

2927  
Cooper, Kathy

From: Smith, James M.  
Sent: Thursday, February 23, 2012 7:52 AM  
To: IRRC  
Subject: FW: Dan Safety and waterway management fees Revised copy to correct a few mistakes

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IRRC

#2927 - Please replace Dr. Solomon's comments on the website with this corrected version.

2012 FEB 23 A 9:52

-----Original Message-----

From: William Solomon [mailto:bsolomon@cyberia.com]  
Sent: Saturday, February 18, 2012 2:18 PM  
To: Smith, James M.; mwaugh@pasen.gov; rmiller@pahousegop.com; Owen Blum  
Subject: Dan Safety and waterway management fees Revised copy to correct a few mistakes

Dear Jim,

I would like to comment on the proposed dam safety fees.

I am a farm owner in southern York County, although I am a veterinarian I make my living farming in Shrewsbury Township and have for nearly 40 years. In 1981 I obtained a permit from DEP to construct a pond on the property of approximately 4 acres. The work was completed according to DEP's specifications by Kinsley Construction and has been maintained in pristine condition ever since. The pond serves as the reservoir for a geothermal heating system in the house and water for our livestock in an emergency. In addition it is important for fire protection and is a close source of water for the Shrewsbury Volunteer Fire Department if needed. It also provides us with limited irrigation potential. The structure also serves as a home for a wide variety of stocked fish and wildlife including migratory birds. It is a local treasure in every aspect.

For the first 25 years the pond was classified as an non-hazard structure, , but in the fall of 2006 suddenly without warning I received a letter stating that it had been re-classified to C-2 high hazard and the nightmare had begun. The letter stated that there was a house approximately a mile downstream that could be impacted if the pond ever failed. First there was the Emergency Action Plan which had to be advertised indicating that the property was dangerous to the area, then the annual inspections and their cost. Next the inspections became worse with such things as the state inspector the past 2 years stating that the pond had no trash top on the riser pipe when it clearly does have a trash top on the riser pipe. Then the demand for a fiber-optic examination of the outlet pipe, after going to the trouble and cost of the examination DEP informed us that the examination had to be repeated without water flowing through the outlet pipe, like that was no problem. The letters from DEP are often accompanied by threats of enforcement such as fines or possibility of enforced drainage. Along the way we have complied with every request and have accrued large engineering fees as we have dealt with the constant barrage of regulation.

Unfortunately it gets worse, in the summer of 2011 I received a letter stating that new regulations have been approved that require \$110,000 of personal assets be pledged to the commonwealth. This to insure the owners financial ability to pay for restoration of the ground in case the pond was ever breached. Now the new proposal that there is a need for an annual registration fee of \$1500 in addition to all the other costs is soon to be implemented.

Let me state unequivocally that there is no possibility of a failure of this pond. It proposes no threat to anyone. In September of this year following hurricanes Irene and Lee we received more than 13 inches of rain about 9 of which occurred in several hours and the water level never even reached the emergency spillway. If I had ever thought such regulation was

forthcoming, like anyone else, I would never have constructed the pond. The value of the farm has been reduced to virtually zero, can you imagine trying to sell a property with a so called 'high-hazard" dam and the buyer having to pledge \$110,000 dollars in additional assets, and pay a transfer fee for the permit, then pay the annual costs of the regulations. There is no way that is possible.

The state has virtually taken away a large part of my worth for absolutely no reason.

I fully understand DEP'S interest in assuring the integrity of the commonwealth's reservoirs. All that is necessary is an annual inspection of these structures either by a licensed engineer or a competent employee of the state or both. Once identifying the problem dams, then other regulations could apply.

This pond drains less than 100 acres and is spring fed, I would not be in a position to have such a structure on my property for an instant if it presented a threat to anyone in the area or a financial liability to myself.

Thank you.

Dr. William Solomon