Dam Liability, Education and New Proposed Regulations

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Energy and Environment Cabinet
August 2017
What is a Dam?
Dam Requirements

- Height: 25 ft.
- Capacity: 10ac x 5ft. = 50ac-ft
Third Dam Requirement
• Hazard Classification
  – Class are High, Moderate, and Low
  – Describes the possible consequences of dam failure
  – Independent of the condition of the dam
  – Hazard Classification can change as the consequences of failure change (Hazard Creep)
High Hazard Dams (Class C)

- Potential for loss of human life
- Potential severe damage to:
  - Residential structures
  - Major arterial roads or railroads, interruption to critical infrastructure
- 178 High Hazard dams in Kentucky
Moderate Hazard Dams (Class B)

Potential damage limited to:

- Commercial buildings
- Moderately traveled roads
- Interruption to utilities

- 143 Moderate Hazard dams in Kentucky; 80% privately or locally owned
Low Hazard Dams (Class A)

Potential damage limited to:

• Loss of dam
• Loss of livestock, farm out-buildings, minor roads
• Loss of life unlikely
• 640 Low Hazard dams in Kentucky; about 2/3 privately owned
• At the start of 2016, we changed our approach to communicating with dam owners. We spend more effort:
  – Educating owners by providing more specific descriptions of problems at a dam
  – Explaining owner’s liability
    • DoW has experienced an increasing interest from dam owners’ insurance companies
Be advised that failure to correct these deficiencies may compromise the dam structurally, leading to failure during a significant rain event. As owner, you could be found liable for the damage caused by a poorly maintained dam, and the fact you have been put on notice of the necessary maintenance of the dam would likely be an important factor in any such legal determination.
Where Do We Go From Here?
Proposed Regulation Change

• Current 401 KAR 4:030 abandoned
• Current documents incorporated by reference abandoned
• Current 401 KAR 4:200 abandoned
Proposed Regulation Change

What’s New?

• Hazard Classification
• Dam Inspections
• Dam Inventory
• Permit Requirements for New Dams and Rehabilitation
• Application Submittal
• Public Notice
Proposed Regulation Changes

- Design Requirements
  - Seismic Design
  - Seepage Control
  - Construction Materials
- Variance Procedures
- Staged Renovations
- Emergency Action Plans
- General Maintenance Provisions
Proposed Regulation Changes

• Requirements for Removal or Breach of Regulated Dams
• Determination of Abandonment
• Transfer of Dam Ownership
• Chapter 4 Definitions
Thank You!