



Diving In

A Lake Level Update

From Leslie Meyers,
Antrim County Drain Commissioner
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*Welcome to the second newsletter
about Chain of Lakes improvements!*

Defining the Problem

Many activities in a watershed directly impact water quality and water quantity, which can in turn impact lake levels. Known issues in the Elk Rapids Chain of Lakes Watershed (ERCOL) include the Ellsworth Bridge Street culvert, the Bellaire Dam, the Elk Rapids Overflow Spillway, and numerous sedimentation issues.

Bellaire Dam

Though a 2024 inspection report noted that the Bellaire Dam is in fair condition, a 2023 engineering study noted that the dam would overtop its banks if a 100-year flood event fell on the Upper Chain (also known as a 1% flood).

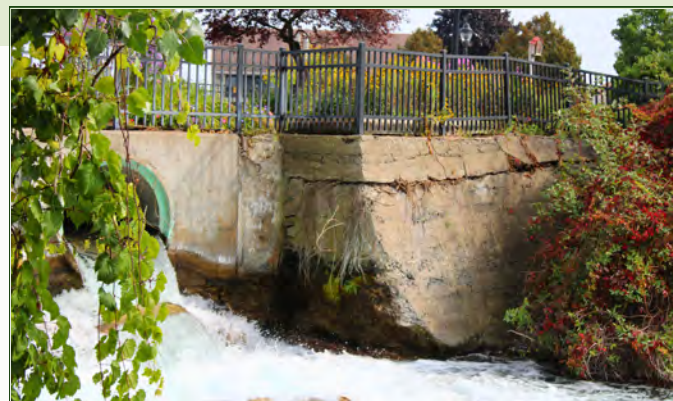
The study also determined that the dam does not have the capacity required by EGLE for a high hazard dam. In addition, parts of the dam have exceeded their design life and need rehabilitation or replacement.



Elk Rapids Hydrodam

The overflow spillway at the Elk Rapids Hydrodam is more than 100 years old and needs extensive repairs. On the upstream side, the roadway and sidewalk above the spillway are experiencing significant settlement.

On the downstream end, the headwall is being undercut and is in poor condition.



Ellsworth's Bridge Street Culvert

The early 1970s culvert is significantly undersized. This directly impacts water flowing to the rest of the Upper Chain of Lakes and the entire Lower Chain.

A significant snow and rain event in early 2025 resulted in water overtopping Bridge Street.



What is a Special Assessment District?

Various state statutes authorize municipalities and counties to make public improvements and provide services to their residents and taxpayers. The special assessment process is one way Antrim County can expend public money for any such improvements.

A special assessment district (SAD) is a group of properties that especially benefits from the public improvement that is being made.

Special assessments are different from general property taxes in many ways. Unlike property taxes, **lake level special assessments are only levied when costs are incurred related to operating and maintaining the lake level.**

Depending on the costs incurred, this means that there could be years when assessments are minimal or there are no assessments at all.

In the case of maintaining lake levels on inland lakes, the Natural Resources and Environmental Protection Act (Public Act 451 of 1994) allows a County Board of Commissioners to petition the circuit court to confirm the boundaries of a special assessment district.

The Act also allows Boards to delegate its authority to the county drain commissioner to carry out the day-to-day tasks of operating and maintaining normal lake levels and levying special assessments.

The drain commissioner can gather cost estimates and plans for the improvement, coordinate funding or financing for the cost of the improvement, and levy and collect the special assessment to pay project debts. Major decisions, such as final approval of any special assessments, must be made by the Board of Commissioners.

Defining a SAD Boundary

On the surface, it would seem that defining the Upper and Lower Chain of Lakes Special Assessment Districts (SAD) should be as easy as listing the properties that have frontage on the Chain. Unfortunately, it isn't that simple.

A property in a SAD is a property that especially benefits from the improvements.

(See article above titled *What is a Special Assessment District?*) While this obviously includes properties with frontage on the specific chain, also known as direct access, it also includes properties with indirect access to that chain.

Indirect Access

What is indirect access? Generally, it is private legal access to reach and use the water without owning a property that is directly on the water. One example of this is the owner of a waterfront lot granting an easement to access the lake to a non-waterfront property owner. Another example is a homeowner's association that owns a waterfront lot and allows all homeowners in

the association to use the waterfront property. All properties that are entitled to indirect access would be included in the SAD.

Almost No Exemptions

Residential and commercial properties alike will be required to pay the special assessment. In addition, while taxing entities such as villages, townships, counties, and the State of Michigan may be exempt from paying millage-based property taxes, they will be required to pay the special assessment. Nonprofit organizations will also be required to pay.

Compiling the list of properties, which will ultimately make up the special assessment roll, is a time intensive process that includes deed research and consultation with specialized attorneys. Before the SAD is established, a public court hearing will be held. **All property owners listed on the special assessment roll will be sent advance notice** of the public court hearing by mail.

Role of the Circuit Court

Michigan's Natural Resources and Environmental Protection Act, Public Act 451 of 1994, Part 307, Inland Lake Levels—often known as **Part 307**—**gives Michigan Circuit Courts the authority to establish a “normal lake level.”**

Section 324.30701(i) of Part 307, in part, defines normal lake level as “the target level or levels of the water of an inland lake, around which actual levels may fluctuate, that provide the most benefit to the public; that best protect the public health, safety, and welfare; that best preserve the natural resources of this state; and that best preserve and protect the value of property around the inland lake.” Public Act 112 of 2024 amended the definition of a “normal” lake level to

allow temporary variations due to things such as weather and natural conditions.

A lake level established by a circuit court must be administered by the pertinent county board(s) of commissioners and their delegated authority. Under Part 307, hundreds of lakes have had their levels established by circuit courts across Michigan.

Part 307 also gives the circuit court the authority to establish a special assessment district. Although public input is often instrumental in determining accurate boundaries of a SAD, this means that the establishment of a SAD does not require a vote of the people.

Why Do We Need Two SADs?

The need to create two distinct and separate Special Assessment Districts (SADs) is due to **two different active circuit court orders that are impacting the Chain of Lakes.**

A 1973 lake level circuit court order creates two different seasonal levels for Elk and Skegemog Lakes. The order sets the summer level from the later of April 15 or ice break-up to November 1; the winter level is set from November 1 to the later of April 15 or ice break-up to November 1; the winter level is set from November 1 to the later of April 15 or ice break-up.

The **Elk Rapids Hydrodam** is Antrim County's primary mechanism for administering the 1973 court order. The dam impacts the levels of all of the lakes in the Lower Chain, which will also be included in the Lower Chain of Lakes SAD.

A 1990 lake level circuit court order creates two different seasonal levels for Intermediate Lake.

This order sets the summer level from spring break up (no later than May 15) to November 1, with the winter level being set from November 1 to spring break up (no later than May 15).

The Bellaire Dam is the County's primary mechanism for administering the 1990 court order. The dam impacts the levels of all of the lakes in the Upper Chain, which will also be included in the Upper Chain of Lakes SAD.

Combining the two court orders into a single SAD has been researched.

Unfortunately, it is not appropriate under Michigan's existing legal framework.



What Can a SAD Fund?

Expenses allowed under Part 307 include:

- Preliminary engineering studies
- Surveys
- Establishing a special assessment district, including preparation of assessment rolls and levying assessments.
- Acquiring land and other property.
- Locating, constructing, operating, repairing, and maintaining a dam or works of improvement necessary for maintaining the normal level.
- Legal fees, including estimated costs of appeals if assessments are not upheld.
- Court costs.
- Interest on bonds and other financing costs for the first year, if the project is so financed.
- Any other costs necessary for the project which can be specifically itemized.

Determining Per Property Costs

Per parcel costs cannot be determined until a special assessment district for each Chain of Lakes is set by the Circuit Court. This will tell us how many parcels are included in each SAD and which specific parcels those are. Once the SADs are set by the Court, we will move forward with:

- Completing preliminary design for each dam project
- Obtaining bids and preparing cost estimates for the projects
- Preparing an assessment methodology for those parcels in each SAD

The timeline for when per parcel cost information will be available is dependent on obtaining resolutions from all of the counties involved, getting dates for Circuit Court hearings, and completing preliminary design.

Next Steps

The ERCOL Watershed is in four counties. To expedite this large and important project, the Antrim County and the Kalkaska County Boards of Commissioners have approved resolutions affirming that Leslie Meyers, Antrim County Drain Commissioner, has the authority to manage the lake levels on behalf of those Counties.

Ms. Meyers is working to obtain similar resolutions from the Charlevoix and Grand Traverse County Boards of Commissioners.

Once all four resolutions are in place, Ms. Meyers will take the necessary steps to file a petition for each chain of lakes with the 13th Circuit Court to update the lake level orders and to confirm the special assessment district boundaries.

Ms. Meyers has retained legal counsel, finance counsel, and engineers to prepare recommendations and assist with the lengthy SAD process.

Upcoming

Leslie Meyers is the Antrim County Drain Commissioner. She will be giving lake level talks on:



December 1 at 7 pm | Forest Home Township Hall, 321 N Bridge St., Bellaire, MI

December 2 at 6:30 pm | Elk Rapids Village, 315 Bridge St, Elk Rapids, MI

December 3 at 7 pm | Echo Township Hall, 1720 6 Mile Lake Rd. East Jordan, MI

Ms. Meyers would be pleased to present to groups large and small, for whatever length of time best suits your group. To arrange a date and a time, contact her at **231-533-3633** or **meyersl@antrimcountymi.gov**.



For more information:

☎ 231-533-3633

🌐 [TinyUrl.com/ACDrainComm](https://tinyurl.com/ACDrainComm)

Look for Monthly Updates!