

**Eagle Spring Lake  
Management District  
P.O. Box 196  
Eagle, WI 53119**

January 31, 2010

Wisconsin Department of Natural Resources  
C/O Matthew J. Frank  
PO Box 7921  
Madison, WI 53707-7921

Dear Mr. Frank:

This correspondence is in part to comment on your response (letter of 12/10/09 on behalf of the governor) to some Eagle Spring Lake residents and also to briefly let you know of the three related issues we have been experiencing with some of your staff in the Waukesha office.

Your letter:

- There have been no misunderstandings. The Department of Natural Resources (DNR) position has been to leverage the Eagle Spring Lake Management District into lowering our water level by 6.5 inches.
- The working relationship with Southeastern Wisconsin Regional Planning Commission (SEWRPC) and Eagle Spring Lake Management District with the DNR regarding the lake water level issue and two other related issues (see below) has, to say the least, become "ugly".
- Eagle Spring Lake current and historic (since at least 1941) water levels are supported by virtually 100% of those in attendance at the September 10, 2009 meeting. It is my understanding that not one individual or group has indicated support for the lower water level.
- As of this date we have not seen the final environmental assessment. I will acknowledge that Jim McNelly has verbally indicated he will not rule against our current water levels but, as of now, the DNR's position has been that we must get 100% flowage easement signatures or go to court to get a ruling that prescriptive rights have precedence.

Responding to the above in correspondence to Megan Correll, (10/14/2009, cc to you) one of our law firms has documented case law contrary to the DNR's position. Once again, we have not heard anything.

The following is a brief commentary on the three "nightmares" we have been experiencing with some of your staff:

1. Water Level Issue:

Some of this has been documented so I will just reference an October 13, 2009 document provided to Jennifer Jerich that provides a review of the DNR files. The Eagle Spring Lake Management District in 1993 requested a resolution of this issue and has pursued this issue since then. To this date our legal fees and related costs have exceeded \$33,000.00. This is a staggering sum when you consider that the Eagle

Spring Lake Management District's position is to maintain water levels versus the DNR's position that we are asking for a 6.5 inch increase in water levels.

2. July 2009 maintenance work done to our Wambold Dam. On 09/17/2009, what was to have been a meeting to discuss this work turned out to be an "enforcement conference", complete with an armed warden and threats of citations.

We have been cited in a letter dated 09/29/2009 relative to statutes 31.18, 31.34 and NR 333.05 Wisconsin Administration Code. When I previously used the term "ugly", I was referring to the way we have been treated relative to this issue. We agreed to have an engineering firm (Ayres Associates) assess what we had done but our law firm was verbally told an emergency draw down was being discussed amongst DNR staff. It was clear that various conclusions had been made prior to an appropriate investigation and our submittal of information. At a cost in excess of \$12,000.00, we have submitted all requested information which exonerates us of any wrong doing.

In fact, we repeated and improved upon some work we did to our dam in the late 1990's as a result of a dam inspection (Konstantin Margovsky letter dated 08/03/1998). There is much more I could provide but I said I would be brief. The information that was requested was submitted on January 18, 2010, and I am not suggesting we should have a response as of this date – our nightmare is with the process we were put through.

### 3. Emergency Spillway Requirement.

The Dam inspection letter of 08/03/1998 indicated the probable need to upgrade our spillway capacity. The record will show that we have been diligent in our efforts to resolve this issue, however a decision on our water level issue significantly impacts what we may or may not have to do. In addition, over the years we have been given significantly different discharge values which begs the question: which is the realistic value (cubic feet per second) that we should be designing for? See chart below.

	Ayres Data		G.A.S. <sup>2</sup>	Mukwonago River Insurance Flood Plain Study
	Village of Mukwonago	Required Spillway Capacity	Required Spillway Capacity	DNR Requirement
	Actual gauge data last 10 years <sup>1</sup>	November 2006	January 2001	November 2008
Q25	296	-	-	-
Q50	310	-	-	1106
Q100	322	690	757	1446
Q500	-	959	1935	2001
Q1000	-	1106	2302	-

All Data – Cubic Feet per Second

<sup>1</sup> Data for Eagle Spring Lake discharge derived from Village of Mukwonago gauge.

<sup>2</sup> Graef, Anhalt, Schloemer & Associates - January 2001.

We have to meet the Q500 year requirement and have been told by the DNR that we have to pass 2001 cubic feet per second.

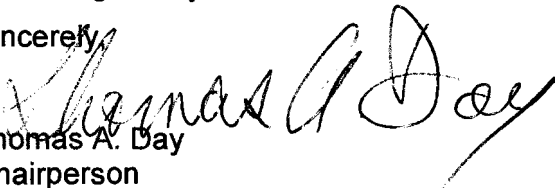
When SEWRPC did an Environmental Assessment for us in 2008 we learned some new information relative to the watershed upstream of our Dam.

- A 29% acreage reduction in our watershed.
- 18.3% internal drainage within the watershed.
- A net 20 acre reduction of the combined acreage for Lulu Lake and Eagle Spring Lake.
- Spring/Summer 2009 flooding – Eagle Spring Lake reduced outflow from the Wambold Dam to assist the Village of Mukwonago with their efforts to prevent a dam failure.

All these are favorable impacts to what we must pass but it is unclear whether any of this information has been taken into consideration in the Insurance Flood Plain Study.

In summary, I can provide specific/additional background information if necessary, and would gladly meet with you or your staff. I thank you for your attention to these issues and look forward to hearing from you.

Sincerely,



Thomas A. Day  
Chairperson  
Eagle Spring Lake Management District  
(262) 594-3231

CC: Steve Nass  
Neal Kedzie  
Scott Gunderson  
Eagle Spring Lake Management District Board Members  
Paul Alexy  
Jim McNelly  
Jim D' Antuono  
John Mann