

THE DISTRICT DISPATCH

The Cuba Lake District Board of Commissioners Information Letter

June 2005

State (NYS) Negotiations with the Seneca Nation of Indians (SNI) – Agreement Documents Have Been Approved and Filed

The *District Dispatch* issued a special edition in May 2005 advising of the “Order to Show Cause” issued by the Honorable John T Curtin, US District Judge. A draft of the Board of Commissioner’s letter which was sent to Judge Curtin on May 23, 2005, was included with that special edition of the *Dispatch*. The final letter sent to Judge Curtin can be viewed on the District’s web site at www.cubalake.org.

As indicated in the “Order”, a hearing was held in US District Court, Western District of New York, 68 Court Street, Buffalo, NY on Monday June 22, 2005 at 2:00 PM (delayed from June 20).

Lynn Sweet, Chairman of the Board of Commissioners and Attorney, Jack Hart presented the issues covered by the May 23rd letter. A brief review of those issues follows:

1. **Third party ownership** – the claims of Joni Brooks were heard and her documents presented to the Judge. Upon request of the Judge, the SNI and NYS attorneys, after review of the documents, expressed the opinion that they had no bearing on the issues at hand and did not support any claim on the spillway. Any further action will be the result of the ongoing review in the SNI court system. Copies of the documents presented by Ms Brooks were entered into the record of this proceeding. Another claim by another family which had been submitted shortly before the hearing, was dropped by the claimant and an additional easement was obtained from the owner to insure no future dispute on this issue would interfere with spillway operation and maintenance.

2. **Article 4 of the Cooperative Management Agreement** –

The suggested amendments to the agreement to provide for

- reciprocity associated with being able to comment on the Board’s decisions and budget;
- assessment of the cottages on the SNI land to help in the cost of maintaining the lake and
- prohibiting the establishment of commercial enterprises on the lands in question.

The Attorney for the SNI responded that the Nation would not be bound by additional terms and conditions on their lands. However, she indicated that the SNI Leadership has expressed an interest in establishing a “commission” of their own to oversee the future of their lands and water and intended to work with the Cuba Lake District Board of Commissioners as included in the Agreement. She also indicated that the SNI would be open to discussion of financial support to help in the cost of maintenance of the SNI’s portion of the Lake.

The Attorney for the State added that many issues of this type were discussed during the long negotiations to achieve the agreement as it stands. It is believed that the agreement is not the end of the cooperative effort and does not preclude continuing dialogue and agreements between the parties as issues arise.

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On the separate issue of boating safety and marine laws, it was stated by the State's Attorney that the Agreement is not intended to cover all areas of existing law. But it was made clear that all laws were applicable to all persons operating craft on State waters.

After hearing all who wished to speak, Judge Curtin signed the order ratifying and adopting the agreements as the final settlement of the case. And so, the Cooperative Management Agreement is "law" and the transfer of the land back to the Seneca Nation of Indians will be completed as negotiated by NYS, SNI and the USA.

Spillway Repaired:

We reported in January that the draw-down of the lake in November revealed significant and unexpected damage to the spillway structure since last year. The following pictures show the results of the repair effort which was completed in time for the scheduled "dropping of the logs". Note the date of the picture and the fact that water has not yet spilled over the repaired concrete. Water began "spilling" in early June. Quite a change from the floods of recent years.



Abbott's Creek Sediment Basin

It was announced in the May meeting that the long waited DEC and Army Corps of Engineers approvals had been received for the planned sediment basin at Abbott's Creek inlet to the lake. Advertisement for bids was made May 2nd and a pre bid meeting held on May 19th. The bid opening of 5/26/05 resulted in *L.C. Whitford Co., Inc.* getting the job. Work on the stream is not to begin before June 15, after the fish spawning season. Target completion of the project is September 15, 2005.

Mount Monroe Sediment Basin

On May 25th, the Mt. Monroe tributary site was reviewed by representatives from the SEMO (State Emergency Management Office) and the FEMA (Federal Emergency Management Agency) to evaluate the site for possible funding in support of the establishment of a sediment basin. Once funding is assured the project will proceed with land acquisition and the approval and bidding processes.

On the same subject, based on requests of Dave Slotman, #323 at the April meeting, the following actions were taken in the area of the Mt Monroe creek inlet and adjacent lake bed.

After an emergency bidding process, Slotman Plumbing and Heating was awarded a contract to remove the sediment from the lake bed in the area of the Mt Monroe inlet. This work was successfully completed

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April 19th, 2005. It was noted that "junk" which had entered the lake allegedly from that inlet, included an old car battery and tires. These materials were also removed.

Prompted by the "high" Cadmium levels reported by Mr. Slotman at the April meeting; prior to the sediment removal, surface water and soil samples were taken from areas in front of #323 and adjacent lots approximating the sampling sites used by the DEC in their January 2005 sampling. Samples were also taken from the areas of the Rawson, Abbott's and Munger Hollow tributaries. The sampling was done by, and test results received from, Alfred Analytical Laboratory.

Elements considered in the testing were Lead, Chromium, Cadmium and Mercury. The levels of these elements in all surface water samples were below detectable limits of the test method used. In the soil samples, the levels of Cadmium and Mercury were below detectable levels. The levels of Lead and Chromium were consistent at all sites and were below typical levels for soil in the Eastern United States. Also, they were below reclamation targets for identified clean-up projects. All 2005 data was consistent with the DEC results for those 4 elements. All 2005 data was consistent with the results of 2004 except for Cadmium. In 2004 Cadmium levels recorded were 10 times the reclamation level mentioned above. Based on the 2005 data, it is concluded there is no contamination problem at the sites tested and that the data taken in 2004 is either a problem in the data collection and testing process or the "problem" has been eliminated as a result of the 2004 sediment removal process. The results of testing can be reviewed at www.ourcubalake.com under "Water Quality".

Sewer Project

In May, the Town of Cuba issued an application for listing on the *Clean Water State Revolving Fund Intended Use Plan* (CWSRF IUP). Getting on this list is the first step in the process toward obtaining a loan to cover the project. Interest for such loans could be zero depending on review of the proposal. The scheduled date for submittal of this application was June 1, 2005.

The application indicated a CWSRF IUP amount of \$5,634,180 and indicated a target schedule for work start of January 2008 and a target completion of November 2009. Work in 2005 will include submittal of an Engineering/Technical report for review (August) and completion of an environmental review (December).

Water Quality

The first test samples for the CSLAP program were taken in early June. It is notable that the clarity of the water as measured by the Secchi Disc was such that the disc could be seen at a depth of 23.6 feet (7.2 meters). This is the best recorded clarity since June and July of 1988 (7.5 and 8.5 meters respectively). In June of 2001 a depth of 6.9 meters was recorded. In 2004 the max recorded was 4.6 meters or 15.1 feet.

The board of Commissioners was represented at the NYS FOLA conference held April 29, through May 1, 2005 at Lake Marion near Hamilton, NY. There were many presentations and discussions of interest toward the improvement of the quality of fresh water lakes in New York State. Some programs supported at other lakes seem viable for Cuba Lake and invite individual leaseholder participation. Among those is the **Drop a Brick** program. This program sets up a monitoring system for detection of Zebra Mussels. The level of Calcium in Cuba Lake affords a comfortable environment for this invasive pest. This should be of concern to all of us as our lake has a lot of visiting water craft that can be the vehicle for introducing the Zebra Mussel to our lake. The drop a brick program encourages individuals to tie a rope to a brick and hang it off their dock. Zebra Mussels are attracted to the brick. The brick should be pulled up periodically to check for the presence of the Zebra Mussels. Any sightings should be reported to the Lake Manager immediately. If you have visitors bringing boats from other waters, ask them to make sure they have thoroughly cleaned their hull and water cooling system before launching their boat in Cuba Lake waters. This will also help in the prevention of exotic weed importation.

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Air Quality:

A reader and Lake resident calls to our attention that one of the pleasures of life seems to be sitting by the campfire or having a huge bonfire. Large fires also are used by some to get rid of unwanted trash including lawn materials and junked construction materials regardless of type. The big problem with any fire at Cuba Lake is with the population density, the wind and typically an inversion layer. Smoke whether from a pleasure fire or a utilitarian fire tends to fill your neighbors' houses and lungs (if not your own) with debilitating levels of smoke. On some evenings the smoke fills the air over virtually the entire lake providing boaters with a goodly portion of undesirable smoke and burning lungs. In addition to being aware of the effects of smoke on your neighbors, you should also be aware of the law. The law concerning open fires can be found at <http://www.dec.state.ny.us/website/regs/part215.html#215.2>. This NYSDEC Regulation 215 covers "open fires". It makes clear the limits on fires of a utilitarian nature that is, burning rubbish, garbage, construction materials and the like. Not covered is the typical campfire or bonfire. If you must have a fire, make sure it is well controlled and that you use dry, clean-burning wood; no pressure treated, painted or chemically treated wood is allowed. If you can't "snap" twigs or branches, it's because they're green, don't try to burn them. Construction materials may contain carcinogens creating an even greater health hazard. Avoid smoldering fires of any kind. Make sure the fire has plenty of air to feed it to reduce the heavy smoke. Before lighting the fire, note the general conditions; wind direction and atmospheric conditions. Make sure the smoke will not be a nuisance to your neighbors downwind; or, expect to hear from them. A recent "Area Police report" cites a case where an individual was charged with "causing air contamination that interferes with the enjoyment of property under the states Environmental Conservation Law". It seems that charge could be directed at any type of open fire. Be considerate of thy neighbors.

Notes From Around the Lake:

1. Starting July 5th, 2005, Garbage pickup day is changed from Monday to Tuesday.
2. Weed harvesting has been underway. The clear water clarity has provided lots of sun to the weeds and they have "blossomed". If you need weeds cleared from your area, call the Lake Manager or **call Dana Harvey directly at 716-244-2643**. Andy Bogie operates the weed cutter, he will start teaching at Bolivar this fall.
3. It's of interest that the speed limit on the SNI roads around the lake have recently been dropped from 35 mph to 30 mph. On Catt. Cty. Rte. 50, the 30 mph zone begins at the bottom of the last hill in the approach to the *Seneca 1 Stop*.
4. The Lake Manager reports that he had the pleasure of having an American Bald Eagle circle his boat three times and then drop to the water in an attempt to snare a fish (he missed). A great sign of the desirability of the lake environment, the return of the Bald Eagle. The circling of the Eagle around your boat should represent "*good medicine*".
5. Dave also reports that he has seen good quantities of Crappies coming from the feeder streams into the lake. They have been absent for a couple of years.
6. Cuba Rod and Gun Club held their Bass fishing tournament on June 18th, it is reported that 24 teams caught (and released) 87 lbs-2oz of bass the largest of which was 3 lb-6ozs. The club is planning their Pike Tournament for September 17th.
7. Jane Sader recently reported seeing two pelicans at the lake.
8. Reports have been made about Chautauqua Lake and the Koi Herpes Virus. According to the news channel 4wivb.com, at least 1000 wild carp weighing 20-30 lbs each, have died and washed up on the shores of Chautauqua Lake this past week. Recent unconfirmed reports state that thousands of corpses are being removed "by the truckload" each day. The virus itself is apparently harmful only to Koi (Japanese for carp) and is not harmful to humans. What is

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harmful to humans are the fish that are killed by the virus and remain to decay in the lake. For more information refer to <http://www.practicalfishkeeping.co.uk/pfk/pages/item.php?news=657>.

9. It is noted that the rest room accommodations at the Rawson Creek launch area provide an unobstructed view and great aeration. See picture.



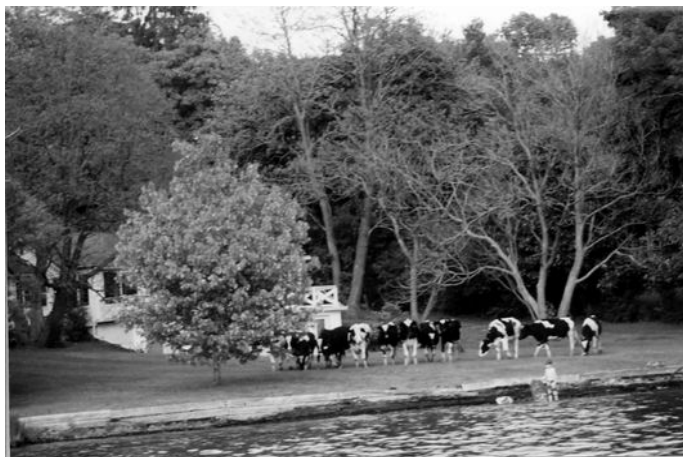
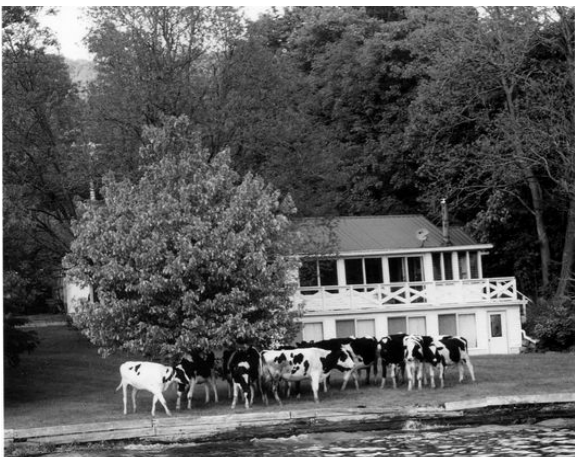
10. The following photos submitted by Dick Napier trace the Dairy Week day-off for some of the local cows. They decided it was time for a day at the lake.



They passed through the Berardi's lush lawn. (And you thought geese were bad!) They considered stopping to protest beef sales at the local market but, after a cooling drink of the Lake's wonderful water they reconsidered and --

moved on to the Mountain's front yard pausing to watch a human "calf" at play.

They can hardly wait for the next Dairy Week in Cuba.



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Commissioners: E-mail - commissioners@cubalake.org

Lynnford J. Sweet, Chairman (585)968-1735

Erick J. Laine, Deputy Chairman (585)968-1279 or
(716)372-7952

Jerry Collins, (585)968-0112 or (716)373-1000

Jeff Bradley, (585)968-3949

Dave Shemeld, (716)968-3928

Web site - www.cubalake.org

Lake Manager: E-mail - cubalakedistrict@yahoo.com

Dave Bosworth, (585) 968-0500;

Address: Cuba Lake District, PO Box 201, Cuba, NY 14727

Location: Cuba Lake District Office, 15 W. Main St, Cuba, NY

Other officials:

Jack Hart, Counsel (716)373-1600

Andrew Lindquist, Treasurer (585)968-3269

Pamela Konieczka, Secretary (716)372-4775

Meetings - District office; 2nd Thursday of each month; beginning at 7:00 PM