

**Belchertown Land Trust, Inc.
PO Box 152
251 Cold Spring Road
Belchertown, MA 01007**

November 19, 2009

Commonwealth of Massachusetts
Department of Conservation and Recreation
Office of Dam Safety
Attn: William C. Salomaa, Director
180 Beaman Street
West Boylston, MA 01583

Subject: Bondsville Upper Dam
National ID #.MA00560
State Dam ID #7-12-239-5

Dam Safety Order(s)
Phase I Inspection Report

Dear Mr. Salomaa:

The Belchertown Land Trust, Inc. (BLT) wishes to further its correspondence with regard to the Certificate of Non-Compliance and Dam Safety Order (Order) of February 22, 2008, which established an agenda and time frame for performing certain activities with regard to the Bondsville Upper Dam. BLT also acknowledges and references the subsequent Dam Safety Order of December 19, 2008, which required a Phase I inspection report. Our last correspondence on the Order was June 24th, which is copied. I am representing BLT and have been authorized to make this response.

The Phase I inspection/evaluation report, prepared by Tighe & Bond, Inc. (T&B), dated March 20, 2009, has been submitted, which completes the visual inspection which was due under the Order. We are not sure what activity, if any, is now required under the Phase II inspection/investigation directions. Although, the Order specified Phase II activities, the T&B report left the next steps indeterminate [“Since the dam is considered in Poor condition, it *is likely* the DCR will require a Phase II Investigation in which case the above studies ...” (emphasis added); see s. 3.2, item 4.]. Since the BLT is without prior experience in these matters, we ask that Department of Conservation and Recreation (DCR) provide us guidance concerning the interpretation of the Phase I inspection with regard to Phase II requirements. BLT understands that Phase II could entail further structural integrity inspection(s), including altering the impoundment to expose those physical elements that could not be fully evaluated by T&B at the time of their inspection. Further, BLT understands that the Phase II standards will include an alternative engineering analysis for repair or removal of the dam [report, s. 3.2, item 4].

Based upon the Phase I inspection and Phase II investigation results, BLT will be required to

provide a proposed time-line to design, permit and construct the selected alternative to repair, breach or remove the dam (*breach* added). The original Order specified that designated activity be completed by November 31, 2009. BLT cannot meet the present time-line of the Order and asks for relief, offering the following as indication that it has taken affirmative steps to meet the intent of the regulations:

- As indicated in our June 24th, correspondence, BLT partnered with the Pioneer Valley Planning Commission (PVPC) to apply for grant funding from the Massachusetts Environmental Trust (MET) to conduct a study of the dam and impoundment. The Bondsville Upper Dam impoundment impacts the Towns of Palmer, Belchertown and Ware; DCR property and facilities at Belchertown; the Quabbin reservoir outflow; numerous private properties, both above and below the dam; and, the apparent interests of numerous Commonwealth citizens who are recreational users. BLT, being a community service organization, cannot make a decision on the future of the impoundment without involving the stakeholders. Being of limited financial ability, BLT needed funding; which, took time. A \$25,000 grant was obtained from MET, through PVPC, to meet with stakeholders and study the alternatives (repair or remove) that best served BLT and community interests. The final grant proposal established a series of meetings with public officials and two public meetings open to the community, with a time-line of July 2009 to May 2010. A copy is attached. Meetings have been held with town officials and the first of two public forums was held in Belchertown on October 1st; which, was widely attended by legislative, town, state officials (including DCR); property owners; and, the general public. BLT needs additional time to complete this process, as it has direct impact on the decision of the future of the dam/impoundment.
- As a result of the PVPC meetings with officials of the Towns of Palmer, Belchertown and Ware, the Belchertown Town Manager, Gary Brougham, has offered to collaborate with the Towns of Palmer and Ware to explore assistance that the respective towns might bring to this matter. BLT is in the process of solidifying that partnership now.
- BLT met with (or, representatives of) State Senators Stephen Brewer, Gale Candaras and Stan Rosenberg; and, State Representatives Thomas Petrolati, Todd Smola and Stephen Kulik, to explore the situation with this dam and possible public solutions. Their interest has recently been expressed directly to Commissioner Sullivan; see letter, attached. If you wish to follow up with these officials, we suggest contacting Representative Smola, who is most familiar with the history of this property, being native to Palmer. He attended and addressed the October 1st public forum (above). We also note that Senator Brewer has been closely involved, attending our recent Annual Meeting (October 27th) to address the impoundment abutters who attended. BLT has been exploring possible federal, state and local support.
- BLT applied for a Belchertown Community Preservation Act grant of \$5,000 to pay for the T&B Phase I inspection report. The Town Community Preservation Committee endorsed the application, which was subsequently approved at Town Meeting. The Belchertown community as given direct support for this project. These funds are presently available to T&B and we await your instructions on transmittal.
- As we have previously advised, the dam area on the Palmer side was identified by the

Massachusetts Department of Environmental Protection (DEP) as contaminated by hazardous materials as the result of previous industrial activity on this site. The history of this site is well known to the Commonwealth, going back to the Superfund clean-up of parts of the Boston Duck factory after the 1968 destruction of the works by fire. As the Commonwealth is aware, the site was never fully remediated. Before the dam area could become a possible construction work-site, the property had to be fully investigated and remediated. Being of limited financial ability, BLT needed funding; which, took time. BLT applied for and obtained federal Environmental Protection Agency (EPA) grants to address this portion of the overall Superfund site. EPA contracted the investigation and clean-up, which was a lengthy process, just completed this June [cost of \$910,000: being, \$100,000 survey and \$810,000 clean-up]. Completing the environmental remediation was a necessary precursor to any subsequent plans for this site.

- BLT is discussing the possible development of this site for hydroelectric power generation. Energy generation has been explored in the past but was found to be uneconomical. That may be changing, given developments in the energy industry. Commercial development of this property is not BLT's interest, and it would be looking to transfer the property to some other owner. Given BLT's financial constraints, a commercial interest with financial capacity may be a solution to the imminent needs of this situation. BLT has already been in negotiation with others; however, it does not wish to publically identify those parties given the private nature of negotiations. These negotiations are moving slowly, due to the complicated nature of the property title [marketable title is not presently available] and the public involvement.
- Community involvement concerning the dam and impoundment has been extensive. We enclose some of the numerous news-articles that have been in the media in just the past three months. Again, BLT is a community service organization and believes responsiveness to the public is an essential part of its mission. Trying to balance all of the competing interests and involve public representatives has consumed a great deal of the directors' efforts. This site has historically attracted the public, particularly young people, and there have been fatalities. Much of BLT's efforts and funds have been consumed by ensuring public safety.

The issues involving this dam/impoundment are complicated and involve a great deal of work. Funding needs to be obtained for every activity that cannot be fulfilled by our volunteers; which in this matter, is practically everything. While everyone realizes that this is an aged, poorly rated structure, based upon the Phase I inspection there appears to be no immediate danger of the dam failing. Being a volunteer organization, with no paid staff, BLT's inherent ability to further this matter should receive some consideration in the timing of events.

BLT requests that DCR:

- give guidance on the Phase II requirements, as appropriate, and extend the time-line to a period of nine months from that further notice. This would allow time to seek funding, contract and conduct the further investigation. It would also allow BLT time to: complete its MET/PVPC study; develop state and town partnerships, and possible financial assistance; and, negotiate possible transfer to a financially responsible party.

- Extend the time-line for compliance and completion of repair, breach or removal work to twenty four months from the date of the completion of the Phase II report. We anticipate that the decision on the alternative and the mechanisms to accomplishment it will be settled, as above, and the subsequent execution will take an extended period to obtain funding, contract and complete the project. As you can anticipate, a project in this location will require an extensive environmental review under MEPA, with permitting by the Towns, Commonwealth and US Army Corps of Engineers (ACE). We have already received notification from ACE that they have jurisdiction over this site. We anticipate a lengthy process with considerable public involvement, governed by a multiplicity of regulatory time-frames.

If any discussion is needed, please contact either myself at 413-253-4318, or the BLT President/Director, James Fox at 413-323-4741.

Respectfully,

Daniel R. Beaudette
Mass Bar #638745