

July 30, 2013

Files: 76915-20/D720001-00/Middle Chase
D720002-00/Lower Chase

Bill Sims
Manager, Water Resources
City of Nanaimo
2020 Labieux Road
Nanaimo BC V9T 6J9

Dear Mr. Sims:


Re: Application to Replace Middle and Lower Chase River Dams

This is in response to your letter dated July 25, 2013 in which you request that the application by the City of Nanaimo to remove and replace the Middle and Lower Chase River Dams be held in abeyance for 30 days. This would enable completion of consultation between the City and Snuneymuxw First Nation on this matter.

While I accept this request and agree to delay this decision, I must express concern with delays in the plans to mitigate the ongoing risk associated with the Chase River dams.

In September 2012, our office was notified that recent engineering studies determined that the probability of a failure of the Middle Chase River Dam and the Lower Chase River Dam is very high and that such a failure would result in extreme consequences to the downstream areas and those living there. On October 29, 2012 we were advised that the City of Nanaimo had decided to proceed with removal of the Middle Chase River Dam and the Lower Chase River Dam as soon as reasonably practicable. Our office accepted this decision as a viable option to eliminate the unacceptable risk to the downstream community posed by these two dams. At that time we were optimistic that the risk would have been mitigated by now, but work has not yet even started.

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Ministry of Forests, Lands & Natural Resource Operations Resource Stewardship Division	Water Management Branch Dam Safety Section	Mailing Address: PO Box 9340 Stn Prov Govt Victoria BC V8W 9M1 Telephone: 250-387-3265 Facsimile: 250-952-6792	Location: 3 rd Floor, 395 Waterfront Cres Victoria BC V8T 5K7 
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As stated in our May 13, 2013 e-mail to the Nanaimo City Engineer, the province's position with regard to these dams has not changed; the risk must be mitigated this year. On July 8, 2013 the City of Nanaimo Council voted to delay issuing the construction tender for the removal of the dams for 30 days. I am concerned that with this delay, the City's currently preferred method of mitigating the risk, dam removal, may no longer be an option for this year.

I would like to also remind you that under the *Water Act* the licensee is responsible for any damage to other parties resulting from a failure of any works. Therefore, the current situation exposes the City of Nanaimo to a potentially very significant liability.

Section 7.1 *Potential safety hazard at a dam*, BC Dam Safety Regulation, states that if a review reveals a potential safety hazard, a dam owner must prepare a plan that identifies and prioritizes any actions required to correct the potential safety hazard and, in accordance with Section 4, must implement the plan in a timely manner. The 2003 Dam Safety Review along with subsequent dam safety reports, including the 2012 inundation study, have clearly revealed a potential safety hazard. Should the City of Nanaimo not address this potential safety hazard in a timely manner (e.g., before the rains start again in October 2013) the City will be in non-compliance with the Dam Safety Regulation.

I urge the City to quickly implement a plan to correct the deficiencies identified at these two dams as soon as possible. In addition, the City should identify and immediately implement measures to mitigate the ongoing risk while these deficiencies are being corrected. If there is something that I can do to help you progress this project please do not hesitate to contact me.

Yours truly,



Glen Davidson, P.Eng.
Comptroller of Water Rights

pc: John Baldwin, Dam Safety Officer, West Coast Region