

The Rt Hon Caroline Spelman MP
Secretary of State for Environment, Food and Rural Affairs
Nobel House
17 Smith Square
London SW1P 3JR

20 October 2011

Dear Minister

Hampstead Heath Ponds

I am writing with regard to proposals by the City of London (Trustees of Hampstead Heath) to make significant modifications to the dams of the ponds on the Heath at an estimated cost of £15 million. The management of the City of London states that this is necessary under the Reservoirs Act 1975 and in expectation of the implementation of the Flood and Water Management Act 2010.

On 19 May, 2011, your colleague Lord Heneley, announced a timetable for the 2010 Act and for publication of the Regulations. Regarding the parts of the Act applicable to Hampstead Heath, he said: *"We envisage that this extension would take place in the run-up to 2015 once the full risk-based approach has been developed in line with the department's structural reform plan."*

The dams in question are long established and the larger ones have been reinforced with armour plating. A report commissioned by the City of London from AECOM, an engineering company in this field, dated November 2010, states: *"There is currently no statutory obligation in terms of reservoir safety for the proposed works to be carried out at the present time."*

Lord Smith, Chairman of the Environment Agency, made a speech to the City of London on 12 October 2011, having earlier consulted his officials on the position. He is quoted in the *Camden New Journal* as saying: *"There is no enforceable legal requirement on the City of London to carry out any work [on the Heath dams]."*

The proposed works will harm the environment of Hampstead Heath and the ecology and wildlife of the area and appear to be in conflict with the provisions of the Hampstead Heath Act 1871.

I wish to address the conflicts of interest involving Dr Andrew Hughes, Director of Dams and Water Resources at W S Atkins plc. It appears that Dr Hughes is the driving force behind a campaign to make major and unnecessary changes to the dams and ponds on Hampstead Heath.

Dr Hughes has on more than one occasion told the City of London and its officials of their potential "*criminal liability*". He is quoted in the *Ham & High* 20 October 2011 as stating "*that there has already been one dam failure [on the Heath]*". This statement is misleading and cannot be substantiated. He has on a number of occasions publicly threatened to call for a Statutory Inspection. There are grounds for complaint regarding the manner in which Dr Hughes is exercising his statutory responsibilities. The following conflicts are noted:

1. Dr Hughes was appointed Supervising Panel Engineer for Hampstead Heath in March 2010 by the City of London. The Supervising Panel Engineer is a Government approved individual whose job it is to assess safety proposals by dam owners and, he claims, has the final say on what should be done.
2. The City of London proposes to use W S Atkins plc as the lead designer of the project. No other company has been invited to tender for the initial stage of the design project; the fee for this part of the project has not been disclosed. W S Atkins plc may also be selected to carry out other consultancy projects which the City of London has already put out for tender as well as the building project.
3. The Contract being offered to W S Atkins plc provides for the appointment of a Construction Panel Engineer which seems likely to be Dr Hughes or one of his subordinates.
4. Dr Hughes was involved in drafting the Flood and Water Management Act 2010 and will be advising your department on the drafting of the Regulations regarding dams under that Act.
5. W S Atkins plc has a financial interest in any contract with the Trustees of Hampstead Heath. Dr Hughes may also have a personal financial interest through the operation of an incentive scheme or future career progression. It will be impossible for Dr Hughes to impartially assess design proposals made by his subordinates and himself.

No conflict should arise, or could reasonably be perceived to arise, between an appointed official's public duties and their private interests, financial or otherwise.

Several such conflicts have arisen, and at the very least, Dr Hughes should be asked to retire from all statutory appointments for Hampstead Heath.

Good practice would ensure that the City of London advise any replacement Panel Engineers that they do not have similar conflicts of interest to Dr Hughes..

I look forward to hearing from you.

Yours sincerely

David Lewis

Protect Our Ponds Campaign