



LIVINGSTON COUNTY, MICHIGAN
OFFICE OF THE DRAIN COMMISSIONER

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Memorandum

To: Livingston County Board of Commissioners

From: Ken Recker, P.E.

Date: 03/26/2024

Re: Resolution granting authorization of legal council to file a petition in Washtenaw County circuit court on behalf of Livingston and Washtenaw Counties for Portage and Baseline Lake Dam.

Honorable Commissioners:

As previously discussed, the Portage and Baseline Lake dam, also known as the Flook Dam, is located on the Huron River within Dexter Township in Washtenaw County. The current structure was constructed in 1965, under a cooperative agreement between Livingston and Washtenaw Counties. It maintains water levels for both Portage Baseline Lakes using 5 radial gates separated by concrete piers. This structure is located within Washtenaw County, but the assessment district includes properties in both Washtenaw and Livingston Counties.

As shared with the Board of Commissioners last year, one of the five dam gates failed. The current recommended repairs on the dam will be in excess of \$10,000 based on an engineer's construction estimate of cost. Resolution 2023-08-154 approved an expense in excess of the annual maintenance limit of \$10,000 as required to proceed with the repair process. However, a \$400,000 expense limit was also placed on this approval. Updated repair estimates, based on 60 percent complete plans, now indicate the probable exceedance of this expense limit. It is important to note that contractor bids provide the best estimate of project cost. Pursuant to Part 307 of the Natural Resources and Environmental Protection Act (MCL 324.30718), contractor bids will not be available until the State Dam Safety Unit approves the plans for the replacement gates.

Also pursuant to Part 307, the Delegated Authority must file a petition with the circuit court to

1. Amend any previous lake level orders (discussed in further detail below), and
2. Amend the special assessment district which will fund the repairs. The special assessment district was established in 1949 for Portage Lake and 1956 for Baseline Lake (both amended in 2012).

Due to a recent State Supreme Court ruling (on Higgins Lake in Roscommon County), adding language to the court order that allows for reasonable short-term variations in lake levels due to weather, drought, or other factors that are out of human control is recommended. The petition filed will not seek any change from the prior established summer and winter lake levels but will allow updating to the boundaries of the lake level special assessment district to ensure that residents with frontage or access to Portage or Baseline Lakes are included.

All expenses would be assessed to the Portage and Baseline Lake Dam special assessment district, which currently includes approximately 818 properties in Livingston County, as well as additional properties in Washtenaw County. We expect approximately 121 properties to be added to the lake level district and 6 removed based on a preliminary review of property information. There is no assessment of benefits to Livingston County associated with this project.

In conclusion, approval of this resolution would allow legal council to proceed with filing a petition on behalf of Livingston and Washtenaw Counties allowing lake level variations consistent with state law and to confirm the boundaries of the lake level special assessment district of Portage and Baseline Lakes. This resolution also rescinds the expense limitation indicated in Resolution 2023-08-154. Necessary repairs cannot proceed until these steps are completed.

We respectfully request passage of the attached resolution. If you have any questions regarding this matter, please contact me.

Enclosures (2): **Proposed district map**

Resolution 2023-08-154