

February 11, 2005

Michael J. Cain, Esq.
State of Wisconsin
Department of Natural Resources
Bureau of Legal Services
101 S. Webster Street
P.O. Box 7921
Madison, WI 53707-7921

RE: Request for Reclassification of the Little Round Lake Dam

Dear Michael:

The Wisconsin Department of Natural Resources' ("WDNR") database on dams classifies the Little Round Lake Dam as a "small dam" with a structural height of 6.0 feet and a maximum storage capacity of 1380 acre-feet. During recent investigations of the Little Round Lake Dam, Barr Engineering, on behalf of Mr. James Hausman, collected data indicating that this dam does not qualify as "small" under the WDNR definition. This letter provides additional information with respect to the size of the Little Round Lake Dam and requests that the WDNR reclassify the Little Round Lake Dam as "large" and requires Sawyer County to bring the dam into compliance with Wis. Admin. Code ch. 333. (As an aside, it has also been reported to us that the bridge, over which the dam sits, is leaning and may be an unsafe structure.)

Classification as a Large Dam:

Wisconsin Administrative Code ch. NR 333 regulates dams that "have a structural height of more than 6 feet and a maximum storage capacity of 50 acre-feet or more of water." Wis. Admin. Code § NR 333.02(1)(a). These dams are also defined as "large dams" according to Chapter 140 of the WDNR Waterway and Wetland Handbook. According to Wisconsin Administrative Code NR § 333.03(24), "'Structural height' means the difference in elevation in feet between the point of lowest elevation of the top of the dam before overtopping and the lowest elevation of the natural stream or lake bed at the downstream toe of the dam."

A survey of the Little Round Lake Dam was conducted in 2004 by Dave Rieder. Figure 1 shows a view of the dam components (view from upstream looking downstream), developed from the survey data. The road over the dam is Carlson Road, which would be the overtopping elevation of the Little Round Lake Dam. Figure 2 shows a profile of the outlet channel between

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Little Round Lake Dam and the wetlands at Osprey Lake. As seen on the attached figures, the lowest elevation of the top of the dam before overtopping is at about elevation 85.2 and the lowest elevation of the stream bed at the downstream toe is at about elevation 75.8. Therefore, the structural height of the Little Round Lake Dam is over 9 feet. (85.2-75.8=9.4.) Because the structural height of the dam is greater than 6 feet and the maximum storage capacity is over 50 acre-feet, the Little Round Lake Dam is regulated by Wis. Admin. Code ch. NR 333 and should be classified as a large dam.

Unauthorized Structure:

As you are aware, Sawyer County is currently defending a lawsuit involving the Little Round Lake Dam. As a part of that litigation, depositions have been taken revealing that Sawyer County never received an approval for the construction of the Little Round Lake Dam, making this dam unauthorized. We have attached excerpts from Messrs. Dallam's and Olson's depositions supporting the conclusion that the specifications for the Little Round Lake Dam were never approved by the State of Wisconsin. (Dallam Tr., pp. 150:22- 151:24; Olson, Tr., p 81:8-22.)

Wis. Admin. Code ch. NR 333:

Because the Little Round Lake Dam has a structural height of more than 6 feet and a maximum storage capacity of 50 acre-feet or more of water, the structure must comply with the requirements specified within Wis. Admin. Code ch. NR 333. Moreover, because the Little Round Lake Dam was never approved by the State of Wisconsin, it is considered unauthorized. We understand that the WDNR usually requires owners of unauthorized large dams to bring those dams into compliance with the requirements of Wis. Admin. Code ch. NR 333. (See enclosed Dallam Tr., p. 120, lines 20-22.) Accordingly, with this letter, Mr. Jim Hausman requests that the WDNR redesignate the Little Round Lake Dam as a large dam and require Sawyer County to bring that dam into compliance with Wis. Admin. Code ch NR 333 at this time.

If you have any questions on this data, please feel free to contact me.

Sincerely,

MICHAEL BEST & FRIEDRICH LLP

Lauren L. Azar

LLA:jas

cc: Joseph P. Wright, Esq., Stafford Rosenbaum, LLP
James Hausman

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