

**New York State Department of Environmental Conservation
Division of Water**

Bureau of Flood Protection, Room 388
50 Wolf Road, Albany, New York 12233-3507
Phone: (518) 457-3157 • FAX: (518) 485-7786
Website: www.dec.state.ny.us



John P. Cahill
Commissioner

July 26, 1999

Mr. Takashi Inoue, President
Spy Lake Corporation
285 Greeley Avenue
Sayville, New York 11782-2303

RE: Piseco Lake Dam; #156B-615

Dear Mr. Inoue:

This letter is a follow up to the July 16, 1999 letter that you received regarding the above referenced dam.

There are two items in that letter I would like to address.

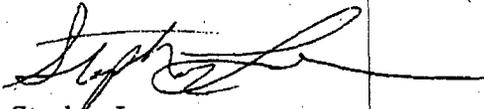
1. The boards installed in the spillway are referred to as flashboards. The term flashboards is often used to refer to boards placed in the spillway to raise the water level. Please be aware that flashboards are actually designed to "trip" when the reservoir level reaches a certain height. The boards installed in Piseco Lake Dam would be considered "stoplogs". The difference being that stoplogs will not trip/fail in the event of high water. This is important since flashboards are usually designed to trip at a certain water level in order to prevent overtopping and erosion of erodible portions of the dam during the spillway design flood.
2. Finding No. 4 and the summary section of the letter states that a minimum freeboard of one foot, as measured from the top of the boards to the top of the dam, should be maintained. Current safety criteria for spillway design for an existing low hazard (Class "A") structure is actually the ability to pass the 100 year storm without overtopping the dam.

Since there is no record concerning the design of this dam, I would recommend that a hydrologic/hydraulic evaluation of the dam be undertaken to verify that the spillway is properly sized. Should this evaluation determine that the spillway capacity is inadequate, appropriate repair or modification may be needed.

Before any repairs to the dam are made, appropriate permits may be needed. Help is available by contacting the DEC permit administrator at Region 5, Route 86, Ray Brook, New York 12977; (518) 891-1370.

If you have any have any questions or would like to discuss this matter, please feel free to contact me at (518) 457-0836.

Sincerely,

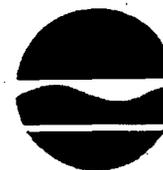


Stephen Len
Senior Engineer
Bureau of Flood Protection

cc: R. Amedon, Town Supervisor
D. Ford, Fish & Game Club
DEC Ranger John Seift
B. Parslow, Caretaker
D. Fontana, Water

SL/te

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New York State Department of Environmental Conservation

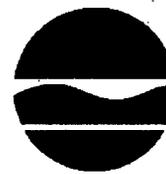
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John P. Cahill
Commissioner

August 5, 1999

Mr. Takashi Inoue, President
Spy Lake Corporation
285 Greeley Avenue
Sayville, NY 11781-2303

Mr. Richard Amadan
Town Supervisor
Town of Arietta
Piseco, NY 12139

RE: Piseco Lake Dam: #156B-615

Dear Sirs:

Concerns have been raised with the installation of boards in the Piseco Lake Spillway. I have had recent conversations regarding this issue with Mr. Amadan and Mr. Inoue. I have received the enclosed letter dated July 29, 1999 from Mr. Inoue.

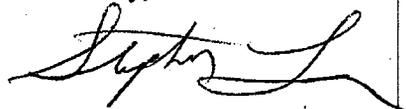
In response, I am providing this letter about the Piseco Lake Dam.

1. Our records indicate that the dam is a class "A", low hazard structure.
2. The dam was rehabilitated about 30 years ago. This Office has no record of the design or modification to the dam. A permit for construction of the dam at that time is not believed to have been obtained. Therefore, there is no "approved" configuration for the spillway.
3. Installation and removal of the timbers in the spillway is an operational feature which we do not regulate. Apparently, the process has been done for many years.

This Office does not make determinations about water rights in terms of disagreements between owners; that is a question for the Courts. I do recommend that a thorough operation and maintenance plan for the dam be developed.

An operations plan should include a schedule for inspection and monitoring of the dam. Routine maintenance activities should also be included. Dates and safe procedures for the installation and removal of the boards should be set. Enclosed is a copy of NYSDEC "An Owners Guidance Manual For the Inspection and Maintenance of Dams in New York State". The report contains information on developing an effective operations plan.

Sincerely,

A handwritten signature in black ink, appearing to read "Stephen L", written in a cursive style.

Stephen Len
Senior Engineer
Bureau of Flood Protection

SL:jb
cc: Randy Galusha

Spy Lake Corporation

285 Greeley Avenue - Sayville, NY 11782-2303
Phone (516)563-1432 ~ Fax (516) 218-0896

Received
Flood Protection
Bur. NYS DEC

July 29, 1999

Mr. Stephen Len, Senior Engineer
Bureau of Flood Protection, Room 388
50 Wolf Road, Albany, NY 12233-3507

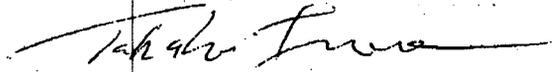
Dear Mr. Len,

Enclosed is a copy of the letter I wrote to Mr. Dominic Fontana regarding the Piseco Outlet Dam. I have some safety concern due to the current method of operation of the dam.

I was at the property in the summer of 1998. At that time I witnessed how recklessly the Town of Arietta operated the dam. There were rainy days on which the water level of Piseco Lake became too high for the people around the lake to keep their boats in place. The Town of Arietta responded to the complaints to adjust the water level by opening the dam. They, with a backhoe, lifted the I-beams that lie across to support the flash boards. This action opened the entire dam at one time. The flash boards were washed away and the water was gushing out of the dam at a tremendous rate. Looking at it, I was sure that if someone were downstream would have been washed away by the sudden strong current of the river. Northville which is located about thirty miles downstream, called the town of Arietta to find out what was causing the sudden high level of water. Please be aware that the dam controls about 1.5 billion gallons of water in the matter of bays. Common sense tells me that the dam operator must notify villages downstream before the dam is fully opened to let that amount of water go at once. It seemed to me that this event resulted from lack of dam operating knowledge and skills. I also noticed, through this experience, how difficult it is to control the flow of water in a gradual and safe manner using a flash board type dam in certain situations such as this. I do not think that it should be authorized to use flash boards to block the water not because of the strength, but because of its inferior capability in controlling the flow of water in a precise and controlled manner. I have two sons, 18 and 8 years old who often are downstream from the dam. I hate to think what would have happened to them if they were there at the time of the dam operation. It has been fortunate that there has not been any casualties in the past due to dam operation. It does not mean, however, that there might not be one in the future. As the owner of the dam and property

downstream, I don't believe the dam should be operated under current conditions. As we all know, safety and environmental issues should never be taken lightly. I am looking forward to hearing from you soon. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read 'Takashi Inoue', written in a cursive style.

Takashi Inoue, president

Spy Lake Corporation

285 Greeley Avenue ~ Sayville, NY 11782-2303
Phone (516)563-1432 ~ Fax (516) 218-0896

June 21, 1999

Mr. Dominic Fontana
Department of Environmental Conservation
PO Box 296 Rt. 86
Ray Brook, NY 12977

Dear Mr. Fontana,

Spy Lake Corporation, three years ago, acquired the property along Big Bay Piseco and the Piseco Outlet, about 1000 acres of land and water.

There is one dam on the company's property near the Piseco Outlet and Rt. 10. The dam is operated by the town of Arietta. The dam is open and shut every year to control the water level of Piseco Lake for the recreational purpose of the people who live around the lake.

It has been found that the Piseco Outlet dam shuts off the flow of water completely until the water flows over the wooden boards in the dam. It takes about two weeks for water to flow again. During the two week period the water is still on both sides of the dam, upstream and downstream. As a matter of fact, there is very little water downstream without the flow which results in unnaturally elevated water temperature. It is also noticed that this practice of operating the dam creates a hostile environment for some fish to live. It is believed that this repeated assault to the natural environment each and every year should draw the immediate attention and action of the DEC. Please be aware that directly downstream of the dam is 400 acres of environmentally sensitive wetlands and the head waters of the West Branch Sacandaga River, Classified as a wild river.

It is understood that, according to local people familiar with the dam, that the existing dam was built by the Piseco Fish and Game Club around 1969 without a permit. It is also understood that the use of wood boards is not authorized as part of the dam to block water.

Please investigate the matter regarding the dam from an environmental point of view as well as a legal one. Please make a written report of the findings about the dam. Also please include in the report what must be done to the dam itself and its operation to meet the regulations and requirements of New York State. Thank you for your cooperation.

Please send the report to:

Spy Lake Corporation
285 Greeley Avenue
Sayville, NY 11782.

Sincerely,

Takashi Inoue, President

STATE OF NEW YORK

SUPREME COURT

HAMILTON COUNTY

Harry V. Borst

Plaintiff

against -

INTERNATIONAL PAPER COMPANY

Defendant

The issues of fact raised by the answer of the defendant, International Paper Company, having duly come on to be tried by the court without a jury at a trial term of the Supreme Court held in and for the County of Fulton, at the Court House in the City of Johnstown, Fulton County, New York, on the 30th day of April, 1930, and the allegations and proofs of the parties having been heard, and the parties hereto having stipulated in open court that findings might be entered in this action as hereinafter found; Now, after hearing Harry V. Borst, attorney in person, for the plaintiff, and Hon. James McPhillips and C. E. Fitzgerald, Esq., for the defendant, I decide and find as follows:

FINDINGS OF FACTS

1. That the plaintiff since the 27th day of August 1924 has been and now is the owner of certain lands and premises described in paragraph numbered "3" of the complaint herein.

2. That the defendant now is and for more than thirty years past has been the owner of lot 165 Oxbow Tract, Hamilton County, New York on which is located a dam across the outlet of Piseco Lake which dam is so constructed that

the defendant is able to close the same and raise the level of the water of said lake.

3. That at various times since the 20th of August, 1924 the defendant at all seasons of the year has closed said dam and has covered parts of the beach in front of the property of the plaintiff and that the plaintiff for the the aforesaid reason has been prevented from at times using all of said beach.

4. That the defendant and its predecessors in title have maintained said dam upon and across the outlet of Piseco Lake for thirty years past which dam has been of the same or a greater height than the present dam.

5. That said dam and the water therein have overflowed the premises alleged in the complaint to be owned by the plaintiff to the same or a greater extent and caused the same or a greater obstruction to the flow of the water between the 1st day of October and the 25th day of the following June of each year during said period.

6. That the defendant has during said times held and enjoyed continuously said right under a claim of title adverse to the plaintiff and all other persons and during all of said times used said right without hindrance from persons owning and occupying the premises now occupied by the plaintiff and that at all times the defendant heretofore raised and lowered the level of said lake and caused an obstruction to the water in the outlet of said lake higher than the sill of said present dam.

Decision overturned

CONCLUSIONS OF LAW

1. That the defendant has acquired by adverse possession the right to maintain said dam at the outlet of Piseco Lake and to raise the water of said lake from the 1st day of October of each year to the 1st day of May of the following year to the height that the water may be raised at the present time, which is six feet and one inch above the bottom sill of the present dam and that the defendant has also acquired by adverse possession the right to raise the water in Piseco Lake from the 1st day of May in each year to the 25th day of June of the same year in so far as the same is raised by the maintenance of said dam and resulting from the commencement of the removal of the planks of said dam on the 1st day of May of each year and the removal of the planks from said dam on the 1st day of May of each year as may seem best to the defendant and the removal of all of said planks by the following 25th day of June on the same year.

2. That the plaintiff is entitled to judgment perpetually enjoining the defendant and its officers, employees and agents from closing said dam and raising the water of Piseco Lake from the 25th day of June of each year to the 1st day of October of the same year, and also perpetually enjoining said defendant, its officers, employees, agents from closing said dam and raising the waters of Piseco Lake from the 1st day of May of each year to the following 25th day of June of the same year except as said dam may be closed and the water of said Piseco

Lake raised as a result of the defendant commencing the removal of the planks of said dam on the 1st day of May of each year and removing the same as to the defendant may seem best to the 25th day of June of the same year and further perpetually enjoining the defendant from maintaining any dam at the outlet of said Piseco Lake which raises the waters of said Lake higher than the same is raised by the present dam which is six feet one inch above the bottom sill of the present dam.

3. That the plaintiff is entitled to costs of this action to be taxed.

4. That judgment be entered in conformity with this decision.

Dated: January 19, 1931

J. C. Crapsor
J.S. C.