



State of Idaho

DEPARTMENT OF WATER RESOURCES

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BRAD LITTLE
Governor

GARY SPACKMAN
Director

August 26, 2020

Lynne and Richard French
216 ½ E. 39th Street
Boise, ID 83714

RE: Kimberly Lake Dam
Inspection and Storage Authorization

COPY

IDWR File: 77-10122
NATDAM: ID00423

Dear Lynne and Richard French:

On August 1, 2018, a representative from the Idaho Department of Water Resources (IDWR) Dam Safety Program performed an inspection of the referenced dam. IDWR is mandated by Idaho statute to perform periodic inspection of existing dams and reservoirs to help protect downstream life and property from the consequences of a dam failure and uncontrolled release of water. Toward that end, we offer both specific and general recommendations for maintenance and repair; however noting that it is the owner who is responsible and potentially liable for any damage to neighboring properties that result from a dam failure.

We recently were informed of the unusual circumstance regarding the relationship of the referenced dam and reservoir, and the corresponding *Water Right No. 77-10122*. We understand that this structure is located on real property owned wholly or in part by Mr. Steven Nafus. However, the legal right to impound water per the water right that is recognized by IDWR is listed separately and solely in your name(s). What makes this unique is that because this water right was issued per court decree, the individual/ company who owns the dam on which this water right depends apparently lacks authority to unilaterally transfer or cancel the water right.

Based on the most recent safety inspection, the earthen embankment was observed to exist in generally fair condition. Conversely, the outlet works were discovered to be inoperable; therefore this feature was judged to remain in poor condition, as was noted in previous reports. IDWR recommends the outlet works be repaired, and that maintenance be performed to remove all woody-type vegetation off all portions of the embankment. We understand that neither of these items have been satisfactorily addressed.

In accordance with Idaho Code 42.1719, State authorization to impound water per the *Certificate of Approval* will expire on December 31, 2022. Prior to expiration of the Certificate, IDWR will revisit the dam and reservoir to determine whether it is suitable for continued storage of water, and subsequent renewal of the Certificate. Please be advised that future authorization to impound water may be jeopardized if the project works are determined to be improperly maintained, repaired, or operated for benefit of public safety. Absent storage authorization, IDWR remedy of unsafe dam conditions can include restriction on the pool level or beach of the dam. Once the dam is unauthorized to impound and/or no longer capable of safely storing water, the existing water right may be subject to forfeiture after a period of five (5) years consecutive non-use.

If you have any questions, please call me at (208) 287-4927, or you may contact Erik Boe @ (208) 334-2190.

Sincerely,

John Falk, P.E.

Dam Safety Program Manager

Cc: Nick Miller – IDWR Western Region Office Manager
Enc: 2018 Inspection Report, Certificate of Approval