

State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Jim Doyle, Governor  
Matthew J. Frank, Secretary  
Gloria L. McCutcheon, Regional Director

Waukesha Service Center  
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June 18, 2008

Mrs. Margaret Zerwekh  
500 Mill Road  
Delafield, WI 53018

Subject: Order to Draw Down the Nemahbin Roller Mill Dam, Field File #67.27

Dear Margaret:

Thank you for your cooperation last week during the rain events. We appreciate your efforts to keep the dam safe during the high flows.

Enclosed with this letter please find an Order to Draw Down the Nemahbin Roller Mill Dam. As we discussed earlier this week, I have included the most current copy of the Department's list of engineers and contractors. The Department does not certify or recommend any of these engineers but is providing the list as a resource for your use. Please note that prior to performing any work on the dam the Department must approve the plans and specifications.

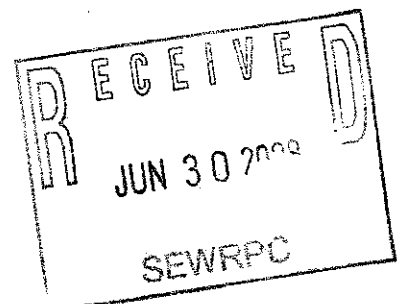
If you have any questions regarding this order, or are unsure on how to proceed, please contact me at (608) 628-2870.

Again, thank you for your cooperation.

Sincerely,

Michelle Schneider  
Water Management Engineer

CC: Meg Galloway, P.E. Dam Safety & Floodplain Section Chief, WDNR – GEF II, WT/3  
Warden Mitch Groenier



**BEFORE THE  
DEPARTMENT OF NATURAL RESOURCES**

IN THE MATTER of the Unsafe Condition of the  
Nemahbin Roller Mill Dam, Located on the Bark River,  
Waukesha County.

**ORDER FOR DAM DRAW  
DOWN**

**FINDINGS OF FACT**

The Department finds that:

1. The Nemahbin Roller Mill Dam is located on the Bark River in the NW Quarter of the NW Quarter of Sec. 19, T7N, R18E, in the City of Delafield, Waukesha County. The Nemahbin Roller Mill Dam impounds the Applebecker Millpond.
2. The Nemahbin Roller Mill Dam is currently owned by Margaret Zerwekh, 500 Mill Road, Delafield, WI, 53018.
3. On June 11-13, 2008, Department personnel investigated the Nemahbin Roller Mill Dam to assess possible damage from the high water conditions.
  - a. On Wednesday, June 11, one of the abandoned mill race gates broke open, allowing water to flow through the penstock. On Thursday, June 12, the mill race was partially blocked by inserting a metal plate in the penstock.
  - b. The I-beams that support the stoplog structure in the principal spillway are deteriorated.
  - c. The concrete in the mill race has degraded significantly.
4. During the course of the week, all of the stoplogs were removed from the principal spillway.
5. The dam is currently under an order to reconstruct or abandon and remove by December 1, 2008.
6. The dam in its present condition is not sufficiently strong, and is unsafe, and dangerous to life, health and property.

**CONCLUSIONS OF LAW**

The Department concludes that:

1. The Department of Natural Resources has authority pursuant to sections 31.02 and 31.19, Wisconsin Statutes to inspect or cause an inspection to be made of any dam or reservoir.
2. The Department of Natural Resources has authority pursuant to sections 31.02 and 31.19, Wisconsin Statutes to order alterations and repairs to any dam that is not sufficiently strong or is unsafe, and that is dangerous to life, health and property.
3. The Department of Natural Resources has authority pursuant to sections 31.02 and 31.19, Wisconsin Statutes to order the draw down of the impoundment above a dam that is not sufficiently strong or is unsafe, and that is dangerous to life, health and property.

**ORDER**

It is therefore ordered that:

1. The owner of the Nemahbin Roller Mill Dam shall replace three stoplogs in each of the four bays by June 21, 2008.
2. The owner of the Nemahbin Roller Mill Dam shall draw down the Applebecker Millpond to the elevation maintained by keeping all stoplogs removed from the spillway of the dam and securing the stoplogs away from the dam site by September 1, 2008. The owner shall begin removing stoplogs at a rate of approximately one stoplog every four days on July 7, 2008 until all stoplogs have been removed.
3. The impoundment shall remain drawn down until reconstruction or removal of the dam is completed. The owner shall inspect the dam on a daily basis to ensure that no additional obstruction to flow is placed in the structure, and shall promptly remove any such obstructions found.

### NOTICE OF APPEAL RIGHTS

If you believe that you have the right to challenge this decision, you should know that Wisconsin statutes and administrative rules establish time periods within which requests to review Department decisions must be filed.

To request a contested case hearing pursuant to s.227.42, Wis. Stats., you have 30 days after the decision is mailed or otherwise served by the Department of Natural Resources. The filing of a request for a contested case hearing is not a prerequisite for judicial review and does not extend the 30-day period for filing a petition for judicial review.

This decision was hand delivered on June 18, 2008.

### STATE OF WISCONSIN DEPARTMENT OF NATURAL RESOURCES

For the Secretary

By Michelle Schneider

Michelle Schneider  
Water Management Engineer

6-18-2008

Date