



July 7, 2021

VIA EMAIL AND US MAIL

Liesl Eichler Clark, Director
Michigan Department of Environment, Great Lakes and Energy (EGLE)
Lansing, Michigan

Dear Director Clark:

Thank you for your letter of June 29, 2021, to the Four Lakes Task Force (FLTF) regarding the framework for restoration of the Four Lakes. This framework is incorporated in the FLTF May 2021 Feasibility Study and Restoration Plan for the Four Lakes. We appreciate your personal empathy, visits, direct engagement, and the spirit of partnership in the recovery and stabilization of the Four Lakes and Dams. We also gratefully accept your and EGLE's offer of support to the Midland and Gladwin Counties' communities as they decided the best course of action is to rebuild the dams and restore the lakes.

We also acknowledge EGLE Dam Safety Unit Supervisor Luke Trumble's June 30, 2021, letter informing the FLTF that the Secord, Smallwood, Edenville and Sanford Dams have been reverted to regulatory authority of the State of Michigan. This letter serves as a response to the June 29th and June 30th letters, which are both attached.

Incredibly, there was no emergency power for FERC to assume control of a failed dam from a non-compliant owner, or funding recourse to restore the property or environmental damages in event of a failure. There would have been no path to property protection or the lakes environmental restoration if the counties had not stepped forward to acquire the properties and requested FLTF to help stabilize the situation on the ground, and the support provided from private funding in our region, the State of Michigan, EGLE specifically and the support of the USDA Natural Resource Conservation Services.

Path to a Successful Lake Restoration

FLTF and the counties, under Part 307, have the authority and legal obligation to restore the lakes. With implementation of the Four Lakes restoration plan, and through continued collaboration among the lake communities, the State of Michigan, and the federal government, all four lakes can all be restored. EGLE's willingness to honor the spirit of our request and agree to the proposed framework as a starting point for our teams as they engage is greatly appreciated.

FLTF understands that Michigan law lays out the criteria and process EGLE must follow in making appropriate permitting decisions. The probability of success greatly increases with EGLE's commitment to work closely with the Four Lakes Task Force throughout this process and the timely manner of permitting decisions. Regular meetings engaging FLTF, EGLE and other agencies are already being planned, including:

- Edenville and Sanford Interim Stabilization Construction Progress Meetings
- Emergency Management Progress Meeting
- Secord & Smallwood Reconstruction Design Progress Meeting that will transition and expand into Edenville and Sanford Design.
- Lake Restoration Planning and Environmental Permit Coordination

FLTF is putting together a results-based tracking and metric system to ensure that the restoration can stay on track and meet the timelines outlined in the Restoration Plan. The tracking system will be shared and confirmed with EGLE in the coming months, with the planning and implementation underway.

Dam Restoration plans as referenced in the June 30th EGLE Letter

FLTF acknowledges and agrees that dams are regulated by the Department of Environment, Great Lakes, and Energy (EGLE) under Part 307, Inland Lake Levels (Part 307) and Part 315, Dam Safety (Part 315), of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA), and understand the key responsibilities, as Delegated Authority of the Counties of Gladwin and Midland.

FLTF and EGLE have met prior to the June 30th letter several times to review our plans for the improvement of the Dams. We agree with and will follow the recommendations outlined in the June 30th letter.

Secord and Smallwood Dams: FLTF should continue to pursue improvements to the facility as outlined in the March 2021 Feasibility Study. Impoundment water levels shall be maintained at the current, drawn down level until the above referenced deficiencies are remedied.

Edenville and Sanford Dam Stabilization: FLTF should continue to pursue these stabilization measures and apply for permits according to local, state, and federal laws. EGLE has expressed its intent to expedite the Joint Permit Application review process, upon receipt of said application.

Edenville and Sanford Dam Reconstruction: FLTF should continue to pursue these efforts according to the Feasibility Study and apply for permits according local, state, and federal laws.

The June 29th and 30th letters will be factored into the Restoration Plan as we move forward.

Critical Issues in Restoration of the Four Lakes May 2021

While not directly related to your or Mr. Trumble's letters, it is important for everyone to understand the actions needed to support this restoration plan. There are four critical issues outlined in the May 2021 Feasibility Study and Restoration Plan that are required for a successful plan:

1. Financing: FLTF needs to acquire at least \$10 million from outside the Special Assessment District by early 2022 to continue with the recovery. The total restoration of the Lakes is approximate \$250 million, in addition to the \$50 million recovery effort underway. While loan financing is available from the USDA, it would be disruptive to so many, and unprecedented to put all this burden on the counties and the communities. The proposed dam safety funding legislation in the Michigan House and Senate, will go a long way toward bringing the affordability back in line with the financial means of the community, as it was in the pre-2020 plans to buy the intact dams.

2. Environmental recovery on Wixom and Sanford lakes is significant. FLTF is engaged with EGLE to get state acceptance of the restoration plan, and then identify funding sources.

EGLE has been advised by counsel that entering into an agreement is not appropriate at this time in connection with environmental approach proposed by FLTF. However, with EGLE willingness and statement of support for the communities in the implementation of the Restoration Plan, we believe this issue is substantially addressed. It should be recognized that this plan will be a multi-million dollar is factored into the May 2021 \$250 million overall total lake restoration estimate.

3. A fair and consistent methodology for the assessment of property owners of the Four Lakes SAD needs to be put in place to attract funding and assure that there are financial means for long-term operations and maintenance.

FLTF is committed to be a responsible operator of the dams and a good steward of the public trust. While the FERC/ELGE initiated independent investigation team has not completed its report, it is FLTF's position that the Edenville and Sanford dams should not have failed were they managed on a lifecycle basis, regulatory compliant, and maintained to respond to changing conditions and received necessary improvements to maintain a high degree of public safety. That said, the counties and Four Lakes Special Assessment District will demonstrate it has sustainable funding to maintain the dams and lakes, thus protecting the public and environment.

4. Flood studies must be completed, and capacity designs must be acceptable to the State to move forward with the completion of engineering.

EGLE comments in connection with FLTF's 30% design review: "Based on the information provided, it appears that the selected design discharge rates for each of the FLTF dams meets or exceeds the current Part 315 spillway capacity requirements of the ½ PMF. Acceptance of the design discharge rates is dependent on the pending IDF and RIDM [Risk Informed Decision Making] analyses. Similarly, conceptual acceptance of the design discharge rate does not preclude legislature from developing more stringent design requirements in the future.

FLTF is following a process aligned to the FEMA guidelines for IDF determination that was recommended by the Michigan Dam Safety Task Force. We understand that EGLE cannot commit to future legislative changes. FLTF will be advocating for this RIDM approach, and would expect EGLE to support FEMA's IDF Guidelines, as recommended by the Michigan Dam Safety Force, used by the Four Lake Task Force. A prescriptive approach, without the proper risk analysis and open mechanisms of updating of models did not work for these dams in the past and would not be a good model for our state going forward.

The Alternative to Lake Restoration

In EGLE's June 30th letter) in connection with the Edenville and Secord Dam, states: "... if FLTF determines that reconstruction of the [Sanford/Edenville] Dam] isn't feasible in a reasonable timeframe, a plan to address remaining concerns with long-term dam safety and stability and ongoing natural resource impacts will need to be developed and implemented. The plan would need to consider such alternatives as additional stabilization and restoration measures or removal of the dam and restoration of impacted reaches of the river channel."

The counties and FLTF clearly understand and are aware of the consequences of not successfully implementing the Restoration Plan, and the need to address the above critical issues to do so. However, as set forth in Feasibility and Restoration Study, if the lakes are not restored, the cost for dam removal and environmental mitigation is beyond the economic capability of the counties and authority of the FLTF to address and the impact on the future of the economy and ecosystem of the four communities would be incalculable. The Four Lakes Special Assessment District cannot assess costs associated with dam removal or environmental mitigation. Restoring the Four Lakes is the single best alternative, its success is paramount.

In Summary

Amidst this tragedy, Boyce bankruptcy, and surrender of the FERC licenses, FLTF and EGLE have understood their respective roles, yet have stood side by side on the question of returning water to these lakes and have collaborated in working through many issues to move toward this goal. I personally want to thank you for your commitment to our community since your visit a few days after the dams failed on May 19, 2020, and for keeping this a top EGLE priority by supporting the FLTF progress until restoration is completed

Sincerely,



David Kepler
President
The Four Lakes Task Force

cc: Senator Jim Stamas
Mr. Aaron B. Keatley, Chief Deputy Director, EGLE
Mr. Travis Boeskool, Legislative Liaison, EGLE
Ms. Teresa Seidel, EGLE
Mr. Jerrod Sanders, EGLE
Mr. Luke Trumble, EGLE