



July 6, 2020

Mr. Timothy Krall  
City of Reading  
503 North Sixth Street  
Reading, PA 19601

Re: Modification for Drawdown  
Bernhart Dam  
Muhlenberg Township, Berks County  
DEP File No. D06-001

Dear Mr. Krall:

Reference is made to the information submitted by AECOM to this office via e-mail dated March 20, 2020, concerning the proposed partial breach of the spillway weir and drawdown of the reservoir. This work is required to complete and maintain the needed drawdown of the reservoir to assure compliance with 25 Pa. Code §105.136(b)(2) and is considered an interim step towards either rehabilitating the dam or permanent removal. This work includes removal of a large portion of the stone spillway weir in one-foot increments to drain the reservoir and reduce the potential hazard associated with the dam. A small portion of the spillway will remain to provide lateral support to the spillway training walls. This dam is located across Bernhart Creek in Muhlenberg Township, Berks County.

We have determined that your proposed work, if accomplished in accordance with the enclosed terms and conditions, is authorized by the Pennsylvania State Programmatic General Permit-5 (PASPGP-5). This PASPGP-5 verification provides U.S. Army Corps of Engineers authorization pursuant to Section 10 of the Rivers and Harbors Act and/or Section 404 of the Clean Water Act. This authorization may be subject to modification, suspension, or revocation if any of the information contained in the application, including the plans, is later found to be in error.

The enclosed list of conditions must be followed for purposes of the PASPGP-5. A PASPGP-5 Permit Compliance, Self-Certification Form must be completed and returned to the appropriate Corps of Engineers office upon completion of construction.

This letter may be considered sufficient state authorization to proceed with this project with the following stipulations:

- The Department of Environmental Protection, Division of Dam Safety (Department) requests a notification from the City of Reading (City) at least 15 days, but not more than 30 days, prior to the commencement of construction unless a different time is established by the Department. At that time, it will be determined if a pre-construction meeting is necessary. To notify the Department, please contact Heath Maines at [hmaines@pa.gov](mailto:hmaines@pa.gov).
- A plan for controlling accelerated erosion and sedimentation during construction must be developed and implemented during construction. This plan may require a permit or prior approval. The Berks County Conservation District must be contacted at 610.372.4657 concerning erosion and sedimentation control permitting requirements.

- If the completion of the proposed work necessitates the partial or complete draining of the pool behind the dam, the Pennsylvania Fish and Boat Commission may require a Drawdown Permit. An application form is enclosed for this purpose. If you have any questions regarding the need for a Drawdown Permit, please contact the Pennsylvania Fish and Boat Commission at 814.359.5180.
- The Pennsylvania Fish and Boat Commission's Southeast Regional Office must be notified at 717.626.0486 prior to starting work.
- The Department's Southcentral Regional Office, Permitting and Technical Services Section, must be notified at least five days in advance of the proposed time of commencement of this work. They may be contacted at 717.705.4700.
- Construction of this approved project must be under the oversight and supervision of a registered professional engineer, preferably the professional engineer who designed the project. The engineer or a competent representative shall be on the work site during significant construction activities until completion of the project. Photographic documentation should be included as part of the engineer's inspection.
- No changes shall be made to the approved maps, plans, profiles, and specifications, except with the written consent of the Department. The Department, however, reserves the right to require such changes or modifications in the maps, plans, profiles, and specifications as may be considered necessary.
- The enclosed Dam Completion Certification must be submitted to this office, with the required owner's signature and professional engineer's signature and seal, within ten days after completion of this work. Photographic documentation should be submitted with this certification. If plans were modified during construction of this project, a detailed set of as-built drawings, sealed and certified by the inspecting registered professional engineer must be submitted to this office within 30 days after completion of this work.

This authorization does not give any property rights, either in real estate or material, or any exclusive privileges. It does not grant or confer any right, title, easement, or interest in, to, or over any land belonging to the Commonwealth of Pennsylvania. It also does not grant any infringement of federal, state, or local laws or regulations.

Any activity, involving the excavation or discharge of fill into areas classified as wetlands or excavation within the floodway of a watercourse, not specified in the approved plans for this project, is considered to be an encroachment or water obstruction requiring a separate permit pursuant to the Dam Safety and Encroachments Act. This would include excavation of wetlands or floodway for the purpose of enlarging or deepening the natural impoundment area of the dam, excavation of wetlands or floodway or placement of fill in wetlands to provide access to the project site, excavation of wetlands or floodway in borrow areas or placement of fill in wetlands in spoil areas.

Any person aggrieved by this action may appeal the action to the Environmental Hearing Board (Board) pursuant to Section 4 of the Environmental Hearing Board Act, 35 P.S. § 7514, and the Administrative Agency Law, 2 Pa.C.S. Chapter 5A. The Board's address is:

Environmental Hearing Board  
Rachel Carson State Office Building, Second Floor  
400 Market Street  
P.O. Box 8457

Harrisburg, PA 17105-8457

TDD users may contact the Board through the Pennsylvania Relay Service, 800-654-5984.

Appeals must be filed with the Board within 30 days of receipt of notice of this action unless the appropriate statute provides a different time. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decisional law.

A Notice of Appeal form and the Board's rules of practice and procedure may be obtained online at <http://ehb.courtapps.com> or by contacting the Secretary to the Board at 717-787-3483. The Notice of Appeal form and the Board's rules are also available in braille and on audiotape from the Secretary to the Board.

**IMPORTANT LEGAL RIGHTS ARE AT STAKE. YOU SHOULD SHOW THIS DOCUMENT TO A LAWYER AT ONCE. IF YOU CANNOT AFFORD A LAWYER, YOU MAY QUALIFY FOR FREE PRO BONO REPRESENTATION. CALL THE SECRETARY TO THE BOARD AT 717-787-3483 FOR MORE INFORMATION. YOU DO NOT NEED A LAWYER TO FILE A NOTICE OF APPEAL WITH THE BOARD.**

**IF YOU WANT TO CHALLENGE THIS ACTION, YOUR APPEAL MUST BE FILED WITH AND RECEIVED BY THE BOARD WITHIN 30 DAYS OF RECEIPT OF NOTICE OF THIS ACTION.**

If you have any questions concerning the above authorization or our requirements in this matter, please contact Heath Maines of our office at 717-772-5960.

Sincerely,



Richard A. Reisinger, P.E.  
Chief  
Division of Dam Safety

Enclosures: Dam Completion Certification  
PASPGP-5 Permit / Self Certification Form / Conditions  
Drawdown Permit Application

cc: Fred Eddinger – City of Reading  
Bob Pinciotti, PE – AECOM  
Army Corps of Engineers –Philadelphia District (PASPGP-5 Cover Sheet)  
Pennsylvania Fish and Boat Commission, Southeast Region  
Berks County Conservation District