

COUNTY OF ORANGE



**EXECUTIVE ORDER NO. 2 OF 2021 DECLARING A
STATE OF EMERGENCY in ORANGE COUNTY
IN RELATION TO THE
RECONSTRUCTION OF BEAVER DAM LAKE DAM**

I, Steven M. Neuhaus, County Executive of the County of Orange, State of New York, do hereby declare as an EXECUTIVE ORDER the following:

WHEREAS, the County of Orange, New York, is an owner (on behalf of the Beaver Dam Lake Protection and Rehabilitation District) of Beaver Dam Lake Dam, which is located at the south end of Beaver Dam Lake in the Town of Blooming Grove; and

WHEREAS, Beaver Dam Lake Dam is classified as a “Class C” (high hazard) dam, which means that failure of the structure would likely result in the loss of human life and/or substantial environmental damage, as well as damage to people’s homes, main highways, industrial and/or commercial buildings, railroads, and/or utilities (i.e. water supply, sewage treatment, fuel and power infrastructure); and

WHEREAS, an evaluation of the Beaver Dam Lake Dam on behalf of the County revealed deficiencies in the structural stability and spillway capacity of the dam, as well as an inability to properly operate the dam’s two (2) low level outlets – and that the dam needed to be replaced; and

WHEREAS, upon application to the New York State Comptroller pursuant to County Law §268, the County of Orange was authorized to spend up to \$5,000,000 for all services/work relating to the replacement of the Beaver Dam Lake Dam; and

WHEREAS, the County retained the services of an engineering firm to prepare the plans, specifications and other documentation necessary for the replacement of the Beaver Dam Lake Dam; and

WHEREAS, based on these plans and specifications, the County of Orange received bids from potential contractors, which were based on approximate quantities of materials that would be necessary to complete the dam replacement project (i.e. 1,708 cubic yards of Cast in Place Concrete); and

WHEREAS, based on the bids received, the County retained a contractor and work to replace Beaver Dam Lake Dam commenced in 2018; and

WHEREAS, the County recently determined that completion of the project will exceed the \$5,000,000 authorized by the New York State Comptroller, and it is expected that the cost of the project would exceed \$5,000,000 by \$659,000; and

WHEREAS, this increase primarily stems from a necessary redesign of a portion of the project due to an unforeseen condition of the dam; and

WHEREAS, in compliance with County Law §268, on June 22, 2020, the County submitted a further application to the New York State Comptroller to obtain authorization to spend in excess of \$5,000,000 for the dam rehabilitation project; and

WHEREAS, it was anticipated that it would take approximately three (3) months to obtain such authorization from the New York State Comptroller, which would require the work relating to the dam replacement project to be halted; and

WHEREAS, an engineering determination was made that the reconstruction of Beaver Dam Lake Dam was at a critical phase and that halting such work would result in a heightened and unreasonable risk that the dam being constructed would fail; and

WHEREAS, it was also determined that the failure of Deaver Dam Lake Dam would endanger the life and safety of citizens of Orange County downstream of the structure, as well as the environment, homes, businesses and infrastructure also located downstream; and

WHEREAS, based on the inability to stop the reconstruction work until the end of September 2020, on August 18, 2020, I issued Executive Order No. 9 declaring a State of Emergency in Orange County in relation to the reconstruction of Beaver Dam Lake Dam, and Ordered that the Commissioner for the Orange County Public Works was authorized to take whatever steps may be necessary to protect, *inter alia*, the people, environment and infrastructure of the County of Orange, from the aforesaid reasonable apprehended immediate danger, including the utilization of unexpended operating funds of the Beaver Dam Lake Protection and Rehabilitation District for the continuation of work relating to the reconstruction of Beaver Dam Lake Dam; and

WHEREAS, on October 21, 2020, I issued Executive Order No. 12 of 2020, which followed Executive Order No. 9 of 2020. Executive Order No. 12 of 2020 declared a State of Emergency in Orange County in relation to the reconstruction of Beaver Dam Lake Dam, and Ordered that the Commissioner for the Orange County Public Works was authorized to take whatever steps may be necessary to protect, *inter alia*, the people, environment and infrastructure of the County of Orange, from the aforesaid reasonable apprehended immediate danger, including the utilization of unexpended operating funds of the Beaver Dam Lake Protection and Rehabilitation District for the continuation of work relating to the reconstruction of Beaver Dam Lake Dam; and

WHEREAS, based on Executive Order No. 9 of 2020 \$659,000 of unexpended operating funds of the Beaver Dam Lake Protection and Rehabilitation District was transferred to the Beaver Dam Lake Dam rehabilitation capital project, and based on Executive Order No. 9 of 2020 and Executive Order No. 12 of 2020 a portion of such funds was utilized for the reconstruction project; and

WHEREAS, upon issuance of Executive Order No. 9 of 2020 the New York State Comptroller terminated its review of the June 22, 2020, application without the issuance of an Order; and

WHEREAS, the expenditure of up to \$5,659,000 is absolutely necessary to continue the work associated with the reconstruction of Beaver Dam Lake Dam, and without such funds the reconstruction work must be halted; and

WHEREAS, an engineering determination has been made that the reconstruction of Beaver Dam Lake Dam remains at a critical phase and the stoppage of such work would result in a heightened and unreasonable risk that the dam would fail; and

WHEREAS, a failure of Beaver Dam Lake Dam would endanger the life and safety of citizens of Orange County downstream of the structure, as well as the environment, homes, businesses and infrastructure also located downstream.

NOW, THEREFORE, I, STEFAN “STEVEN” M. NEUHAUS, County Executive of the County of Orange, New York, do hereby find, declare and order the following:

I HEREBY FIND, based on the foregoing, that stoppage of work relating to the reconstruction of Beaver Dam Lake Dam presents a reasonable apprehension of immediate danger; and

I FURTHER FIND, based on the foregoing, that public safety would be imperiled if the work relating to the reconstruction of Beaver Dam Lake Dam is stopped; and

I HEREBY DECLARE, a local state of emergency for the County of Orange, pursuant to, *inter alia*, the authority granted by New York State Executive Law §24, and powers vested in me by the Orange County Charter, beginning at 3:00 p.m. on January 8, 2021, and terminating pursuant to law, solely for the purpose of protecting, *inter alia*, the people, environment and infrastructure of Orange County from the reasonably apprehended immediate danger associated with stopping work on the reconstruction of Beaver Dam Lake Dam; and

I HEREBY ORDER, based on the foregoing declaration, that the Commissioner of Public Works for the County of Orange take whatever steps may be necessary to protect, *inter alia*, the people, environment and infrastructure of the County of Orange, from the aforesaid reasonably apprehended immediate danger, including the utilization of unexpended operating funds of the Beaver Dam Lake Protection and Rehabilitation District for the continuation of work relating to the reconstruction of Beaver Dam Lake Dam; and

I FURTHER ORDER that this Executive Order be published as soon as practicable in a newspaper of general circulation in Orange County, and transmitted to the radio and television media for publication and broadcast; and

I FURTHER ORDER that this Executive Order be filed within seventy-two (72) hours, or as soon as practicable, in the offices of the following: (a) the Orange County Clerk; (b) the Clerk of the Orange County Legislature; (c) the Secretary of State of the State of New York; and (d)

the New York State Division of Homeland Security and Emergency Services, Office of Emergency Management; and

I FURTHER ORDER that my declaration regarding the existence of a local state of emergency for Orange County shall be deemed repealed thirty (30) days hereafter unless extended, and that my local emergency orders issued pursuant to this Executive Order shall be deemed repealed five (5) days hereafter unless extended.

Ordered this 8th day of January 2021



Steven M. Neuhaus
County Executive