

Pelican Lakeshore Owners Association

P.O. Box 52
Orr, MN 55771

April 22, 2009

Rep. David Dill
571 State Office Building
100 Rev. Dr. Martin Luther King, Jr. Blvd.
St. Paul, MN 55155

Dear Rep. Dill:

We respectfully request your assistance with the continuing issue involving the water level of Pelican Lake and the new outlet dam constructed in 2002 on County Road 23 (Nett Lake Road) just west of U.S. Highway 53, in Orr, Minnesota.

It has been seven years since you, then Deputy Commissioner Mark Holsten, and local residents (including at least one Pelican Lakeshore Owners Association Director) stood at the edge of the newly constructed dam over the Pelican River. You listened to their concerns and offered future help if needed. Unfortunately, despite the intervening seven years, the issues raised by the dam's poor design and substandard construction still exist. For seven years, a number of folks concerned about Pelican Lake have tried to work with the employees and departments of the Minnesota Department of Natural Resources (DNR) with responsibility for overseeing, correcting, and making right that which is now limiting the use and rights of lakeshore owners, resort operators and guests, and other lake users. These folks' efforts brought some important issues to light and prompted the formation of the Pelican Lakeshore Owners Association.

By letter to you dated October 27, 2008, the Pelican Lakeshore Owners Association introduced itself, provided you with the Association's mission statement, and described our concerns with the lake's water levels and the dam. The Association's membership now stands in excess of 120 Members and is still growing.

As noted in the October 27 letter, the Association wrote to the DNR to request a meeting and followed up via telephone and email in an attempt to set a date. We were eventually successful and a meeting was held on February 12, 2009, in Gilbert. Directors from the Association met with three DNR Hydrologists and two Wildlife employees to discuss a recently updated (and "expanded") version of a 2007 draft hydrologic study of the dam. A copy of the updated report, entitled "***Hydrologic Evaluation of the Pelican Lake (69-841) Dam, St. Louis County, February 10, 2009***" (the "2009 Report") is enclosed for your reference. We received the 2009 Report only a few days before the meeting and did not have much time to understand its contents and/or seek other perspectives prior to the meeting.

At the meeting, the DNR presented the 2009 Report. The Association's Directors listened, discussed, and considered the 2009 Report, as well as communicated the Associations' concerns, questions, and observations. The Association appreciates the DNR's willingness to meet and review the 2009 Report, but most of our basic concerns and issues still remain. Before a solution is implemented by the DNR (and St. Louis County – it actually owns the dam) that will leave our concerns largely unaddressed, we are hopeful that you can help facilitate a settlement of the issue.

Problems as viewed by the Association's Members and Other Local Constituents:

- The physical/actual runout height of the new dam is too low – and well below the level that had prevailed for decades.

The DNR is using a 1287.3 foot “authorized runout elevation.” As the 2009 Report itself notes, the actual benchmark was finalized in the 1940s (amid dispute) by the DNR’s predecessor, by reference to a “lake gage” attached to the old dam. The natural ordinary high water level was determined to be 4.6 feet on the lake gage and the summer control elevation was 3.4 feet on the lake gage. For decades, the old dam was, in fact, at a higher runout elevation than the new dam. During construction, that extra height was lost. We do not believe an accurate field verification of the actual height of the old dam was made prior to its demolition. During construction of the new dam and on subsequent occasions, a transit has been used that apparently references some benchmark or indicator (unknown to us) in a wooded area not immediately in the vicinity of the dam. We are unsure of the accuracy achieved by using this physical benchmark or indicator. The reality of the situation is: the actual height of the old dam, albeit now unknown, governed the lake’s water level for over 60 years and most structures (docks, boathouses, etc.) were built to that level and affected landowners have accepted that level. We believe this mitigates concerns about potential issues with lakeshore owners and downstream owners, as well as the minimal amount of wild rice located on the lake.

- The lower lake level has greatly increased the number of hazardous reefs.
- The new design of the dam included a 10" x 12" hole approximately 2-1/2 ft. down from the top of the center weir that, as the DNR explains, was designed "to mimic the leaks in the old dam." While the scientific experts produce models and data suggesting this is not significant, the lake level is always seeking the height of the bottom of that hole.
- As constructed, the new dam leaks and has settled unevenly. When the segments were originally put together, the gaskets between them were left out. The segments are settling, leaking in and around them. The head ends are now at different heights (2+ inches low).

Potential Solutions:

- Use GPS or other advanced technology to establish the elevation of the dam, versus use of a transit that references some benchmark in a wooded area not in the immediate vicinity of the dam. In addition, determine whether there is any other evidence concerning the height of the old dam immediately prior to its demolition.
- Visually determine the ordinary high water level on the lake and compare that level to actual lake levels over time and in various conditions. Many believe that this will establish that, in general, the lake level is significantly lower.
- Add some height to the dam. Perhaps some legislative help is needed; we are not sure. Additional height could be easily and economically added to all three weirs by using fabricated steel plates that are held on by a set screw method, making the three weirs completely adjustable. This would facilitate raising or lowering the height of the dam to

reach a reasonable alternative acceptable to all parties. This may also fit in with the DNR's Plan A or B noted in the 2009 Report. It will also compensate for the settling problem. Over time, this method will show both parties what height works best.

- Determine how much leakage (due to settling and the lack of gaskets) is occurring and, if feasible, install gaskets or implement a more economic repair that seals the joints and leaks.
- Eliminate the 10 x 12 hole and install a fish ladder to allow fish and wildlife to travel back and forth.
- Establish a program to monitor the results of any remedial actions.

Representative Dill, while acknowledging some settling and construction issues, the DNR believes lake level concerns are largely caused by drought. However, many Association Members and other local residents, citing their actual observations and historical experience with the lake, come to a different conclusion. We understand there is a regulatory framework to work within and that we are not scientists or hydrologic engineers. However, some common sense and historical perspective needs to be brought to the table. Only three options are under consideration at this time, as noted in the 2009 Report and, quite frankly, none of these really satisfy the Association's and the local residents' concerns.

The DNR talked about moving on bids for this by June, 2009. St. Louis County, the owner of the dam, will have to be involved. After waiting this long, we do not want to see a solution implemented that fails to reasonably address these issues. If helpful, we welcome an opportunity to meet with you.

Thank you for your consideration of this matter and we look forward to your insight and assistance. Please contact me at (651) 688-6774.

Sincerely,

Dan Donovan

Dan Donovan, President
Pelican Lakeshore Owners Association

Enclosure

cc: Sen. Thomas M. Bakk
Ms. Amy Loiselle – Area Hydrologist, DNR
Asst. Commissioner Bob Meier, DNR
St. Louis County Commissioner Mike Forsman

(w/o enclosures)