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Clary Lake dam's owner wants out, forcing towns' hands in dispute

Water levels at center of move by Pleasant Pond Mill LLC to relinquish ownership of dam

By Paul Koenig
Staff Writer

WHITEFIELD — The dam that has been the center of a long-standing struggle between waterfront residents on Clary Lake and the various owners of the neglected structure could be changing hands again.



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Paul Kelley, the manager of Pleasant Pond Mill LLC, which owns the Clary Lake dam in Whitefield, pictured at the structure on Feb. 26.

Staff photo by Andy Molloy



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And the dam could be removed if a new owner isn't found.

The current owner of the dam, Pleasant Pond Mill LLC, has filed a petition with the state [Department of Environmental Protection](#) to release ownership of the century-old dam. The department says it is reviewing the petition, a process that includes consulting all people affected by the dam to see if a new owner can be found.

The towns with land around the lake and any organization with interest in the lake or dam will have a chance to decide if they want to assume ownership, according to the DEP.

If a new owner doesn't step forward, state departments will review the benefits of removing or maintaining the dam versus the cost to determine if they should take over ownership. The DEP will order the dam owner to release the water if a new owner can't be found.

The petition is the second ongoing DEP case regarding the Clary Lake dam, according to the department. Lakefront property owners upset over a low water level filed a petition more than a year ago, asking the department to set an appropriate water level for the lake.

Samantha Warren, spokeswoman for the department, said the water level process could be put on hold while a new owner is found. But the department will still ultimately order a water level management plan for the lake, she said.

"It certainly may change the time, but it won't change the ultimate outcome," she said. "Obviously, this is a long-standing issue, and the department is committed to finding a solution to it."

The water level petition process took another step forward last week with the release of a lake depth study. The parties have yet to submit comment to the DEP about the survey.

Pleasant Pond Mill LLC notified officials at Whitefield and Jefferson of its intent to file the petition to release ownership because the 2.5 acre lake encompasses both towns. The dam itself, and a nearby mill, are located in Whitefield.

Paul Kelley, manager of Pleasant Pond Mill LLC, said the state departments and others have insisted there are substantial public benefits for the dam maintaining the lake's water level, and this process allows them to take responsibility for the dam.

"If people think the public benefits more than we do, which is quite obvious, we're asking the public to step up," Kelley said.

Tropical storm Irene damaged the dam in August, causing a big hole to form in it. Kelley has said his company lowered the lake water below the hole in the dam to protect the mill downstream from damage caused by significant water flow. The water level also was lowered to prepare for dam repairs, which the DEP approved in September 2011, but the repairs haven't been made.

George Fergusson, spokesman for the water level petition and Clary Lake Association member, said the action to find a new owner is a positive step forward, but he's skeptical of Kelley's motivations because the association had previously tried to negotiate to purchase the dam.

"The Clary Lake Association stands ready to accept the dam," he said. "However, Paul Kelley has always felt the association lacks the resources and organization to own the dam and manage it in a way that seems fit."

The new owner could pay Pleasant Pond Mill LLC for the dam, but the company can't halt the exchange if the new owner isn't willing to compensate more than the cost of transfer.

Fergusson said he has always thought the towns would be the ideal owners of the dam because they benefit from higher property values on the lake and would be able to secure grants to repair the dam.

Lynne Barnikow, town clerk of Jefferson, said she received the intent to file from Pleasant Pond Mill LLC but she would not comment on whether the town would be willing take ownership of the dam. She said the town still needs to figure out what is required in the process.

Whitefield Selectman Dennis Merrill said the issue is important to a lot of residents, so the town will need to take its time assessing what to do.

"This is not a commonly used law nor is it a commonly used process, so we have to proceed cautiously and figure out where we stand," he said.

Still, Fergusson said he's optimistic at the prospect of finding a new owner for the dam.

"He wants to get rid of it, and we want it," Fergusson said. "What can go wrong?"

*Paul Koenig — 621-5663
pkoenig@mainetoday.com*

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