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RECEIVED
JUL 18 2001

TIME:

OF COUNSEL
ROBERT HALPERT
JOHN C. PAGE

PARALEGAL
KAREN G. MCCARTHY

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.

2. 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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"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

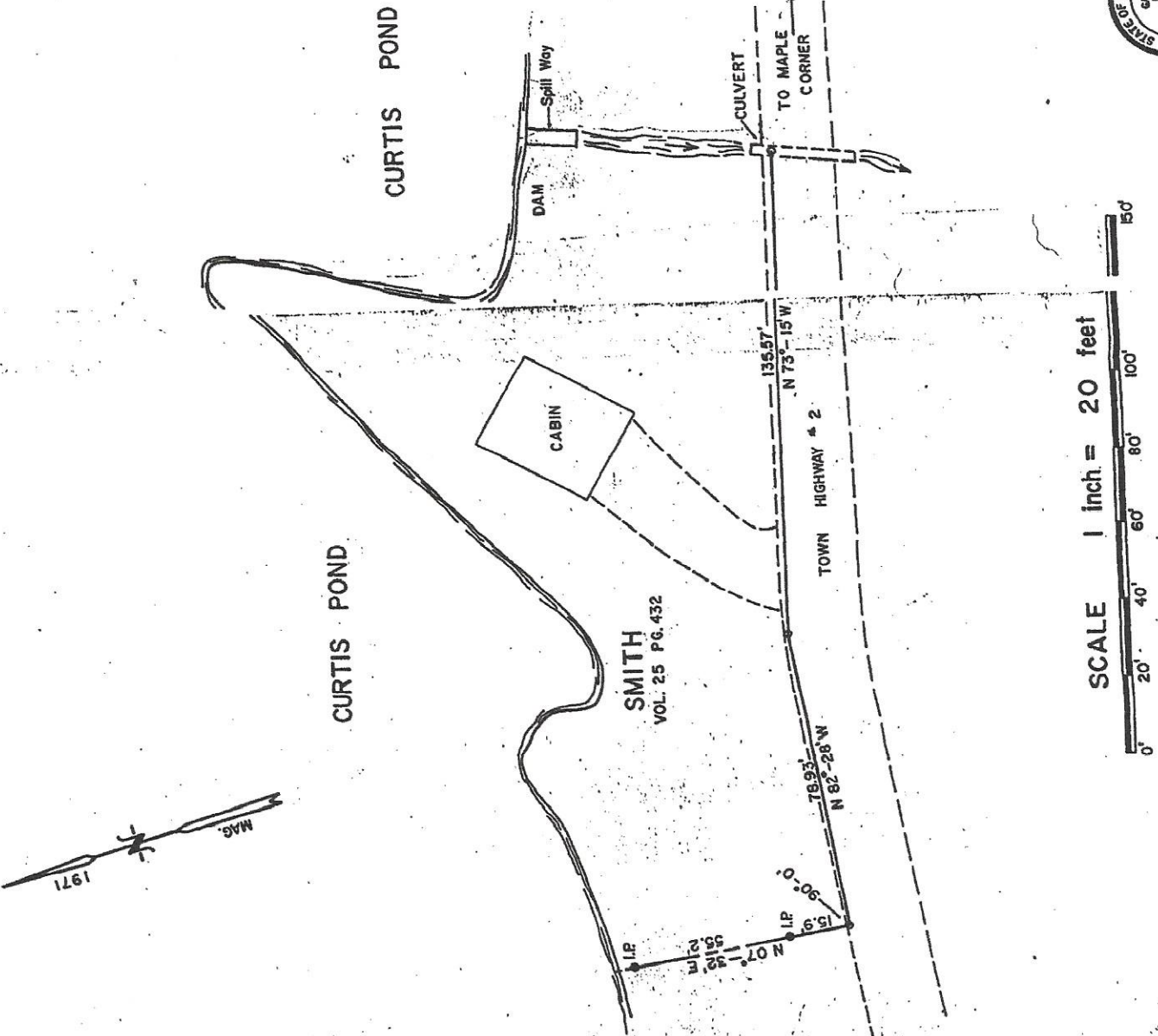
EXHIBIT 1

—KEY—
 Property Line
 Survey Line
 Edge Of Road
 Edge Of Pond
 Nail
 Iron Pin

SURVEYORS INC. BARRE, VT.

GERALD D. & RUTH H. SMITH
 T.H. 2 — CURTIS POND
 CALAIS, VERMONT

JAN. 1972



Quit-Claim Deed R. Dean Van Orman to Rome B. Van Orman

EXHIBIT 2

Know all Men by these Presents:

That I R. Dean Van Orman

of Colais in the County of Washington and State of Vermont
 in the consideration of one dollar and other valuable considerations
 paid to my full satisfaction by Rome B. Van Orman

of Colais in the County of Washington and State of Vermont
 have remised, released and forever quit-claimed unto the said
Rome B. Van Orman
 all right and title which I the said R. Dean Van Orman

a certain piece of land in Colais in the County of Washington heirs have in, and
 and State of Vermont, described as follows, viz:

Being part of the same land and premises known as Camp Corners
that was conveyed to said R. Dean Van Orman by the Quit-Claim Deed of
John P. Van Orman and Jerome B. Van Orman and Lucy B. Van Orman
dated Jan 16th 1906 and recorded in Book 18 page 319 of Land
of Colais commencing at a point 100 feet east of the E. Substment
of a bridge or culvert on the highway leading from Maple Corners to Wood
thence direct to the dam at outlet of pond thence returning to the point of
the road and following said road 13 rods towards Westport thence
leaving a right angle and running to shore of pond thence following
shore of pond to the southerly point of dam thence easterly to first
mountain line

To Have and to Hold all right and title in and to said quit-claimed premises, with the appurtenances
 to the said Rome B. Van Orman

And Furthermore, I she said R. Dean Van Orman heirs and assigns forever.

heirs, executors and administrators, covenant with the said Rome B. Van Orman his
 heirs, and assigns, that from and after the sealing of these presents, I she said R. Dean Van Orman

will have and claim no right, in, or to the said quit-claimed premises.

In Witness Whereof I hereto setting hand and seal this 19 day of Nov. A. D. 1922

IN PRESENCE OF

Neal D. Lamb
C. B. Darnell

R. Dean Van Orman

State of Vermont,
Washington County, ss.

At Colais this 19 day of Nov. A. D. 1922
R. Dean Van Orman

personally appeared and acknowledged this instrument, by him sealed and subscribed, to be his free act and

Colais

Town Clerk's Office,

BEFORE ME,

C. B. Darnell Notary Public

Nov 19

A. D. 1922

at 3 o'clock, 45 minutes P.

Received the deed of which the foregoing is a true record.

Attest,

C. B. Darnell

Town Clerk

Know all Men by These Presents:

That we, Arthur and Christie Parker, husband and wifeof Colais in the County of Washington and State of Vermont Grantor, S.
in the consideration of One \$100,000.00 Dollars
paid to our full satisfaction by Gerald D. & Ruth H. Smith, husband and wifeof Barre in the County of Washington and State of Vermont Grantee, S.
by these presents, do freely GIVE, GRANT, SELL, CONVEY AND CONFIRM unto the said Grantee, S.
Gerald D. & Ruth H. Smithand their heirs and assigns forever, a certain piece of land in Colais in the
County of Washington and State of Vermont, described as follows, viz:
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.Parcel 2 A piece and parcel of land lying generally on the easterly side of the aforesaid Camp
Road described as: BEGINNING at an iron pin on the easterly side of said Camp Road in the line of
lands now or formerly of Frank Smith; thence running southerly along the easterly side of said
Camp Road 100 feet; thence turning an angle of 90 degrees and running easterly 100 ft. to the line
of lands of the herein grantors; thence turning an angle of 90 degrees and running northerly
100 ft. to the line of lands of the aforesaid Frank Smith; thence turning an angle of 90 degrees
and running westerly 100 ft. back to the point of beginning.Parcel 3 BEGINNING at an iron pin, which said iron pin marks the most northwesterly corner of
the parcel herein conveyed and the most southwesterly corner of Parcel No. 2 hereof; thence
running southerly along the easterly side and the aforesaid Camp Road 100 ft.; thence turning an
included angle of 90 degrees and running generally easterly 100 ft. to the line of lands of the
herein grantors; thence turning an interior angle of 90 deg. and running northerly 100 ft. to the
southerly line of parcel No. 2 hereof; thence turning an angle of 90 deg. and running westerly
100 ft. back to the point of beginning.Parcel 4 There is also conveyed herewith a right to use, in common with others, and pass and
re-pass to said Curtis Pond along a piece and parcel of land (50 ft.) in width on the westerly side
of said Camp Road, the northern boundary of which right-of-way, is the southerly line of lands
now or formerly of one Mrs. Brown. All the lands conveyed are subject to a right in common with
others to pass and re-pass along the aforesaid Camp Road, which said Camp Road is 16-1/2 ft. in
width, said distance to be measured 8-1/4 ft. on each side of the existing center line of said road.
There is reserved and excepted herefrom a right in the grantors, his successors and assigns, to pass
and re-pass along said right-of-way and to exceed its width where necessary, for the purpose of
plowing and maintaining said road to adequate standards for winter purposes, including but not
limited to, the right to enter, personally or through others, on said road and to plow and said
road and to pass and re-pass thereon, with all its privileges and appurtenances thereof, to the said Grantee, S.
Gerald D. & Ruth H. Smithand their heirs and assigns, to their own use and behoof forever;
and we the said Grantors Arthur & Christie Parker for ourselvesand our heirs, executors and administrators, do covenant with the said Grantee, S.
Gerald D. & Ruth H. Smithheirs and assigns, that until the sealing of these presents we are the sole owners
of the premises, and have good right and title to convey the same in manner aforesaid, that they are FREE FROM EVERY
ENCUMBRANCE, and wehereby engage to WARRANT AND DEFEND the same against all lawful claims whatever.
In Witness Whereof we hereto set our hands and seals this 6th day of August A. D. 1966.IN PRESENCE OF
Eva M. Morse } Arthur Parker L. S.
Christie Parker L. S.
Eva M. Morse }
L. S.State of Vermont } At Colais this 6th day of August A. D. 1966
Washington County, ss } Arthur Parker & Christie Parkerpersonally appeared, and they acknowledged this instrument, by them sealed and subscribed, to be their
free act and deed.Before Me Eva M. Morse Notary Public.
Colais Town Clerk's Office August 10 A. D. 1966, at 6 o'clock 30 minutes P. M.
Received for record a Deed, of which the foregoing is a true copy.A True Record, Attest, Eva M. Morse Clerk.
I hereby certify that United States stamp to the amount of \$.55 were affixed to the foregoing
instrument and were duly canceled.Attest: Eva M. Morse Clerk.

NOTARY STATEMENT NO. 10, VERMONT, VT.

Note:

For Parker

Chain of title

out to various

parties

See

Scoppettone

out from Parker

Rg

3479.1

out
to nichols
26/521out to
Hedger
26/358# should be
50 ft
on each side
of road
1966 Oct 11
Eva M. Morse
Notary