

Lake Anasagunticook Dam
Public Meeting Notes
May 30, 2007

Roughly 120 people attended the meeting moderated by General John W. Libby, Commissioner of Department of Defense, Veterans and Emergency Management. Four other State officials attended. Two who also participated were Dana Murch, DEP Supervisor of Dams, and Tony Fletcher, MEMA and State Dam Inspector. I did not get their names or positions of the other two.

After reading the law and describing his responsibilities and powers as they relate to the repair and management of the Lake Anasagunticook dam, Gen. Libby described the process, which brought us to the point of this meeting. The dam is a significant hazard dam and as such is on a four-year inspection cycle. In 2004, after a MEMA inspection detailing the condition of the dam, an "Order for Meetings and Repairs" was issued directing the owner to undertake a number of steps to reduce hazardous conditions at the dam. In 2006, follow-up inspections indicated no change in these conditions and the December 4, 2006 Dam Safety Order required that a remedial action plan, signed by a licensed professional engineer, be submitted no later than March 31, 2007. An Emergency Supplemental Dam Safety Order dated May 8, 2007 was issued stating that the overflow sluice gates at the dam shall be left open and clear of water until the repairs are completed. Because the structural integrity of the dam has been compromised, there is a significant increase in the risk that the dam will breach and flood areas below with little or no advanced warning if the gates are closed and this is the basis for the order currently in effect.

Nothing was decided at this meeting other than the order for the gates to be left open until the repairs are made to the dam. All suggestions were being considered and would be taken back to Augusta where decisions would be made. Although there were many complaints around the room and excuses made by the dam owner, I feel the meeting was productive and I am hopeful that some action will result.

A **short-term solution** to summer water levels was proposed by Mike Ranoff from Canton. Mike described his research into building a **temporary** cofferdam using granite and 3,000# sand bags at a narrow point in Whitney Brook where there has been a cofferdam in the past. He met with Dana Murch, the Selectmen, the Water District and an attorney. He has established the ownership of the property on both sides of Whitney Brook and that they own to the center of the stream. K&K Excavations in Turner was consulted and it was determined that a cofferdam could be built in a reasonable amount of time, with little disturbance of the shoreline and for an estimated cost of \$5,600 for which Mike has sources of promised funding. He has the permission of the landowners for building of this **temporary** structure and all he needs is the DEP permit allowing him to do the work. With the help of Gen. Libby, Bruce Bryant and the State Rep. from this area, the permitting process should be expedited more swiftly than normal. This plan would bring the water level up for the summer to an undetermined level and a bag could be removed to flush the stream if needed and removed altogether in the fall to meet the winter water level. It was felt that this temporary solution would allow the Town and the State the time needed to find and put into place a long-term solution.

Two property owners downstream of this proposed cofferdam complained that they would be cut off from using the lake by this proposal but it was also agreed that they cannot use the stream to get to the lake under current conditions either. They suggested the cofferdam could be built below their properties, which would give them access to the lake. Mike pointed out that the cost would be significantly higher and there were still issues of water rights and ownership, which still need to be researched before anything could be done there. There was also a document apparently issued by Dana

Murch to Ray Fortier years ago prohibiting such a cofferdam because it would inhibit the use of the stream. Murch agreed to look into this matter but gave no indication that a cofferdam could not be built now.

Each of the previous dam orders states “Failure to comply with this order may subject the owner, lessee or other person in control of the dam to a civil penalty of not less than \$100 nor more than \$5,000 for each day that the violations continues...” When asked why these fines had never been assessed when violations have been so obvious, both Libby and Murch said that their departments do not have the authority to enforce the fines without the support of the Attorney General. Libby made a point of saying that yesterday (5/29/07) the Attorney General said that they would give Mr. Fortier 30 days to comply and the fines would be levied if an engineer had not been hired and a remedial plan submitted. Landowners have suffered because these ordered repairs have not been done, land values are at risk and the dam owner has not been fined in the past or suffered for his failures. Why has this taken so long and only days before the gates are to be closed for the summer has the State found the situation unsafe and determined the gates must stay open? Why has the State failed to fine Mr. Fortier beginning March 31, 2007 when he clearly did not meet the deadline set in the December 4, 2006 Dam Safety Order for submittal of an engineer’s remedial action plan?

Mike Poulin, lakefront property owner in Hartford, asked about the court ordered consent decree and whether the State’s current orders supercede the courts decree. The State officials present at the meeting did not know the answer and wanted to get the details of this court case to consider what affect it has on the dam safety orders. I cannot put my hands on my copy of this consent decree to give you specifics but I believe it took place five or six years ago and it seemed obvious to me that Gen. Libby felt this was a significant issue.

A spokesperson for the Water District wanted to go on record stating that the current situation with the dam and the resulting water levels does not affect the water district. In response to a question about a possible algae bloom, one responder said it was unlikely and another said that low water levels, warming of the lake and low turn over of water would be ripe conditions for a bloom. Plants normally deep in the lake are now visible because of shallower water and have been increasing because of the severe erosion into the lake as a result of the recent heavy rains.

Two suggestions for **possible long-term solutions** were the repair of the dam or the building of a new permanent structure just upstream of the current dam. Gen. Libby mentioned several times that a permanent solution may depend on changing the ownership and/or management of the dam because the current owner has repeatedly failed to comply with the dam orders. Discussion of the Town or Water District taking the dam by eminent domain is possible but again the question of fair market value and procedure were not clarified. Mr. Fortier quoted his price of \$320,000 for the dam as is and \$500,000 if repaired, which was not taken seriously by many in the room. As in the past, the cost of repairs and changing ownership of the dam remain the most important issue for the Town and the people concerned about the lake.

Gen. Libby felt that Leslie Boness’ suggestion was a possible answer. She suggested that the State hire the engineers and repair the dam to meet all the specifications set forth in the previous dam orders and send the bill to the dam owner. If Mr. Fortier does not pay the bill, the Town puts liens against his property for non-payment. The Town would then buy the property for a “reasonable sum” to pay for the repairs made by the State. Ownership and management of the dam would then be out of private hands and could be placed into municipal or Water District supervision. Tony Fletcher felt that

the ordered repairs could be completed in less than a year. The other suggestion of building a permanent structure just upstream may be more cost effective but problematic with regard to legal recourse because of ownership questions. Costs, who pays and the legal process would still need further research by the State and the Attorney Generals office and feedback to the Town of Canton on these solutions was promised by Gen. Libby.

Letting the lake go back to its natural state was intimated and that condition was also debated because of the history of the lake - the mill stream was dredged nearly a century ago to make passage of a ferry to the far shores of the lake possible, the tannery dam to produce power, the natural earthen dam at the mouth of Whitney Brook, all make the “going back” to previous conditions problematic. There did not seem to be any support by these officials for removing the dam.

The meeting started at 6:30 p.m. and Gen. Libby brought it to a close at 8:00 p.m. by saying that we have good reason for being disappointed in our State government in the handling of the dam over the past several years. He summed up the meeting saying

- ◆ a viable short-term solution has been suggested that could change water levels in the lake and provide enjoyment of the lake for this summer;
- ◆ some possible long-term solutions will be taken from this meeting for research and consideration by State officials;
- ◆ more information from the attorney who raised the question about the court ordered consent decree was needed to answer the question of priority of orders ; and
- ◆ the State owes both the Town of Canton and the two property owners next to the dam timely responses to their questions.

I have asked Rick Ray, Canton Selectman, to keep the lake association posted on what happens as a result of this meeting so that we can keep everyone informed. As I said at the beginning, no decisions were made but I feel that there was progress and I’m hopeful that some decisions will be forthcoming in the next week. Directors Daryl Boness, Buzz Croston, Terry Hinkley, and myself attended this meeting along with several lake association members. If you have questions, send one of us an email and we will try to get an answer for you.

Submitted by,
Judy Hamilton, Treasurer
Lake Anasagunticook Assn.