ZALINGER CAMERON & LAMBEK, P.C.

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JUL 1 8 2001

OF COUNSEL ROBERT HALPERT JOHN C. PAGE

PARALEGAL KAREN G. MCCARTHY

PHILIP H. ZALINGER, JR. J. SCOTT CAMERON BERNARD D. LAMBEK

PATRICIA K. TURLEY

July 11, 2001

Town of Calais Selectboard 668 West County Road Calais, VT 05648

Re:

Curtis Pond Dam

Dear Board Members:

Our review of the land records in the Town of Calais revealed that Donald and Beverly Heise own land and premises on both sides of Curtis Pond Dam at the shoreline (see Survey Exhibit 1). However, land underlying the dam, and the dam itself, were never conveyed to the Heises or their predecessors in title. Accordingly, the dam must be considered part of the public waters of the state.

Two different chains of title are involved, as follows:

1. Van Orman Chain.

The Van Orman chain of title includes land and premises westerly of the dam and the deed from Van Orman to Van Orman dated November 19, 1925, as recorded in Book 20 at page 324 (Exhibit 2) of the Calais land records, states as follows:

"Commencing at a point two feet easterly of the east abutment of a bridge or culvert on the highway leading from Maple Corner to Worcester; thence direct to the dam at outlet of pond; thence returning to the point at the road and following said road 13 rods towards Worcester, thence turning a right angle and running to shore of pond; thence following shore of pond to the southerly point of dam thence easterly to first mentioned line."

It is our opinion that this conveyance specifically excludes the dam.

Parker Chain.

The Parker chain of title includes land and premises easterly of the dam and the deed from Parker to Smith dated August 6, 1966 as recorded in Book 26, page 95 (Exhibit 3) states as follows:

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Town of Calais Selectboard July 11, 2001 Page Two

"Parcel 1

A small piece of land lying generally westerly of the Camp Road, so-called, and generally northerly of the Worcester Road, so-called, being described as: BEGINNING at an iron pin on the westerly side of the Camp Road, so-called; thence running generally westerly to a point where said line intersects the dam and shore of Curtis Pond; thence following said dam to the point where the line of the dam intersects the most easterly side of a brook running from said dam to the Worcester Road; thence running generally southerly along the easterly side of said brook to the aforesaid Worcester Road; thence turning and running generally easterly along the northerly side of said Worcester Road to the intersection of said Worcester Road with the aforesaid Camp Road; thence turning an angle and running northerly along the westerly side of said Camp Road back to the point of beginning. Nothing herein shall be construed to convey any right or interest in said dam."

The last sentence of this description clearly excepts the dam from this conveyance. Accordingly, since neither of the two chains of title comprising the current Heise property included the dam as part of any conveyances, the dam remains a portion of the pond, which due to its size, constitutes public water of the state pursuant to 10 V.S.A. Chapter 49.

Please feel free to contact me with any remaining questions or concerns.

Very truly yours,

Robert Halpert

RH/mgb Enclosures

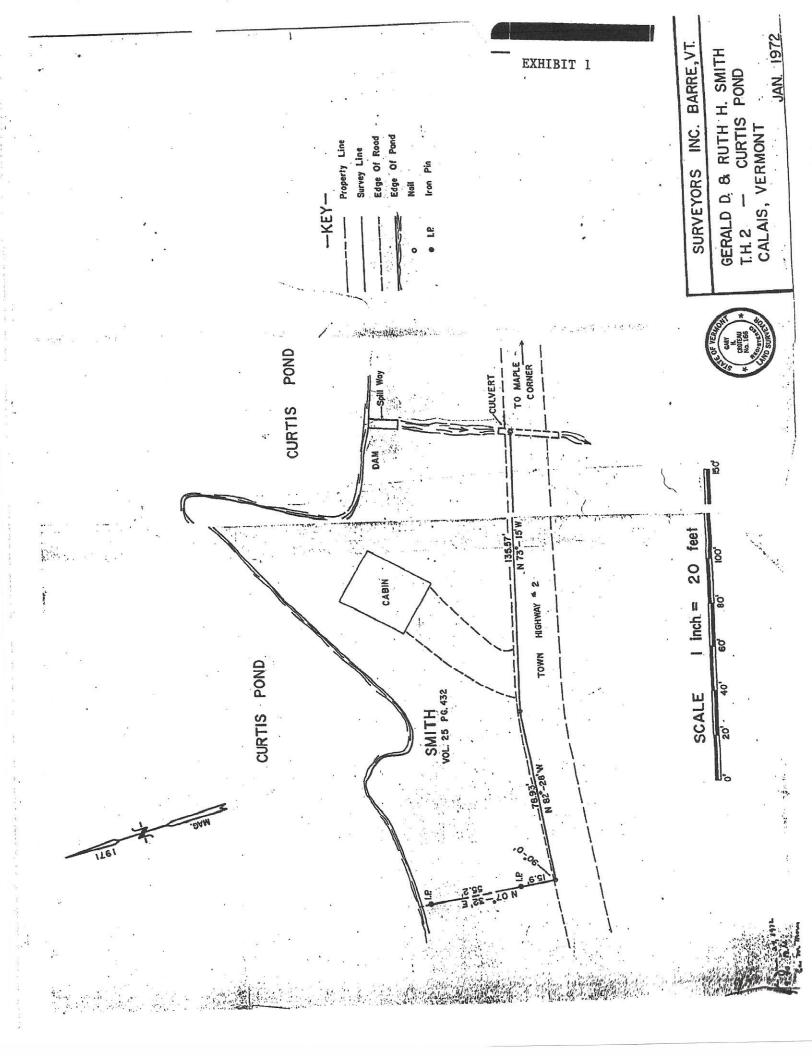


EXHIBIT 2

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EXHIBIT 3