 days after completion of the repairs to the dam, stating that it was constructed in accordance with the plans and specifications approved by the Department.**
12. You, your agent, and any involved contractors or consultants may be considered a party to the violation pursuant to Section 30.292, Wis. Stats., for any violations of Chapter 30, Wisconsin Statutes or this plan approval.
13. On site inspection by a professional engineer registered in the State of Wisconsin shall be performed periodically and during the critical stages of construction. Critical stages are considered anytime that the work performed will be covered and cannot be inspected at a later time (i.e. footings being covered with soil or reinforcing steel with concrete). Monthly inspection reports including photographs or video tape shall be submitted by the inspecting registered engineer.
14. The permittee shall not hinder the portaging of watercraft around the dam for the purpose of access to the flowage and the upstream and downstream reaches of the Beaver Dam River.
15. Within 30 business days after completion of your project you must supply 2 copies of signed and sealed as-built plans documenting the gate replacement at the Beaver Dam Lake Dam.


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



Robert R. Davis, P.E.
Water Management Engineer

Dam Sequence No 00120



Formal Action



Year: 2013





14.02
(120)

RECEIVED

June 28, 2013

JUL - 5 2013

City of Beaver Dam
Jeremy Klug, Director of Facilities
640 South Center Street
Beaver Dam, WI 53916

WT/3 - WY/3 - OGL/3

WAB
KAT

Subject: Beaver Dam Lake Dam Reconstruction, Field File #14.02, IP-SC-2013-14-00242, Beaver Dam River, City of Beaver Dam, Dodge County. Municipal Dam Grant Bid Approval.

Dear Mr. Klug:

FINDINGS OF FACT

1. The Department of Natural Resources has examined the winning construction bid from Janke General Contractors, Inc. to reconstruct the Beaver Dam Lake Dam, located across the Beaver Dam River, in Section 4, Township 11 North, Range 14 East, City of Beaver Dam, Dodge County.
1. The bidding documents were submitted for review on June 28, 2013.
2. Plans and specifications for reconstruction of the Beaver Dam Lake Dam were approved by this Department on February 7, 2013.

CONCLUSIONS OF LAW

1. The review has been conducted in accordance with Chapter 31, Wisconsin Statutes and Chapter NR 335 Wisconsin Administrative Code.

APPROVAL

1. The submitted bid is hereby deemed as acceptable in accordance with Chapter NR 335 Wisconsin Administrative Code.

CONDITIONS OF APPROVAL

1. A Grant Award Notice will be issued and mailed to you within 30 days of the date of this letter.
2. Construction work performed prior to your receipt of the Grant Award Notice will not be eligible for reimbursement under the grant program.
3. Details of the grant process, reporting requirements and conditions will be included in the Grant Award Notice.
4. Onsite inspection by a professional engineer registered in the State of Wisconsin shall be performed periodically and during the critical stages of construction. Critical stages are considered anytime that the work performed will

be covered and cannot be inspected at a later time. Weekly inspection reports including photographs or video tape shall be submitted by the inspecting registered engineer.

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 _____
Robert R. Davis, P.E.
Water Management Engineer

cc: Bill Sturtevant, P.E. - WT/3
Basil Orechwa, P.E. - Kunkel Engineering Group (via email)
Mitch Leisses - Kunkel Engineering Group (via email)
Eileen Trainor - Grant Manager, Municipal Dam Grant Program (via email)
Kari Beetham - Grant Manager, Municipal Dam Grant Program (via email)

State of Wisconsin
DEPARTMENT OF NATURAL RESOURCES
3911 Fish Hatchery Road
Fitchburg WI 53711-5397

Scott Walker, Governor
Cathy Stepp, Secretary
Telephone 608-266-2621
Toll Free 1-888-936-7463
TTY Access via relay - 711



WCS
1/11/13

RECEIVED

February 7, 2013

FEB - 8 2013

City of Beaver Dam
Jeremy Klug, Director of Facilities
640 South Center Street
Beaver Dam, WI 53916

WT/3 - WY/3 - OGL/3

Subject: Beaver Dam Lake Dam Reconstruction Conditional Plan Approval, Field File #14.02, IP-SC-2013-14-00242, Beaver Dam River, City of Beaver Dam, Dodge County

Dear Mr. Klug:

We have reviewed the plans submitted for the reconstruction of the Beaver Dam Lake Dam, located in the City of Beaver Dam, Dodge County. You will be pleased to know that the plans are hereby approved with a few limitations. Please notify me when you plan to begin the project and again when the project has been completed.

I have attached a copy of your plan approval that lists the conditions which must be followed. A copy of the document must be posted for reference at the project site. Please read your plan approval conditions carefully so that you are fully aware of what is expected of you. You must also follow the requirements of the Municipal Dam Grant in order to receive the grant money.

Please note that you are required to submit a verified statement to the Department within 10 days after completion of the repairs to the dam stating that it was reconstructed in accordance with the plans and specifications approved by the Department.

If you have questions concerning this document please feel free to contact me.

Sincerely,

Robert R. Davis, P.E.
Water Management Engineer
South District
Robert.Davis@Wisconsin.gov
608-275-3316

cc: ✓ Bill Sturtevant, P.E. - WT/3
Dan Hunt - WMS (via e-mail)
Basil Orechwa, P.E. - Kunkel Engineering Group (via email)
Don Quarford - City of Beaver Dam (via email)
Paul Nell - Conservation Warden (via e-mail)
Eileen Trainor - Grant Manager, Municipal Dam Grant Program (via e-mail)

**BEFORE THE STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES**

IN THE MATTER of Dam Plan Approval for)
the Reconstruction of the Beaver Dam Lake)
Dam, located in the City of Beaver Dam, Dodge)
County, Wisconsin.)

IP-SC-2013-14-00242

FINDINGS OF FACT, CONCLUSIONS OF LAW, CONDITIONAL PLAN APPROVAL, AND ORDER

The City of Beaver Dam, 640 South Center Street, Beaver Dam, WI 53916 submitted final plans electronically through their consultant, Kunkel Engineering Group, for the reconstruction of the Beaver Dam Lake Dam on January 10, 2013 with final supporting calculations submitted on January 21, 2013. The Beaver Dam Lake Dam is located in the City of Beaver Dam, Dodge County. Conditional plan approval granted and order issued.

FINDINGS OF FACT

The Department of Natural Resources finds that:

1. The City of Beaver Dam, 640 South Center Street, Beaver Dam, WI 53916 submitted final plans electronically through their consultant, Kunkel Engineering Group, for the reconstruction of the Beaver Dam Lake Dam on January 10, 2013 in accordance with Section 31.12, Wisconsin Statutes.
2. Final plans, dated January 9, 2013, for the reconstruction of the Beaver Dam Lake Dam were submitted under the professional engineering stamp of Basil Orechwa, P.E. and submitted electronically on January 10, 2013.
3. The dam is on the Beaver Dam River, located in Section 4, Township 11 North, Range 14 East, City of Beaver Dam, Dodge County. The Beaver Dam Lake Dam is owned and operated by the City of Beaver Dam.
4. The proposed dam reconstruction will consist primarily of concrete rehabilitation and installing gate braces.
5. The operation and maintenance of the Beaver Dam Lake Dam and flowage are in the public interest considering ecological, aesthetic, economic, and recreational values, provided the conditions in the order are complied with. The proposed dam repair will not result in significant adverse effects on this resource upon compliance with the conditions in the order.
6. The Beaver Dam Lake Dam has been previously assigned a hazard rating of High Hazard.
7. The Beaver Dam Lake Dam meets the flow capacity standards of NR 333.07 Wisconsin Administrative Code.
8. The reconstruction of the Beaver Dam Lake Dam scored well enough to be awarded a grant through the Municipal Dam Grant Program which is administered by the Department.

CONCLUSIONS OF LAW

1. The Department has the authority under Sections 31.02 and 31.12, Wisconsin Statutes, and the foregoing Findings of Fact, to issue the plan approval requested, subject to the conditions in the Order which follows.

2. The Department has complied with the requirements of Chapter NR 150, Wisconsin Administrative Code and Section 1.11, Wisconsin Statutes.
3. The review has been conducted in accordance with Chapter 31, Wisconsin Statutes, and Chapter NR 333, Wisconsin Administrative Code.

CONDITIONAL PLAN APPROVAL

AND HEREBY THERE DOES ISSUE AND IS GRANTED to the applicant, a conditional plan approval under Section 31.12, Wisconsin Statutes, for reconstruction of the Beaver Dam Lake Dam across the Beaver Dam River located in Section 4, Township 11 North, Range 14 East, City of Beaver Dam, Dodge County, subject to the conditions of the order which hereinafter follows. Construction of a temporary cofferdam is also approved under this approval as necessary to complete the work shown in the plans. A copy of this conditional plan approval shall constitute the certificate evidencing a grant of the permit as provided in Section 31.11, Wisconsin Statutes.

ORDER

THE DEPARTMENT OF NATURAL RESOURCES THEREFORE ORDERS:

1. You must notify Rob Davis at phone 608-275-3316 before starting construction and again not more than 5 days after the project is complete.
2. The approved plans are not transferable, and shall become null and void unless the repairs are completed within 2 years from the date the plans were approved.
3. In order to adequately complete the construction as approved, it may be necessary that a temporary cofferdam be constructed. The contractor must submit an addendum to the plans for a final cofferdam design to Rob Davis for review and approval prior to placement of the cofferdam. The design must be stamped by a professional engineer registered in the State of Wisconsin and will be approved under this plan approval. All material used for construction of the temporary cofferdam must be removed completely upon completion of the project. Additionally, the proposed cofferdam design must be accompanied with an emergency provision to remove the cofferdam in order to provide capacity at the dam in the event of high water.
4. Nothing may be stored behind the temporary cofferdams that may contain materials that would be hazardous to the waterway during times when the contractor is not at the site working. All work must be suspended and materials removed from behind the cofferdam during times of high water. It may be necessary to remove the cofferdam to provide enough capacity to pass high flows through the dam.
5. This plan approval does not authorize any work other than what is specifically described in the plans or other work incidental to completing the project, and as modified by the conditions of this permit. If you wish to alter the project or conditions, you must first obtain written approval of the Department. Any change orders during construction must be approved by the Department prior to the work being completed or the work will not be covered under the Municipal Dam Grant.
6. You are responsible for obtaining any permit or approval that may be required for your project by local zoning ordinances or by the U.S. Army Corps of Engineers prior to starting your project.

7. Upon reasonable notice, you shall allow access to your project site during reasonable hours to any Department employee who is investigating the project's construction, operation, maintenance or plan approval compliance.
8. The Department may modify or revoke this approval if the project is not completed according to the terms of the plan approval or if the Department determines the activity is detrimental to the public interest.
9. You must post a copy of this plan approval at a conspicuous location on the project site, visible from the waterway, for at least five days prior to construction, and remaining at least five days after construction. You must also have a copy of the plan approval and approved plan available at the project site at all times until the project is complete.
10. Your acceptance of this permit and efforts to begin work on this project signify that you have read, understood and agreed to follow all conditions of this plan approval and order.
11. The sponsor shall implement and maintain proper soil erosion and sediment control best management practices (BMPs) during construction of the project. Erosion and sediment control BMPs shall be accomplished using the guidelines in the Wisconsin Stormwater Technical Standards available via the internet at <http://dnr.wi.gov/runoff/stormwater/techstds.htm>. BMPs shall be properly installed, inspected, and maintained to function as intended until the project site is stabilized. All temporary erosion and sediment control practices (e.g. silt fence, etc.) shall be removed once the construction site has undergone final stabilization. Construction sites associated with land disturbing activities over one acre and grading sites of 10,000 sq. ft. or more on the bank of a navigable waterway require an erosion control and stormwater management plan prepared by the sponsor. Construction sites disturbing one or more acres of land require coverage under a construction site stormwater discharge permit prior to commencing any land disturbing construction activity.
12. **Section 31.12(4), Wisconsin Statutes, requires a verified statement to be filed with the Department within 10 days after completion of the repairs to the dam, stating that it was constructed in accordance with the plans and specifications approved by the Department.**
13. You, your agent, and any involved contractors or consultants may be considered a party to the violation pursuant to Section 30.292, Wis. Stats., for any violations of Chapter 30, Wisconsin Statutes or this plan approval.
14. The Department shall retain jurisdiction for the purpose of monitoring water quality and shall cause the applicant to install such devices or make such modifications to the dam and flowage as may be reasonably necessary to protect water quality in the Beaver Dam River and prevent violation of the water quality standards enumerated in Chapter NR 102, Wisconsin Administrative Code. If water quality standards are violated and no feasible method is available to prevent such violation from continuing, the Department shall initiate proceedings for the revocation of the plan approval herein issued.
15. On site inspection by a professional engineer registered in the State of Wisconsin shall be performed periodically and during the critical stages of construction. Critical stages are considered anytime that the work performed will be covered and cannot be inspected at a later time (i.e. footings being covered with soil or reinforcing steel with concrete). Monthly inspection reports including photographs or video tape shall be submitted by the inspecting registered engineer.
16. The permittee shall not hinder the portaging of watercraft around the dam for the purpose of access to the flowage and the upstream and downstream reaches of the Beaver Dam River.

17. Within 30 business days after completion of your project you must supply 2 copies of signed and sealed as-built plans documenting the reconstruction of the Beaver Dam Lake Dam.
18. The embankments of the dam will need to be maintained to prevent the growth of woody vegetation. The embankment shall be maintained regularly so that grass growth over the entire embankment does not exceed 6 inches.
19. In accordance with Section 31.34, Wisconsin Statutes, the dam must pass at least 25% of the natural low flow of water at all times. At no time can the flow be cut off to the river downstream of the dam. When the proposed cofferdam is in place at the dam, the flow must be passed through the penstock culvert.
20. To receive funding from the Municipal Dam Grant, all of the requirements of the program must be met. No work may be completed prior to receiving the grant award.

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 _____
Robert R. Davis, P.E.
Water Management Engineer

State of Wisconsin
DEPARTMENT OF NATURAL RESOURCES
3911 Fish Hatchery Road
Fitchburg WI 53711-5397

Scott Walker, Governor
Cathy Stepp, Secretary
Telephone 608-266-2621
Toll Free 1-888-936-7463
TTY Access via relay - 711



RECEIVED

September 10, 2014

City of Beaver Dam
Jeremy Klug, Director of Facilities
640 South Center Street
Beaver Dam, WI 53916

SEP 11 2014

WT/3 - WY/3 - OGL/3

Subject: Beaver Dam Lake Dam, Field File #14.02, City of Beaver Dam, Dodge County.
Amendment to Plan Approval Docket IP-SC-2013-14-00242 for Riprap Plan Approval

Dear Mr. Klug:

We have reviewed the plans that were submitted for the proposed embankment repairs of the Beaver Dam Lake Dam, located in the City of Beaver Dam, Dodge County. You will be pleased to know that the plans are hereby approved with a few limitations.

The riprap embankment repair plan was submitted as an amendment to the original plans. The plans were submitted by Kunkel Engineering on September 10, 2014 under the professional seal of Basil Orechwa, P.E. The plan is approved under the plan approval dated February 7, 2013 with docket number IP-SC-2013-14-00242. All original permit conditions remain in effect, except where modified by this document. Care should be taken to keep excavation for the riprap to a minimum so that the embankment is disturbed as little as possible. The project should be done when lake levels are at normal pool or below. The project should not be done during times of high water.

If you have questions concerning this document please feel free to contact me.

Sincerely,

Robert R. Davis, P.E.
Water Management Engineer
Southern District
Robert.Davis@Wisconsin.gov
608-275-3316

cc: Bill Sturtevant, P.E. - WT/3

Quality Customer Service is Important to Us. Tell Us How We Are Doing.
Water Division Customer Service Survey
<https://www.surveymonkey.com/s/WDNRWater>



September 23, 2014

City of Beaver Dam
Jeremy Klug, Director of Facilities
640 South Center Street
Beaver Dam, WI 53916

Subject: Beaver Dam Lake Dam Reconstruction, Field File #14.02, IP-SC-2013-14-00242, Beaver Dam River, City of Beaver Dam, Dodge County. As-built Plan Approval.

Dear Mr. Klug:

Please accept my congratulations on the completion of this project, and sincere thanks for the great deal of cooperation. As a reminder, the City is required to have a professional engineer inspect the dam every two years. The next required inspection is due in 2015. Your full inspection schedule is available on our dam safety pages. The City should regularly review the Emergency Action Plan (EAP) and the Inspection, Operation and Maintenance Plan (IOM) for the dam and check for any necessary changes. In particular, the City should consider an update to the IOM based on the new gates on the dam. Please supply copies of these documents if there are any changes. If you have questions concerning this document please feel free to contact me.

FINDINGS OF FACT

1. The Department of Natural Resources has examined the as-built plans for the reconstruction of the Beaver Dam Lake Dam, prepared by Kunkel Engineering and electronically submitted to this office on December 17, 2013.
2. The Department received a completion statement signed by Basil Orechwa, P.E., confirming that the dam had been constructed in accordance with approved plans and specifications.
3. Kunkel Engineering has submitted photographic proof demonstrating completion of the project and the Department inspected the dam on November 26, 2013.
4. The Beaver Dam Lake Dam has been previously assigned a hazard rating of High Hazard and currently meets the flow capacity standards of NR 333.07 Wisconsin Administrative Code.

CONCLUSIONS OF LAW

1. The review has been conducted in accordance with Chapter 31, Wisconsin Statutes, and Chapter NR 333, Wisconsin Administrative Code.

APPROVAL

1. The as-built plans are hereby approved in accordance with Chapter 31, Wisconsin Statutes.

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 _____

Robert R. Davis, P.E.
Water Management Engineer
Southern District
Robert.Davis@Wisconsin.gov
608-275-3316

cc: ✓ Bill Sturtevant, P.E. - WT/3
Kari Beetham - Grant Manager, Municipal Dam Grant Program (via email)
Basil Orechwa, P.E. - Kunkel Engineering Group (via email)
Mitch Leisses - Kunkel Engineering Group (via email)

Quality Customer Service is Important to Us. Tell Us How We Are Doing.
Water Division Customer Service Survey
<https://www.surveymonkey.com/s/WDNRWater>