

## New York Association of Conservation Districts, Inc.

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April 15, 2008

Jamie Woodall  
Comments on Dam Safety Rule Making  
Bureau of Flood Protection and Dam Safety  
Division of Water  
NYS Department of Environmental Conservation  
625 Broadway, 4th Floor  
Albany, NY 12233-3504

Dear Ms. Woodall:

For the past fifty years, the New York Association of Conservation Districts (NYACD) has represented the Soil and Water Conservation Districts (SWCDs) of New York state. Since Districts are legally authorized to work with land owners in New York on conservation practices, including dams, and since many of our Districts provide technical assistance to land owners concerning the planning, designing, construction, and operation and maintenance of dams, we would like to make comments on the Department's Draft Dam Regulations.

To provide background, we would first like to cite the statutory authorization for work on dams by Districts:

Soil Conservation Districts Law, Article 1, §2, Declaration of policy.

(1) Preservation of soil and water resources. It is hereby declared to be the policy of the legislature to provide for the conservation of the soil and water resources of this state, and for the improvement of water quality, and for the control and prevention of soil erosion and for the prevention of floodwater and sediment damages and for furthering the conservation, development, utilization and disposal of water, and thereby to preserve natural resources, control and abate nonpoint sources of water pollution, assist in the control of floods, assist in the drainage and irrigation of agricultural lands, prevent impairment of dams and reservoirs, assist in maintaining the navigability of rivers and harbors, preserve wildlife, protect the tax base, protect public lands, and protect and promote the health, safety and general welfare of the people of this state.

Please note, particularly, the powers given to districts by the law concerning:

a) prevention of erosion,

- b) prevention of floodwater and sediment damages,
- c) control of floods,
- d) prevention of impairment of dams and reservoirs, and
- e) preservation of wildlife, including aquatic species and wetlands.

State law gives SWCDs a direct role in dealing with dams in at least these five ways. This leads to our comments on the draft proposed regulations.

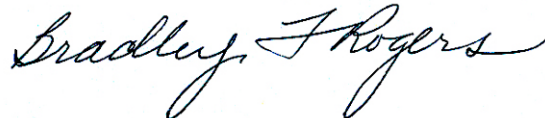
New York's Soil and Water Conservation Districts believe in protecting the public's safety and the natural resource benefits which are derived from dams. However, we are concerned about many specific questions within the proposed regulations. We believe that the regulations as proposed need further study. The additional study is needed not only to better protect the public from dam failure, but also to reduce the economic impact of dam regulations on land owners.

Due to our concerns about the issue of dam safety, at our organization's Annual Meeting in Owego, New York, in October 2007, two resolutions on this topic were passed. In response, a committee has been established. It includes several District Managers, a District Technician, Board Members of Districts, the USDA Natural Resources Conservation Service State Conservation Engineer, the Coordinator of the Upper Susquehanna Coalition, and a legal researcher from the Water Law and Land Use Clinic of Cornell University Law School. Our comments were developed by that committee and approved by the Board of Directors of the New York Association of Conservation Districts. The specific contributors are listed following this letter.

We request that you give careful consideration to our concerns. We have arranged them according to four categories: language clarifications and interpretations, substantive issues, potential roles for soil and water conservation districts, and strengthening the regulations.

For more information, please contact Gregory Bell, our Executive Director, at (518) 629-7645. We look forward to the public hearings, the public comment period, and the responses from the Department of Environmental Conservation.

Sincerely,



Bradley F. Rogers  
President