

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Water, Bureau of Flood Protection and Dam Safety

625 Broadway, Albany, New York 12233-3504

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www.dec.ny.gov

Certified Mail – Return Receipt Requested

December 31, 2018

Jason Roberts Development Corporation
C/O Gary Spindler
250 W 26th Street St Fl 4
New York, NY 10001

Re: Rainbow Lake Dam
DEC Dam ID#: 186-0849
Town of Indian Lake, Hamilton County
Class C – High Hazard Dam
Condition Rating: “Unsound – More Analysis needed”

2nd NOTICE OF VIOLATION

Dear Mr. Spindler:

Mr. Chad Sievers and I conducted a routine inspection of the Rainbow Lake Dam, a high hazard dam, on August 31, 2018 as part of the Department of Environmental Conservation’s (Department) ongoing Dam Safety program. I am writing to you as it is my understating that you represent the owner of this structure. A copy of the Visual Observations Report is attached.

PLEASE TAKE NOTICE THAT this letter serves to provide you with a second Notice of Violation ("NOV") setting forth the specific actions that constitute violations involving the requirements of Environmental Conservation Law (“ECL”) §15-0507 and Title 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York (6NYCRR), for failure of a dam owner to operate and maintain the dam and all appurtenant works in a safe condition; violations of 6NYCRR, Part 673; failure to comply with the February 13, 2015 order of consent (Order), DEC Case # CO 5-20120412-07; and failure to comply with the requirements of environmental permit #5-2026-00171/00001 (Permit) issued by the Department, effective December 20, 2017, as follows:

Violations of the Order

1. Failure to commence the remedial measures by April 1, 2016, as agreed in requirement 6 of the Compliance Schedule of the Order (CSO).
2. Failure to complete the remedial work by December 31, 2016, as directed in requirement 7 of the CSO.
3. Failure to cause the Construction Engineer to provide the Department by February 1, 2017 or within two weeks after substantial completion, whichever is sooner, a written certification that the dam work has been completely constructed under his/her care and supervision, and in accordance with the approved plans, as directed in requirement 8 of the CSO.
4. Failure to cause the Construction Engineer to provide the Department by March 1, 2017 or within four weeks after substantial completion, whichever is sooner, as-built drawings of the work, as directed in requirement 9 of the CSO.

Violations of ECL §15-0507 and 6NYCRR, Part 673.3(a)

1. Failure to operate and maintain the dam and all appurtenant works in a safe condition.

Violations of 6NYCRR, Parts 673.8(a) and 673.7

1. Failure to submit an Annual Certification by January 31, 2018, as required by 6NYCRR, part 673.8(a).
2. Failure to submit annual updates for the dam's Emergency Action Plan (EAP), as required by 6NYCRR, Part 673.7.

Violations of the Permit

1. Failure to comply with condition 5 of the Permit which calls for the permittee, within two weeks of the date of permit issuance, to notify the Dam Safety Section by certified mail (return receipt requested) of the name, address, telephone number and license number of the registered professional engineer responsible for oversight of the dam construction work (Construction Engineer) and for submission of the construction certification and "as-built" records.

Please contact this office immediately to address these violations.

Inspection

The left/right nomenclature used in this letter and in the enclosed Visual Observations Report is based on looking downstream

The dam continues to be in an advanced state of deterioration. Please review the Visual Observation report for a detailed listing of deficiencies observed. Deficiencies may exist beyond those identified here.

EAP

A review of the EAP indicates that the Department's contact information in the Notification Flowchart is outdated. Please update your Notification Flowchart to reflect the below contact information for the Department.

Primary:

Alon Dornitz, Chief-Dam Safety Section

(518) 486-4326 (24 hour/Emergency)

(518) 402-8185 (Primary office)

(518) 402-8130 (Backup office)

(518) 852-0415 (mobile)

The permit for the proposed dam removal expires in October 2019. You should implement the permitted work as soon as feasible. If you have any questions about the permit, please check with the Regional Permit Administrator in the Ray Brook office (518-897-1234).

If you have any questions, please feel free to contact me by phone at 518-408-0338, or by e-mail at john.smith@dec.ny.gov.

Sincerely,



John Smith, P.E.
Assistant Engineer (Environmental)
Dam Safety Section

ec w/encl: Brian Wells, Supervisor, Town of Indian Lake, ilsuper@hotmail.com
Alon Dornitz, P.E., NYSDEC, Dam Safety, Central Office
Robert Streeter, Region 5 Water Manager, Warrensburg Sub-Office
Chad Sievers, P.E., NYSDEC, Water, Region 5, Warrensburg Sub-Office
Scott Abrahamson, Esq., Assistant Regional Attorney, NYSDEC,
Region 5, Ray Brook Office
Joshua Tallent, Esq. Assistant Attorney General,
joshua.tallent@ag.ny.gov
Rebecca Smith, NYSDEC, Region 5, Permits, Ray Brook Office
Don Prudy, Emergency Manager, Hamilton County Office of Emergency
Services, emergencymgmt@hamiltoncountyny.gov

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C/O Gary Spindler
250 W. 26th Street St Fl 4
New York, NY 10001
gary@parkitny.com



Visual Observations

DAM NAME Rainbow Lake Dam
STATE ID 186-0849 SECTION A HAZARD CODE C
COUNTY Hamilton INSPECTION DATE 8/31/2018
NEAREST DS CITY/TOWN Indian Lake INSPECTOR(S) CMS/JZD
OWNER'S NAME JASON ROBERTS DEVELOPMENT CORP.
DOWNSTREAM HAZARD High TOWNSHIP Town of Indian Lake

WATER LEVEL BEHIND DAM 6 inches below the service spillway crest, by eye.

DRAIN OPERATION Unknown

DEFICIENCIES

- | | | | | | |
|-------------------------------------|----------------------|-------------------------------------|---------------------------|-------------------------------------|-------------------------|
| <input checked="" type="checkbox"/> | 1)Seepage | <input checked="" type="checkbox"/> | 4)Maintenance | <input checked="" type="checkbox"/> | 7)Cracking |
| <input type="checkbox"/> | 2)Slope Stability | <input checked="" type="checkbox"/> | 5)Surficial Deterioration | <input checked="" type="checkbox"/> | 8)Movement/Misalignment |
| <input checked="" type="checkbox"/> | 3)Undesirable Growth | <input checked="" type="checkbox"/> | 6)Voids | <input type="checkbox"/> | 9)Data |

General:

–The dam continues to be in an advanced state of disrepair.

Concrete section & spillway

–Cut I-beams. Minor debris on spillway crest. Uneven apron. Voids. Exposed rebar. Trees growing from concrete. Vegetative growth.

Upstream Embankment:

–Trees and brush on the left. Brush and tall weeds on the right.

Downstream Embankment:

–Trees and brush. Leakage on the left side. Seepage on the right side.



Photo 1 Dam ID# 186-0849 Rainbow Lake Dam 08/31/2018
Spillway looking downstream



Photo 2 Dam ID# 186-0849 Rainbow Lake Dam 08/31/2018
Right concrete wall and right upstream embankment



Photo 3 Dam ID# 186-0849 Rainbow Lake Dam 08/31/2018
Downstream view of the spillway



Photo 4 Dam ID# 186-0849 Rainbow Lake Dam 08/31/2018
Left concrete wall



Photo 5 Dam ID# 186-0849 Rainbow Lake Dam 08/31/2018
Top of the dam as observed from the left abutment



Photo 6 Dam ID# 186-0849 Rainbow Lake Dam 08/31/2018
Left downstream embankment