

Association of State Dam Safety Officials

Resolution 6-97

Complete Privatization of State Dam Safety Regulatory Programs

WHEREAS, many state governments are currently in a position where budget cutting and downsizing are essential to maintain or move toward efficiency, and

WHEREAS, some states have focused on state dam safety programs suggesting that more efficient government could be achieved by complete privatization of dam safety regulatory programs, and

WHEREAS, the public and private sectors both have responsibility for assuring safe dams; but, protecting the health and safety of the public is a long-accepted and proper role for government, and

WHEREAS, a balanced public-private partnership is essential in this area where the private sector provides engineering expertise to owners to achieve safe dams and the public sector, through state dam safety programs, provides assurance that dams are properly designed, constructed, operated and maintained, and that problem dams receive necessary attention, and

WHEREAS, this public-private approach has a long track record of successful performance,

NOW THEREFORE BE IT RESOLVED, by a majority vote of the member states of the Association of State Dam Safety Officials (ASDSO) meeting in National Conference in Pittsburgh, Pennsylvania, this 9<sup>th</sup> day of September 1997, that ASDSO advocates the continuation and improvement of strong state-run regulatory programs for dam safety as detailed in the attached statement.

9 September, 1997

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Date

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Alan E. Pearson  
President

## Privatization of State Dam Safety Regulatory Programs

In the wake of decreasing budgets, state governments are constantly looking for ways to downsize and cut waste. One popular option in recent years has been privatization of many traditionally government-operated programs. While this is an excellent solution for some programs, it cannot effectively take the place of needed regulatory programs focusing on public safety; especially state dam safety programs.

The Association of State Dam Safety Officials strongly opposes any decision by a state government to privatize the regulation of dam safety within a state. Dams provide an immeasurable asset to the communities they serve, providing water supply, irrigation, power, recreational opportunities and flood control. But, at the same time, dams have the potential to cause devastating losses including, in some cases, loss of life should they fail.

Safety regulation of the hundreds, sometimes thousands, of dams in every state is essential. It has been proven through history that, when dam safety is not regulated, failures occur. Before most states had regulatory programs in the 1970s, several devastating failures occurred. Regulation can significantly decrease the potential for failure as can be proved by the decrease in devastating failures since state and federal regulatory programs have been added or upgraded.

The following are specific points supporting the aforementioned position:

- **Decreased Compliance**—The most significant issue facing privatization of dam safety regulatory programs is compliance. There must be an entity that requires a dam owner to perform needed work to keep their dam safe. This authority is vested in government. And although privatization may not divest authority from the state or the legal backing of the state attorney general, maintaining this authority with the state assures continued compliance efforts. Compliance is the heart and soul of any dam safety program and requires continued diligence. Experience says that, without strong compliance control, many dam owners would not maintain their dams safely.
- **Conflict of Interest**—Conflicts of interest and unfair competition could occur if one private sector entity is in a position of reviewing another one's work.
- **Liability Problems**—Private sector entities and individuals would be responsible, and therefore liable, for all decisions they make affecting the design of dams, the approval of plans or the inspection of dams. In some states the state attorney general could protect these private sector entities. But, this may not continue or may become clouded when different firms are chosen over the years or when poor decisions made by one firm show up years later when another firm is under contract. Furthermore, these conditions could increase costs as these entities or individuals insure themselves against losses.
- **Unclear Services**—Procuring services is complicated by privatization. Policies on scope of services, lowest bidder, further investigations and other variables are examples of areas that become unclear when moving to a regulatory system run by the private sector.
- **Emergency Response Problems**—Privatization leaves a question about emergency response. Who would be responsible for this function in the case of an emergency situation where the state dam safety agency would normally make emergency decisions about a dam's condition?
- **Continuity of Actions**—Whenever a different consultant is chosen there is a break in understanding the history of the dams. Unless there is significant up-front review and site visits before the transition, this continuity will be lost and the program will suffer.