

March 30, 2005

Natural Recourses Committee,

Subject: LD 790

TO ALL COMMITTEE MEMBERS,

We the Lucerne-in-Maine Village Corp. are very concerned about the possible passing of LD 790 and Mr. Heber's time line. What we are concerned with is that the level of Philips Lake cannot be maintained at 227 consistently year round. But first, a few of Mr. Heber's "time line" need to be addressed.

As noted in the enclosed Superior Court Docket #CV-99-149, stated is:

"The defendant (Lucerne Village) has never had any means to control water levels in the lake with the possible exception of a dam which exists at the northern end of Philips Lake. It is a concrete structure with a sluiceway in the center. There is also a "fish way" which allows fish to make their way from the lake to the stream. The sluiceway has slots on either side to allow the introduction of stop logs - 6x6 beams which effectively raise the elevation of the sluiceway by the width of the beams.

The parties spent considerable time and effort to demonstrate precise height of the sluiceway of the dam. (see footnote on attached) The surveyors agreed upon one point: the benchmark on the top of the rail of the Maine Central Railroad is simply **unavailable** at present to provide a reliable point of reference....."

Also in Mr. Heber's time line, he states that a large portion of the lot he purchased was also a wet-land and not build able at that time. You will find upon reviewing the enclosed map that Mr. Heber bought the land (M36 L104-2) "underground water" is clearly stated on the map. The lot is also clearly marked at .7 acres which is not nearly enough land for a suitable inhabitable home, cottage or livable space. Since any new structure must be at least 100' from shore, Mr. Heber could not build anything on this land, much less a septic tank or anything to make this site suitable. His current septic tank, since his boundaries have been in question for years, is partially on land he does not own. The fact is Mr. Heber's property is simply too small to build upon. Mr. Heber does not include in his time line, the fact that he tried to sue the Village for flood damages after the ice storm of '98-'97. Not one other resident, year round or summer residents, tried to sue the Village for an act of God. Yes indeed, the level of the lake did rise above the 277' mark!

This act of God, his many legal issues with the Village and land owners in the Village, his dream home on un-buildable property leads us at the Village to wonder what his

agenda truly is in initiating to re-instate this bill. If LD 790 is passed as written, Mr. Heber can at any time, try again to sue the Village for not maintaining the level of the lake at 227' level when an act of God, mother nature and a number of natural occurrences can, at any time, prevent the level from being maintained by anyone.

It is the hope of the Village that its inhabitants, be they human, fish, fowl or other creatures of nature, live in harmony and enjoy the gift of the lake, (without the constant threat of a law suit). We, the Lucerne-in-Maine Village Corporation will try to maintain the level of the lake at 227'. But any number of natural occurrences can prevent this.

We feel that the presentation of this bill is an act of a disgruntled land owner who simply hasn't enough land to do what he wants and is trying to bully his way into the court system once again.

Please reconsider this bill, for the future of the Lake.

Sincerely,

Lucerne-in-Maine Village Corporation

Town of Dedham

From: "Barbara Cox" <treasurer@dedhamme.us>
To: "Janet Berkel" <jberkel@emh.org>; "Robert Fraser" <lucerne56@hotmail.com>
Sent: Friday, March 25, 2005 9:12 AM
Subject: Fw: LD 790

This is a copy of the email which I sent to Richard Rosen. I'll let you know when I get a response.

Have a good weekend.

Barbara L. Cox, CPA
Finance Director
Town of Dedham
(207) 843-6217

----- Original Message -----

From: Barbara Cox
To: Richard Rosen - *PO877-16*
Sent: Friday, March 25, 2005 9:11 AM
Subject: LD 790

Good morning Richard - I am writing on behalf of the Town of Dedham & the Lucerne-in-Maine Village Corporation. The Village had 2 representatives attend a hearing/workshop on LD 790 on March 24th. The impression which was transmitted back to us was that the committee didn't really want to deal with these representatives or the information and documentation which they brought with them.

Is it possible to get a transcript of both hearings/workshops of the Natural Resources Committee which dealt with this issue? The dates of these hearings were 3/18 & 3/24.

This LD was proposed by two legislators who do not represent this area. We don't feel that passage would be in the best interest of the town or the lake. It is our impression that this legislation is an attempt by a disgruntled land-owner (who is not a resident) who took the Village to court to reconstruct a legal case against the Village. In the first lawsuit, he was awarded no monetary damages.

Any help you can provide or information as what our next options are would be appreciated.

Barbara L. Cox, CPA
Finance Director
Town of Dedham
(207) 843-6217

March 23, 2005

TO: STATE OF MAINE LEGISLATURE

SUBJECT: BILL LD790

Due to a lack of communication between the Lucerne Board and the State of Maine, we did not attend the Joint Standing Committee on Natural Resources held on 3/18/05. Since then we have had several individual communications with state legislators regarding the opposition to this proposal bill.

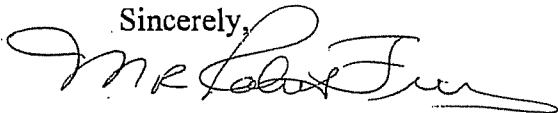
Currently Lucerne In Maine Village Corporation maintains a dam at the end of Phillips Lake in Hancock County, as authorized to do by the State Legislature in 1961. Since that time the Lucerne Corporation has worked diligently with DEP and local residents to maintain an adequate water level for this lake. To be certain that the dam would be maintained; the Lucerne Corporation established a Lake Level and Dam Committee made up of local residents and engineers to oversee the dam.

Historically the committee has maintained the level from 225 feet to 227 feet. There is also a fish way that is part of the dam, which affects the lake level during the summer months when the water table is low. During the summer months due to weather conditions and a drop in the amount of water entering the lake, the lake level may drop to 225 foot level. Over the years this lake has been enjoyed by local residents and also by the public, due to a public landing.

Since 3/18 the Lucerne In Maine Village Corporation has been given notice by some of the year round residents indicating their displeasure with this proposal. One resident only has proposed this legislation. This truly does not reflect the feelings of the residents of Phillips Lake.

Legislation should pass when it best affects the residents of an area. Legislation should be passed which reflects local residents need for changes. Legislation should be passed allowing state control when local control is not working. In this case, none of these is true and we urge your support in opposition of this bill.

Sincerely,



Mr. Robert H. Fraser
Lucerne In Maine Overseer

[REDACTED]

From: Berkel, Janet [jberkel@emh.org]
Sent: Tuesday, March 22, 2005 9:05 AM
To: Miller, Rhonda
Subject: LD 790

I believe you are the committee clerk for the Natural Resources Committee.

I am the chair of the Board of Overseers for the Village of Lucerne.

We were surprised that Senator Perry from Bangor introduced legislation on the dam on Phillips Lake which is in the Village of Lucerne and the Town of Dedham in Hancock. Apparently a Bangor resident with a camp on the lake requested the introduction of the bill and Sen. Perry responded with LD 790.

Sen. Perry assured me that he was not actively supporting this bill but that he was only responding to a request by a constituent. (Note by my address that I too am a constituent)

Two of the overseers were planning on attending the hearing last week. Apparently they were led to believe via communication from Sen. Perry that the hearing was not going to be held and did not attend.

The Village is not in support of this bill.. The Village maintains the dam and has a plan and process to maintain the water level within certain parameters. However, there are times when weather conditions might cause the lake to peak higher than plan. Because there is limited stream inflow into the lake if the level is not near the high end in the spring the lake would be very low by the end of the summer making it very difficult to access.

We are very concerned that the proposed bill would limit our ability to maintain the lake level at the level recommended by the residents.

Could you please provide me with current status of the bill and with whom else we should communicate our concerns?

Thank you.

Janet Berkel
715 Hammond St.
Bangor, ME 04401