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REPORT ON THE
STATE OWNED DAM
on the DEAD RIVER,
ANDROSCOGGIN COUNTY

Prepared by the Department of Agriculture, Food and Rural Resources
in response to Resolve of the Legislature, Requiring the Department of
Agriculture, Food and Rural Resources to Report on the State-owned
dam on Dead River, Androscoggin County.

April, 1985

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INTRODUCTION

This report is submitted in response to Chapter 75, Resolves of the Legislature in 1984, "Requiring the Department of Agriculture, Food and Rural Resources to review and report on the State-owned dam on Dead River, Androscoggin County." The Resolve was requested as a result of new information which emerged at the public hearing on LD 2152 "AN ACT Providing for the abandonment of the State-owned dam on Dead River."

At that hearing, John Nutting, a farmer in Leeds whose land adjoins the dam, alleged that placement of the dam had caused erosion to his farmland. At the work session, being generally concerned about the degradation of farmland, the Department accepted the responsibility for investigating any shoreland erosion potentially caused by the dam and possible remedial steps necessary to prevent any future erosion. Unexpected objections by town officials from Wayne also indicated that further review and negotiations were necessary before transferring the management of the dam to another state agency or non-state entity.

The Resolve asks the Department to:

1. Review. Review the current circumstances and condition of the state-owned dam on Dead River in the Town of Leeds, Androscoggin county. This review shall include an investigation of any shoreland erosion alleged to be caused by the dam and steps necessary to prevent any future erosion. The department shall meet with any landowner affected by or who claims to be affected by erosion caused by the dam. The review shall include discussions with the Town of Leeds, the Town of Wayne and the Androscoggin Lake Improvement Corporation concerning the possibilities of transferring ownership of the dam or maintenance responsibilities for the dam to any of these entities; and

2. Report. Report to the joint standing committee of the Legislature having jurisdiction over energy and natural resources the findings and results of the review described in this resolve.

1984, Resolves, Chapter 75

This report will summarize the legislative and operational history of the dam, present results of our investigation on the erosion problem, discuss management options, and submit recommendations for the committee's consideration.

Process in Preparing Report

The Maine Department of Agriculture (henceforth "the Department") requested the assistance of the Soil Conservation Service (SCS), an agency of the Federal Department of Agriculture, in evaluating the erosion situation. John Simon, a Civil Engineer from the Androscoggin SCS field office, performed an on-site review at the dam, assessed the nature and extent of the erosion damage and prepared an estimate of the cost of stabilizing the bank to prevent further damage. Since there were no funds for consulting, his services were voluntary. In lieu of a formal report, Mr. Simon's findings are contained in sketches he submitted, attachment D, and records of meetings on file at the Department.

Three meetings were held. The first was between SCS, Soil and Water Conservation Commission, the Department of Environmental Protection (DEP) on October 19, to review the findings of Mr. Simon and the field next to the dam with Mr. Nutting.

The second meeting, on December 11, was attended by 23 people in response to an invitation from the Department. Those invited to attend included: the Selectmen of the Town of Wayne and the Town of Leeds; representatives of the Androscoggin Lake Improvement Corporation; John Nutting, whose land adjoins the dam; Senator Charles Dow, who had sponsored LD 2152; John Simon, SCS Civil Engineer, who

performed the on-site review of the dam; representatives from the Department of Environmental Protection; and an open invitation to all area citizens concerned with the issue. The invitation included extensive "meeting notes" on the October meeting. These notes served as background information for the invitees.

In addition to the people attending, a number of people contacted the Department to express opposition to removing the Dam. That option had been briefly examined by Mr. Simon in response to the question, raised by the Department, as to whether removing the Dam would arrest further erosion of the stream bank.

At this meeting, a number of people volunteered to work with the Department to work out an acceptable long-term management solution. A meeting was held on January 10, 1985, to discuss the alternative solutions to long-term management of the Dam. That meeting was attended by: Senator Charles Dow, District 15; Representative Leland Davis, of Monmouth; George Place, landowner in the Town of Wayne; and Don Gatti, Selectman for the Town of Wayne and Dave Dominie, Department of Environmental Protection. These people will be requested to review this report prior to submission to the Legislature.

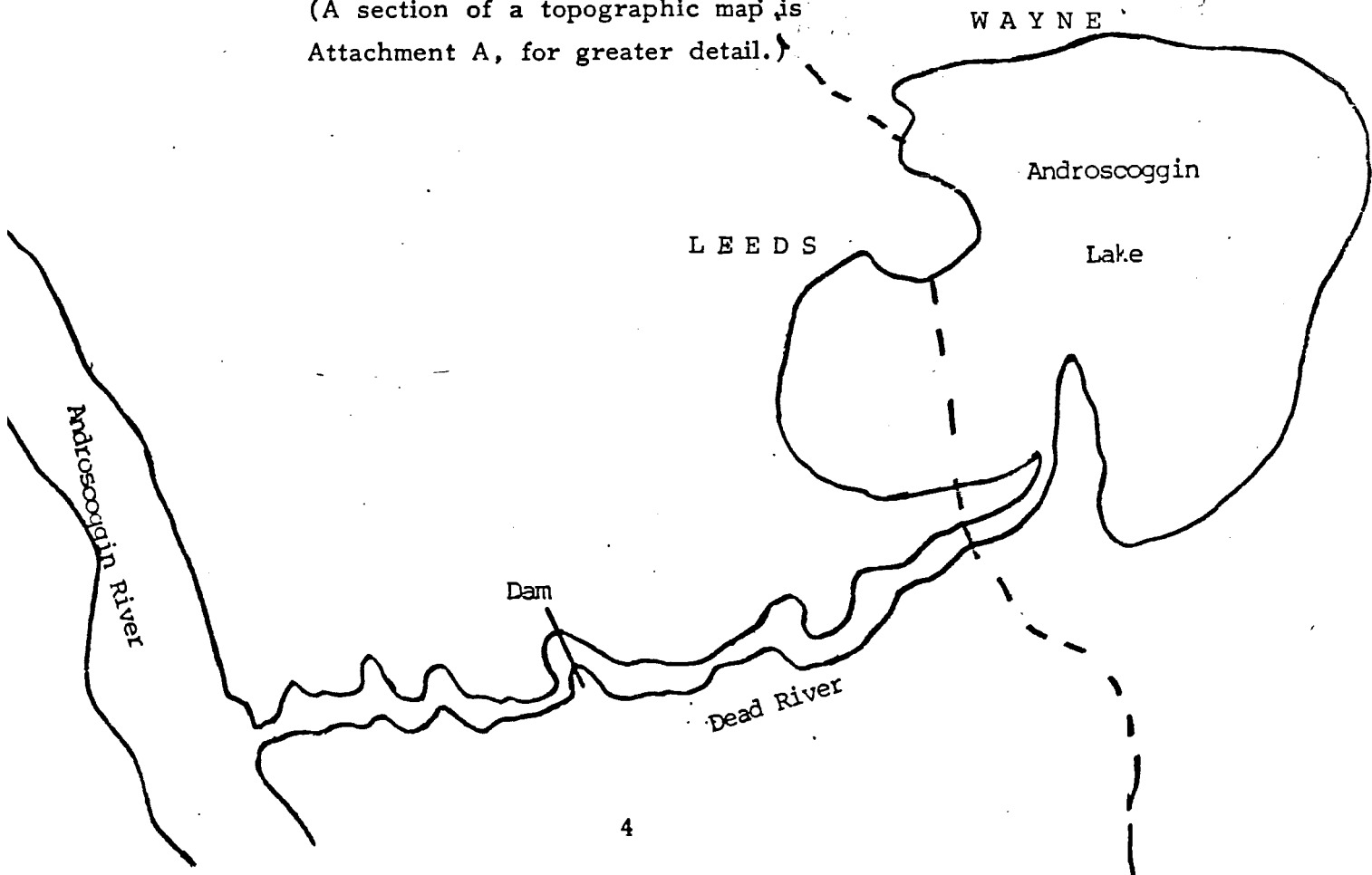
BACKGROUND

LOCATION AND DESCRIPTION OF THE DAM

The Dam is located on the Dead River in the Town of Leeds. The Dead River is a meandering tributary which normally flows out of the Androscoggin Lake and into the Androscoggin River. The Dam is situated approximately 3.9 miles downstream of the Lake and 1.5 miles upstream from the confluence of the Dead River with the Androscoggin River. (See Attachment A for general location.)

This is a schematic representation of the relationship between the Androscoggin Lake, the Dead River, and the Androscoggin River.

(A section of a topographic map is Attachment A, for greater detail.)



The Dam is a reinforced concrete structure founded on steel sheet piling. It has two side aprons which are 55 and 68 feet wide, on the east and west side respectively. The entire Dam is 145 feet long at the crest, which is approximately 12 above the bottom of the river. It has two regulatory gates, 8 feet wide and 4 feet high. The base of the gates is 7 feet below the crest.

The crest of the Dam is 274 feet above sea level and the crest of the regulatory gates is 267 feet above sea level. There is considerable uncertainty about the mean water level of the Lake. The mean water level of the surface water at the Dam, according to the December 1975 Flood Plan Report of the Army Corps of Engineers, is 268 feet. An SCS survey of the Dam site on 8/23/69 found the pool above the Dam at 267.9 MSL. U.S. Geological Survey maps indicate the mean water level of the Lake is 269 feet. At the Dam site, the Dead River drains 86 square miles. At the confluence with the Dead River and the Androscoggin River, the drainage area of the Androscoggin River is 2,639 square miles. This is a reflection of the dramatic difference in size between the little Dead River, no more than five miles long, and the Androscoggin River, one of the state's largest rivers.

LEGISLATIVE AND OPERATIONAL HISTORY

The Legislative history of the dam is summarized in Attachment B. Established by Private and Special Laws of 1931, in a series of eight revisions it was passed from the Public Utilities Commission, to the Department of Fish and Wildlife, and finally to the State Soil and Water Conservation Commission (S&WCC) in 1971. Minimal appropriations were authorized for operation and maintenance.

The correspondence file on operation and maintenance is replete with requests for funds, documentation of needed repairs, confusion, delay and memos of agreement attempting to clarify responsibilities. See Attachments C, D, and E for summaries of actions and copies of the Memos of Agreement between the Androscoggin Lake Improvement Corporation (ALIC) and the S&WCC.

In summary, records indicate that \$5,874 has been paid by the state for repairs to the Androscoggin Dam, and that an additional \$1,014 has been paid by ALIC, but not yet reimbursed by the State. Our records since 1972 indicate that the repair of the dam has cost \$6,888.

FUNCTIONS

The actual and intended functions of the dam are relevant to the question of ownership and management of the dam. This dam appears to have some function in controlling water quality, water level and flooding.

Water Quality

The dam was built for the express purpose of preventing contamination of the Androscoggin Lake from the pollution caused by flow of the waters from the Androscoggin River at times of high water flow, backwards into the lake.

"Said dam shall be so constructed as to prevent ingress of the waters of the Androscoggin River into the Androscoggin Lake.",
(section 2)

"The tax assessors of the Town of Wayne may apportion the sum payable by said town, or such part thereof as to them seems just, upon the lands adjacent to and abutting on Androscoggin Lake, in such proportion as in their opinion such lands are benefitted or made more valuable by such dam, and the cessation of contamination of the waters of Androscoggin Lake afforded thereby (emphasis added), but the whole assessment for said Town shall not exceed the sum payable by said Town."
(section 4)

The extent that pollution control is still a significant function of the dam depends on a number of factors, most of which are difficult to quantify.

Since the normal flow of the system is from the lake to the river, the only time that the dam could function to prevent the reverse flow of the river into the lake is at times when the level of water in the river is higher than the lake. Then the dam can prevent this reverse flow to the extent that the river water isn't above the crest of the dam. The dam allows for at least five feet of protection under conditions of reverse flow.

Since the height of the dam is 274 feet, it is overtopped when the river water is above that level. According to flood frequency information submitted by Mr. Simon, the frequency of floods and resultant elevation is as follows:

100	year	flood	elevates	level	to	291	MSL
50	"	"	"	"	"	288	"
20	"	"	"	"	"	285	"
10	"	"	"	"	"	283	"
5	"	"	"	"	"	281.6	"
2	"	"	"	"	"	279.5	"

This would indicate that the dam does not function to prevent ingress of river water in a storm whose frequency is greater than once in two years.

John Nutting, the farmer who resides by the dam, estimates that the dam stops pollution from entering the lake for about 45 days, and that about 30 additional days the river is higher than the lake. He estimates that the dam is overtopped by severe storms that seem to happen every other year.

The control in conditions of reverse flow is important because of the difference in water quality between the lake and the river. Dave

Dominie, DEP staff person, reported at the meeting on December 11 that the phosphorus level in the lake is 15 ppb and in the river between 50-100 ppb. This is a significant difference, especially since, as Mr. Dominie points out, phosphorus is the limiting factor affecting algae growth in the lake. Others attending the meeting reported plumes of algae growth, both when the dam was not functioning or when it was repeatedly overtopped.

Water level

The function of the dam to control the fluctuating water level along the shoreline is of major concern to shoreline property owners, as repeatedly expressed by affected citizens at meetings, in phone calls and correspondence.

The original legislation explicitly excluded water level regulation as the purpose of the dam:

"It (the dam) shall not prevent the normal egress of the waters of the waters of the Androscoggin Lake into the Androscoggin River and shall not cause any flowage beyond the normal seasonal flowage of lands adjacent to said Dead River and to Androscoggin Lake."
1931 P&SL, Chapter 127

Interestingly, this section, which seems to say that the dam should not affect water levels, was not repealed when an additional purpose was enacted in 1971:

"Said dam shall be maintained and operated to provide an optimum water level of Androscoggin Lake so as to provide for the protection of property, water quality, flood control and wildlife." P&SL 1971, Chapter 131

This contradiction was the subject of an informal Attorney General's opinion from Jon Lund, November 6, 1973. While he confirmed the contradiction, he states that "the older law (1931) is repealed by implication to the extent it conflicts with the newer law", State vs. Taplin, 247 A.2d 919.

The level of the water is a significant factor in the recreational value of the shore property. A letter from Dr. Joseph Rich, Secretary-Treasurer of ALIC, begins by thanking the Department for the opportunity to discuss the funding of the Dead River Dam, "which is in reality a discussion of the economic and recreational future of the Wayne (and partially the Leeds) community." At the end of the letter, he states that, "such removal would severely damage the economies of Leeds and especially Wayne by making a large attractive lake much less desirable for all purposes."

This water level control function turns out to be a thorny issue because the "optimal" water level depends on where the property owner is, as well expressed by Dr. Rich, Secretary-Treasurer of ALIC:

"Of course, water level control is important to the 250 or so homes on Androscoggin Lake. When the lake is up as little as one foot, I get calls from the Wayne side that we've spoiled loon nesting places and ruined natural beaches...But let the level go down even one foot and our President, Jim Randall, gets calls from the Leeds side that they must wade through mud to reach their grounded boats."

from a statement submitted in writing by
Dr. Joseph Rich, Secretary-Treasurer of
ALIC, 12/11/84.

Residents are convinced that it is the dam that is moderating the fluctuation of the water level and have, through the years, intuitively arrived at a consensus on optimal water level. It has been their

experience that when the boards in the dam are taken out, the level of the lake drops. They disputed the suggestion by the SCS engineer that it a rock ledge by a railroad crossing closer to the lake that controls the water level. In fact, residents feel that the control of the water level is so important that when funds were not available from the State, the ALIC invested its own money to repair the dam because of the water level concern.

Flood control

If the dam functions to control water level, it obviously controls flood levels. This function generally refers to prevention of damage due to flooding waters. The sudden rise in water is usually in the Spring and the dam would function to control flooding with the same frequency as it functions to control water pollution. In other words, in storms of less than two year frequency.

Dr. Rich's letter describes the flood control function of the dam:

"Unfortunately, many of our homes were built before the Great Ponds ACT and local zoning ordinances. Some are already flooded by the annual spring run-off. At least one must have electrical wiring three feet above floor level, and had to be held in place by airplane cable during the minor flood of 1971. Further, a sanitary survey in the mid-1970's by Thomas Gordon revealed that 50%, or 48 homes, checked 'are inadequate' in sewage disposal. Most were on low ground. Any increase in the water level at spring run-off would virtually destroy some homes and contribute to degradation of water quality."

These claims were substantiated by others at the meeting on December 11. John Nutting added that, in the Fall, the dam will delay by two days the water rising in the lake. In the Spring, both the river and the lake go up, but the dam definitely has a mitigating effect.

CURRENT ISSUES

MANAGEMENT CONCERNS

The issue of transferring the responsibility for management of this state owned dam was initially raised by the Department of Agriculture because all of its other dam related functions were transferred to the Department of Environmental Protection and because of the difficulties in the securing appropriations from the Legislature for the repair of the dam. There did not seem to be any rational arguments for the Department of Agriculture to own and manage the dam. The dam and its functioning has no relationship to the objectives of the Department, nor does the Department have any expertise in dam maintenance.

In determining the best option for long term management of the dam there are a number of issues to consider: The first issue is whether there are public policy objectives which justify State ownership of this dam. The key factor in the answer to this question is the function and beneficiaries of the dam. The argument in favor of the state retaining ownership is that the function of the dam is to control water quality. The Selectmen of Wayne point out that the original purpose of the dam was for water pollution control, that the waters of the river and the lake are a public resource, that the state has responsibility for water pollution control and, therefore, that the state should continue to own and manage the dam as a water pollution control facility.

The representatives of the state, DEP and the Department of Agriculture, argue that the State exercises its responsibilities for water quality control through classification, permitting, licensing and funding. The state does not own any other water pollution control facility. As far as is known, this is a unique situation. DEP does not consider ownership necessary in order to assure water quality control.

The other significant function of the dam is unquestionably the controlling of the water level. It was clear from the public comment that this is of greatest public concern, yet no clear rationale for state

ownership and been articulated in this regard. There is simply public opposition to removal of the dam because it is perceived that this would negatively impact on the use and value of shoreline property.

The state's current responsibilities with respect to regulation of water has been recently reconsidered and considerably narrowed. Through Public Laws 1983, C 147, "An ACT Concerning Inspection, Regulation and Abandonment of Dams," all of the state's dam regulatory functions, some of which resided in the Department of Agriculture, were transferred to the DEP. Water level can still be established by the DEP, upon petition of at least 25% of the littoral or riparian proprietors (or 50, whichever is less). At the hearing held to establish water level, the DEP's authority is limited to consideration of public safety, public and private water supplies, public right of access and protecting public resources (such as fish and wildlife habitat). Property values and private recreational amenities are not properly considered under the law.

Procedures for abandonment of dams, including procedures for awarding unregulated dams to petitioners demonstrating interest in and responsibility for the dam, were also clarified by this Act (§835). This also allows for the Department of Environmental Protection to destroy the dam should no one come forth to assume responsibility.

The statute does not require the State itself to own or manage any dam for the purposes of controlling either water quality or water level.

There are several strong arguments in favor of dam ownership and management responsibility resting with the affected towns or the Lake Association. At the local level, the concern is recreational value affected by water level and quality and also economic value reflected in tax benefits. The ALIC and the towns are entities sharing these concerns. It is desirable that the entities most representative of the beneficiaries should be assigned the responsibility for dam maintenance.

Closely related to these considerations is the current problem of raising adequate funds for the maintenance. It would seem that the most direct beneficiaries of the dam should bear most of the financial burden of its maintenance and repair. Again, it would appear that an entity representing the direct interest of the people affected by the dam would be in a far better position to raise funds than the State.

At the State level, funding requests for dam maintenance have to fight for priority, first from among competing demands in the Department of Agriculture (whose objectives are not at all related to the dam), then in the Legislature, which considers an enormous variety of competing demands for limited State Tax revenues.

Another consideration is a local agency or entity is in the best position to most effectively monitor the condition of the dam and arrange for the repairs with the minimal amount of delay. The ownership by the state necessarily introduces delay, because State personnel, with many other responsibilities, have to follow relatively rigid procedures instituted by the state for much larger construction projects.

It would appear that the Legislature, in 1931, was guided by some of these considerations when it assigned the maintenance, upkeep, repairs and operation to the Town of Wayne. (1931 P&SL, 127, sec. 3) The same legislation also expected the Town of Wayne to assess the taxes "in such proportion as in their opinion such lands are benefitted or made more valuable by such dam." (sec. 4)

It should be noted that the majority of the littoral property owners reside in the Town of Wayne.

In the discussions, the major concern raised by the Town of Wayne was the cost of assuming liability for the dam. Private liability insurance appears to be quite expensive, and the Town is very reluctant to assume the risk.

OPTIONS

The following management options will be examined in light of the above considerations.

Option #1: The Towns of Wayne, Leeds, Monmouth and the ALIC would take over all management responsibilities, with the State to retain ownership. Sufficient time would be allowed to negotiate an agreement among the Towns of Wayne, Leeds and Monmouth and the ALIC to assign responsibilities of monitoring, repairing, construction and raising the necessary funds.

The final agreement would be approved by the Commissioner of the Department of Agriculture by the specified date.

If there is no agreement, the State will deem the dam abandoned.

Under this option, the State might continue to have oversight responsibility to inspect the dam, and, if the dam was found to be inadequately maintained, initiate abandonment.

Arguments for:

- * This transfers all of the responsibilities to a level more representative of the interests affected.
- * The financial burden would be borne by those benefitting most from the dam.
- * Administration would be more efficient and effective. The delays in receiving reimbursement would certainly be eliminated, because there wouldn't be any.
- * It would also remove a large part of the administrative burden from the Department of Agriculture.

Arguments against:

- * It is not a clear break. The State retaining ownership is not consistent with the State's policies.
- * Municipalities or ALIC would have to raise funds for maintenance.

Option #2: Transfer of the management responsibilities and State ownership to the Department of Environmental Protection.

Arguments for:

- * The functions are closer in line with other responsibilities of DEP. DEP now maintains a file on all dams, has procedures for setting water level and abandoning dams.
- * That Department has more expertise in dams than the Department of Agriculture.

Arguments against:

- * Ownership and management responsibilities are not consistent with state laws and policies. The DEP does not have to own and manage the dam to maintain water quality or set water levels.
- * The monitoring and repairing cannot be as effectively done by the state.
- * Raising the necessary funds will cause the same delays and legislative reluctance as is currently experienced by the Department of Agriculture.
- * General Fund revenues will be used to benefit a particular set of land owners.

Option #3: Transfer ownership with all responsibilities to the Town of Wayne.

Arguments for:

- * Wayne is an organized entity of government with taxing power and appears to be most representative of the majority of interests in the dam, since the majority of the littoral proprietors are residents of Wayne.
- * The financial burden is better apportioned to those who benefit.
- * Ownership is clear and there is no need to negotiate agreements.

Arguments against:

- * The dam isn't physically in Wayne.
- * Other parties than Wayne taxpayers benefit from dam.
- * Liability insurance is perceived to be a significant burden to the Town.

Option #4: Continue the status quo. This continues the option for the Department of Agriculture to abandon the dam.

Arguments for:

- * No one is being asked to assume new responsibilities.

Arguments against:

- * Not consistent with Department of Agriculture objectives and staff resources.
- * Delays in seeking funds. All concerned must expend time and effort seeking funds from the Legislature.
- * ALIC has to wait for uncertain reimbursement.
- * If funds are unavailable, repairs are delayed, with resulting negative impacts on lakeshore property owners.
- * Continued stop-gap solutions postpone the negotiated solutions acceptable to all parties.
- * General Fund revenues must be used to benefit a particular set of land owners.
- * Affected residents will face the continued uncertainty of the possibility of state abandonment.

THE EROSION ISSUE

At the public hearing before the Joint Standing Committee on Energy and Natural Resources on March 14, 1984, John Nutting, owner of the farmland adjacent to the dam, testified that there was a severe erosion problem on his land along the Dead River and alleged that it was caused by the presence of the dam. The Department of Agriculture had not been aware of erosion problems. It was primarily this new information alleging erosion caused by the placement of the dam which precipitated the legislative request for review of the condition and ownership of the dam.

Erosion Findings

The Soil Conservation Service donated the time of its staff engineer to work with the Department in this review. John Simon, SCS Field Engineer for Southern Maine, stationed at the Androscoggin SCS office, has conducted an on-site evaluation of the situation and drawn up a preliminary design for stabilizing the bank at the Nutting Farm. His submissions have been informal and preliminary. They are not intended as final construction drawings.

Mr. Simon found that approximately 300 feet of the western shoreline, about 100 feet north of the dam is severely eroded and still experiencing erosion. (See Attachment F for details of the location of the eroded bank relative to the dam.) Simon reported that there is a 14 foot drop of the bank from 280 feet above sea level, to 266 feet. He feels that the dam, in combination with the bend in the river, causes more than natural velocity and turbulence, and is likely to continue if the bank isn't stabilized. He estimated that since the placement of the dam in 1932, 22 horizontal feet along 300 feet of the shoreline has been lost. This is 300×22 , or 6,600 square feet, or one-sixth of an acre.

While the Department recognizes that there is an erosion problem, Mr. Simon's report cannot be considered a definitive substantiation of the allegation that the location and angle of the placement of the dam caused the erosion without extensive and expensive further studies.

This field is part of cropland which has been under conservation management since 1956. Considerable funds have been invested by the farmer and the federal government in installing conservation measures, including drainage tiles in the adjoining fields.

Recommended bank stabilization

Mr. Simon recommended that the bank should be rebuilt to a slope no greater than 1.5 : 1 (1.5' out and 1' down) with clean fill or gravel. It should be covered with a filter type of material, such as 12" of clean bank run gravel or geotextile type of material. The bank should be coated with a covering of stone a minimum of 16" thick (average size of stone 8").

Mr. Simon felt that these bank stabilization measures will diminish further erosion of the bank if the dam remains.

The approximate cost is \$27,000, which includes stone, gravel, excavation, clean inorganic fill and engineering costs and a 20% contingency. Minimal maintenance would be necessary.

As an alternative, Mr. Simon suggests that the removal of the dam would reduce the factors causing erosion. However, the cost of removing the dam would be one-half to two-thirds as much as the cost to correct the erosion of the bank. Additionally, he felt it would still be desirable to stabilize the bank in the manner suggested because, once started, the erosion would tend to continue.

RECOMMENDATION

It is recommended that the Legislature assign the responsibility for funding, upkeep, repairs and operation of the state owned dam to the Towns of Wayne, Leeds, Monmouth and the ALIC.

The Legislature should allow one year for the above entities to work out an agreement to be ratified by the Commissioner of the Department of Agriculture.

The state should abandon the dam if either the agreement is not negotiated in the specific time period or inspectors of the DEP find that the state owned dam is not adequately maintained.

In addition to making a decision on management options, the Legislature needs to consider the extent of the State's responsibility to address the existing erosion problem.

ATTACHMENT A



ATTACHMENT B

LEGISLATIVE HISTORY

P&SL = Private & Special Laws

C = Chapter

Appropriations

1931 P&SL, C 127 "AN ACT to Provide for Building a Dam Across Dead River, in Androscoggin County, to be known as Androscoggin Lake Dam."

Established a Board of Directors for planning and construction, and assigned operation and maintenance responsibilities to the Town of Wayne.

\$5,000, "or as so much as may be necessary not to exceed 33 1/3% of the cost of said dam"

1933 P&SL, C 82 "AN ACT Relating to the Maintenance of the Androscoggin Lake Dam"

Assigned the care of the dam to the Department of Inland Fisheries and Game until June 30, 1935. Repealed the section of 1931 law which assigned maintenance to Wayne.

\$100

1937 P&SL C 88 "AN ACT Relating to the Maintenance of the Androscoggin Lake Dam"

Assigned responsibility to the Public Utilities Commission.

\$100 per year

1961 P&SL C 209 "AN ACT providing for Repair and Maintenance of State-owned Dam on Dead River, Androscoggin County"

State Department of Inland Fisheries and Game designated as representative of the State in maintaining the dam.

\$500 for fiscal '61-62

1971 P&SL C 130 "AN ACT Providing for Repair, Maintenance and Operation of State-owned Dam on Dead River, Androscoggin County.

Assigned State Soil and Water Conservation Commission as representative of the State of Maine to oversee the dam; required maintenance of optimal water level; and that the S&WCC contract with the Androscoggin Lake Improvement Corporation for actual work; and that the ALIC be reimbursed for expenses accrued.

\$1,000 to lapse June 30, 1973

1973 P&SL C 114 Same as above throughout

\$1,000 to lapse June 30, 1975

1977 P&SL C 89 "AN ACT to Appropriate Funds for Repair, Operations and Maintenance of Androscoggin Lake Dam"

\$5,000

1981 LD 784 "AN ACT to Appropriate Funds for Maintenance of the Dead River Dam"

Requested \$1,200. DID NOT PASS - no one appeared at hearing to make the request.

1981 Public Law C 316 "AN ACT Making Appropriations for the Expenditures of State Government..."

No specific appropriations made, however, the S&WCC was instructed to use its General Operating Funds

1984 LD 2152 "AN ACT Providing for the Abandonment of the State-owned Dam on Dead River, Androscoggin County"

Bill heard by Committee on Energy and Natural Resources, replaced

by

1984 RESOLVE, C 75, "Requiring the Department of Agriculture, Food and Rural Resources to Review and Report on the State-owned Dam on Dead River, Androscoggin County"

ATTACHMENT C

MAINTENANCE HISTORY

The repair, operation and correspondence file of the Soil and Water Conservation Commission commences in September, 1972.

1974: The then Executive Director of the Commission inspected the dam, found it needed major repairs, estimated at approximately \$10,000, and so informed the Androscoggin Lake Improvement Corporation (ALIC). He suggested that ALIC seek legislation to appropriate funds.

1975: Upon request of the Executive Director of the SWCC, the US Soil Conservation Service estimated the cost of repairs at approximately \$3,000.

1976: The Governor's Executive Council authorized \$1,000 for repairs from the State Contingency Fund. The original request was for \$2,000.

Probably in response to requests from the Executive Director of the Commission, ALIC, the Town of Wayne and the Town of Leeds each pledged \$250, \$375, and \$250 respectively toward the repairs.

There is no record in the files indicating whether these funds from the Contingency Account, the Corporation and the towns were ever actually delivered. It does not appear that they were.

1977: A request for bids for repairs was issued. The first set of bids came in beyond the available funds, so a second RFP was issued. A contractor was selected and repairs made for \$4,865.

1978: Upon inspection and finding the work satisfactory, the bill for \$4,865 was paid.

It is interesting to note that apparently the dam was in need of major repair between 1974 and 1978, at least four years. It is also noteworthy that it took four years to process this repair.

1980, March: A Memorandum of Agreement was signed between the SWCC and ALIC (see Attachment D) which assigned inspection and repair responsibilities to the Lake Association and authorized it to make repairs up to \$200. The Commission agreed to reimburse for expenses "within the limits of funds made available to it for this purpose."

1981, in June: ALIC requested reimbursement of \$1,009 for repairs made to the dam.

In September, based on this message from the Legislature (see Legislative History, 1981), the Executive Director authorized payment of \$1,009 from the Soil and Water "all other" general fund. This left the Commission with a considerable shortfall at the end of the 1981-82 fiscal year.

1983, April: ALIC requested reimbursement of \$299 for routine cleaning. The S&WCC Executive Director did not authorize payment, due to the lack of funds.

1984, August: The Lake Association requested reimbursement for repairs to the dam for \$716. Pursuant to the Memo of Agreement, the Executive Director of SWCC informed ALIC that the funds were not available and would have to be requested.

1984, December: The Department of Agriculture, in a memo to the Budget Office, requested \$1,000 from the Emergency Supplemental Budget for Fiscal Year 1985. This request is pending before this 112th Legislature.

ATTACHMENT D

MEMORANDUM OF AGREEMENT
between the
STATE SOIL & WATER CONSERVATION COMMISSION
and
THE ANDROSCOGGIN LAKE ASSOCIATION

This Memorandum of Agreement between the State Soil and Water Conservation Commission, hereinafter referred to as the Commission, and the Androscoggin Lake Association, hereinafter referred to as the Association, is entered into by the above-mentioned parties for the purpose of operating and maintaining the dam on Dead River, in the Township of Leeds, Androscoggin County, Maine, in carrying out the intent of Chapter 130, Private and Special Laws, 105th Legislature.

The Association hereby agrees to the following:

1. To perform any necessary operation and maintenance on the dam, within the capability of the Association to do so.
2. To appoint one person who shall be responsible for all work in relation to the dam.
3. Keep accurate records of all work and/or materials used in performing the above.
4. Consult with employees of the Commission on all problems of an extraordinary nature and on all work which will require an expenditure of over \$200., and on the seasonal opening and closing of gates.
5. Perform an inspection of the dam periodically, but in no instance less often than each 6 months and following any flooding condition which might impair the dam.
6. Submit bills to the Commission for reimbursement of work performed.

The Commission hereby agrees to:

1. Provide or arrange for any necessary engineering technical assistance which may be found necessary.
2. Consult with the Association on extraordinary problems.
3. Reimburse the Association for work performed in operation and maintenance of the dam, within the limits of funds made available to it for this purpose.

This agreement may be terminated by either party upon service of 30 days written notice to the other party, but shall terminate on June 30, 1985, unless an extension is agreed upon by both parties.

Entered into this 27 day of March 1980.

FOR THE ASSOCIATION:

Signature Clinton Parkhurst
Title Director, & Sec-Treas
Date March 31, 1980

FOR THE COMMISSION:

Signature Frank A. Hickey
Title Executive Director
Date 3/27/80

ATTACHMENT E
AGREEMENT

between the
STATE SOIL AND WATER CONSERVATION COMMISSION
and
THE ANDROSCOGGIN LAKE IMPROVEMENT CORP.

This memorandum of agreement between the State Soil and Water Conservation Commission, hereinafter referred to as the Commission, and the Androscoggin Lake Improvement Corporation, hereinafter referred to as the Corporation, is entered into by the above-mentioned parties for the purpose of operating and maintaining the dam on Dead River, in the Township of Leeds, Androscoggin County, Maine, in carrying out the intent of Chapter 130, Private and Special Laws, 105th Legislature.

The Corporation hereby agrees:

1. To perform all necessary work for the repair, maintenance, and operation of the dam.
2. To keep accurate records of all labor and/or materials used in performing work for the repair, maintenance, and operation of the dam.
3. To appoint one person who shall be responsible for all work in relation to the dam.
4. To make due application for permits to the proper state agency for the performance of any work for the repair, maintenance, and operation of the dam.
5. To consult with employees of the Commission on all problems of an extraordinary nature and on all work which will require an expenditure of over \$200, and on the seasonal opening and closing of the gates.
6. To follow State competitive bidding law and procedures (furnish written invitation to bid to at least three (3) contractors), plus all applicable rules of the Bureau of Public Improvements, on any repairs estimated to be in excess of \$1,000.
7. To perform an inspection of the dam periodically, but in no instance less often than each six (6) months and following any flooding condition which might adversely effect the workings of the dam.
8. To provide the Commission, by September 1 of each year, with a list of projected expenses for the repair, maintenance, and operation of the dam and expected reimbursement for the same during the following summer season.

The Commission hereby agrees:

9. To provide or arrange for any necessary engineering technical assistance which may be found necessary.
10. To consult with the Corporation on extraordinary problems.
11. To annually request from the legislature an appropriation for the repair, maintenance, and operation of the dam.
12. To reimburse the Corporation for work performed in the repair, maintenance, and operation of the dam to the extent that the legislature has expressly appropriated funds to the Commission for that purpose.

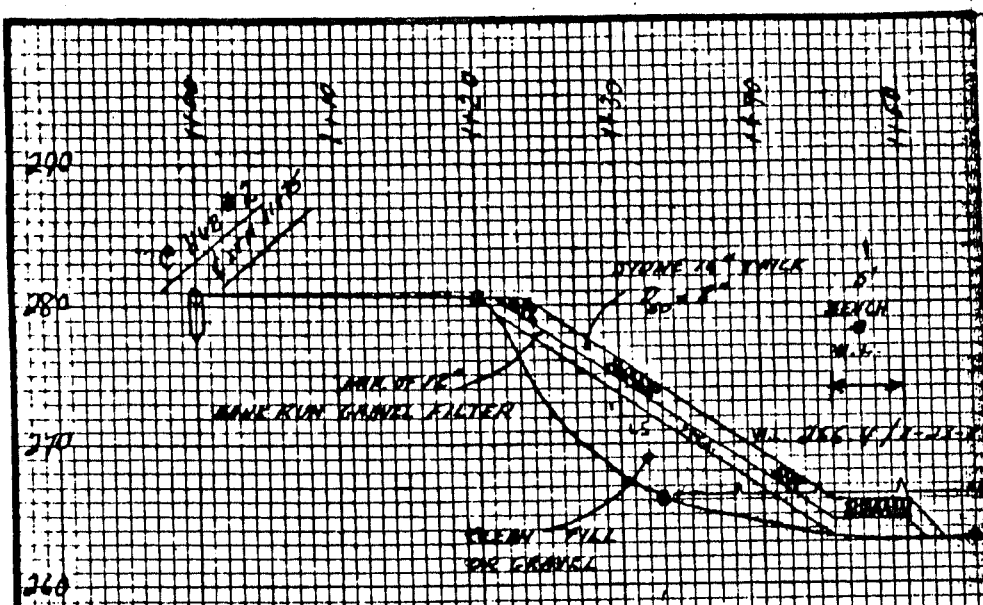
This agreement shall become effective upon its execution by the parties. It shall continue in effect from year to year unless amended by mutual agreement of the parties, or unless terminated by either or both of the parties. Unilateral termination of this agreement must be preceded by thirty (30) days written notice to the other party.

For the Association:

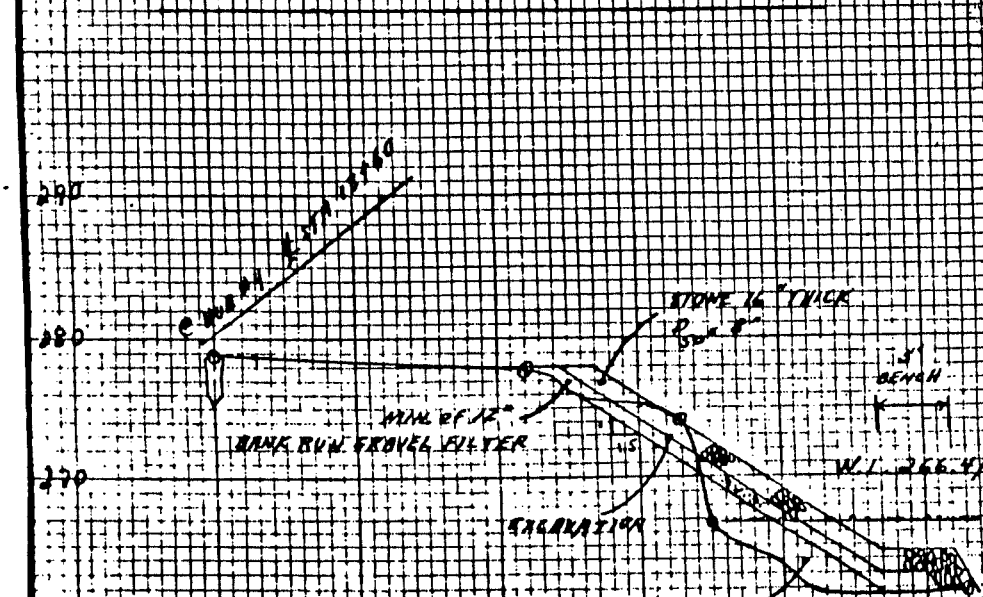
SIGNATURE Joseph M. Rush
TITLE Secretary/Treasurer
DATE January 23, 1984

For the Commission:

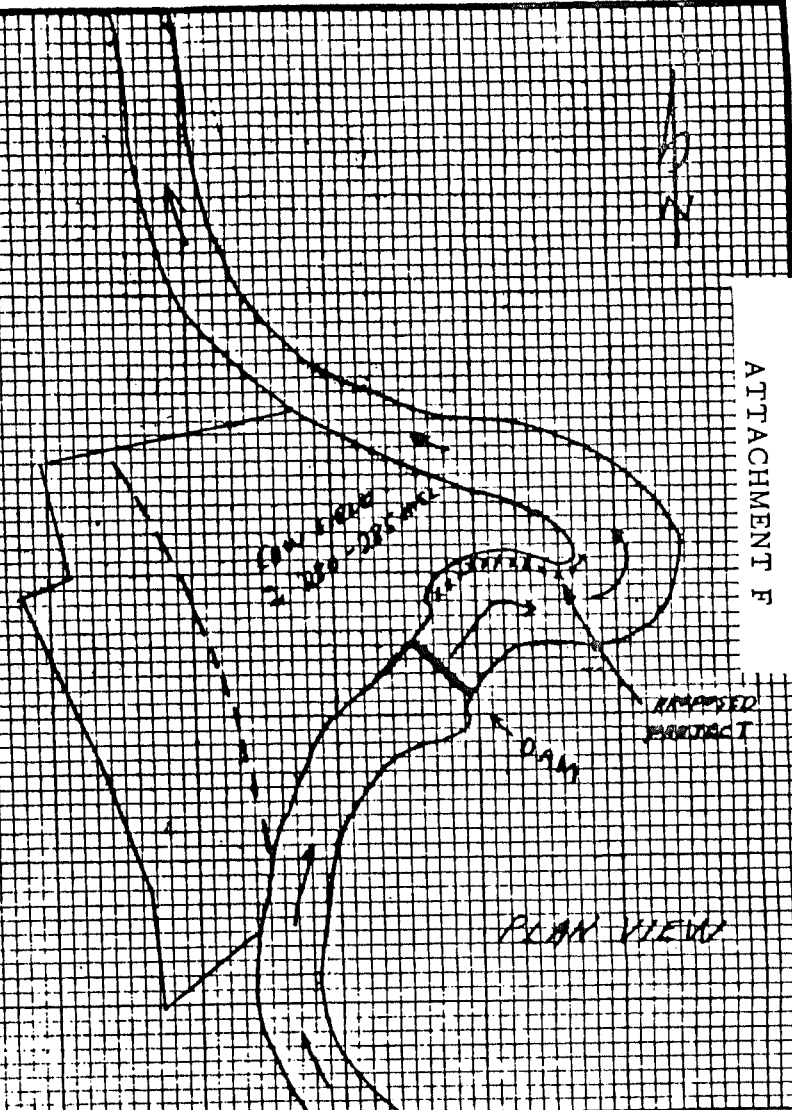
SIGNATURE Frankie Rieker
TITLE Executive Director
DATE 9/23/83



TYPICAL X-SECTION @ STATION 12605



TYPICAL X-SECTION @ STATION 12660



PRELIMINARY DESIGN FOR
BANK STABILIZATION @ NUTTING
FARM ON DEAD RIVER, LEEDS, ME.

U. S. DEPARTMENT OF AGRICULTURE
SOIL CONSERVATION SERVICE

J. J. Simon *1/10*

Project No.	_____
Date	_____
Drawn by	_____
Checked by	_____
Approved by	_____

PLAN VIEW OF PROPOSED BANK STABILIZATION

JJ SIMS
10-2-84

