WEST VIRGINIA CODE: §22-14-10

§22-14-10. Procedures for handling emergencies involving dams; remedial actions to alleviate emergency; payment of costs of remedial actions to be paid by dam owner.

The owner of a dam has the primary responsibility for determining when an emergency involving a dam exists. When the owner of a dam determines an emergency does exist, the owner shall take necessary remedial action and shall notify the secretary and any persons who may be endangered if the dam should fail.

The secretary shall notify any persons, not otherwise notified, who may be endangered if the dam should fail. The secretary may take any remedial action necessary to protect life and property if: (a) The condition of the dam so endangers life and property that time is not sufficient to permit the issuance and enforcement of an order for the owner to correct the condition; or (b) passing or imminent floods or other conditions threaten the safety of the dam. Remedial actions may include, but are not limited to:

(1) Taking full charge and control of the dam;

(2) Lowering the level of water impounded by the dam by releasing such impounded water;

(3) Completely releasing all water impounded by the dam;

(4) Performing any necessary remedial or protective work at the site of the dam;

(5) Taking any other steps necessary to safeguard life and property.

Once the secretary has taken full charge of the dam, the secretary shall remain in charge and control until in the secretary's opinion it has been rendered safe or the emergency occasioning the action has ceased and the secretary concludes that the owner is competent to reassume control of the dam and its operation. The assumption of control of the dam will not relieve the owner of a dam of liability for any negligent act or acts of the owner or the owner's agent or employee.

When the secretary declares that making repairs to the dam or breaching the dam is necessary to safeguard life and property, repairs or breaching shall be started immediately by the owner, or by the secretary at the owner's expense, if the owner fails to do so. The owner shall notify the secretary at once of any emergency repairs or breaching the owner proposes to undertake and of work he or she has under way to alleviate the emergency. The proposed repairs, breaching and work shall be made to conform with orders of the secretary. The secretary may obtain equipment and personnel for emergency work from any person as is necessary and expedient to accomplish the required work. Any person undertaking work at the request of the department shall be paid by the department and is immune from civil

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liability under the provisions of section fifteen, article seven, chapter fifty-five of this code.

The costs reasonably incurred in any remedial action taken by the secretary shall be paid out of funds appropriated to the department. All costs incurred by the department shall be promptly repaid by the owner upon request or, if not repaid, the department may recover costs and damages from the owner by appropriate civil action.

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