



Diving In

A Lake Level Update

From Leslie Meyers,
Antrim County Drain Commissioner
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Known issues in the Elk Rapids Chain of Lakes Watershed include the Elk Rapids Hydrodam Overflow Spillway, the Bellaire Dam, the Ellsworth Bridge Street culvert, and numerous concerns regarding sedimentation.

There is no existing revenue source that will cover the costs of these important and expensive repairs. The creation and implementation of special assessment districts will provide the necessary

revenue. As that will be a long and complicated process, this newsletter is being published to provide information to all interested parties.

This issue will focus on the many questions that have been raised by lake associations and others. The Frequently Asked Questions, or FAQ, that are addressed in this newsletter are in three groups: Special Assessment Districts, County Responsibilities, and Lower Chain Details.

FAQ: Special Assessment Districts

1. Please clarify the role and limits of the proposed Special Assessment Districts (SADs).

The role of an SAD is to assist in financing any necessary expenditures for the operation and maintenance of a legal lake level/chain under Part 307 of the Natural Resources and Environmental Protection Act, MCL 324.30701 et seq.

The statute clearly provides that a SAD is only responsible for costs associated with that specific lake level/chain and not for costs that are unrelated to construction, operation, and maintenance of a legal lake level.

2. Is there a public non-riparian benefit to healthy dams, as well as a riparian benefit?

A special assessment is different than a user fee or tax and must be shown to provide specific or direct benefits to a property. Dixon Road Group v Novi, 426 Mich 390 (1986) states that "A special assessment will be deemed valid if it meets two requirements: (1) the improvement subject to the special assessment must confer a benefit on the assessed property and not just the community as a whole and (2) the amount of the special assessment must be reasonably proportionate to the benefit derived from the improvement." Michigan's Adventure, Inc v Dalton Twp, 290 Mich App 328, 335; 802 NW2d 353 (2010).

Accordingly, it would be difficult to show a specific lake level benefit to a property without

access to the lake/chain that is any different than other members of the public. As a result, counsel recommends that the only properties included in the SAD are properties with private legal access to the lake/chain.

3. Has the decision already been made whether to proceed with a flat per parcel fee or by some other method, e.g., weighted benefit conferred, ad valorem, tiered?

No final decisions have been made regarding the assessment methodology. Generally, lake level assessments assign factors to each parcel that consider the intensity with which each parcel uses the lake, e.g., a marina vs. a residential parcel vs. a campground. A weighted benefit is also under consideration.

4. If the chosen method results in a significant number of successful challenges based on proportionality of benefit for other reasons, will others in the SAD be asked to pay more?

Each parcel in the SAD will be assigned an apportionment percentage, and the sum of apportionments for all parcels will equal 100%. If adjustments in the assessment methodology are made as information is gathered, slight changes in the apportionments for each SAD parcel will result. However, once a roll is finalized and the appeal period is ended, a successful appeal would not alter other property assessment amounts.

FAQ: Special Assessment Districts *(continued)*

5. Will the public be informed of the proposed assessment formula and rationale before the approach is finalized?

Yes. Public mailings to property owners are required by statute.

6. Will assessment payments be expected in a lump sum or will there be other options?

Lake level assessments can be levied for a term of one year or spread over 40 years, depending on project cost and the SAD's size.

The intent at this time is to spread the payment options over as many years as necessary to ensure sure that the assessment will not be a burden on property owners. However, property owners will be provided with an option to pay their total assessment in a lump sum to avoid interest.

7. If the SAD is established and funds are collected for dam projects, will the entire cost burden be covered by the SAD?

Costs related to operation and maintenance of the lake levels, including infrastructure, may be assessed back to the SAD. Alternatively, these costs or any portion thereof may also be offset by other funding sources, such as grants, county contributions, etc.

It is also important to note that the goal of this process is to create separate SADs for the Lower Chain of Lakes (below the Bellaire Dam) and the Upper Chain of Lakes (above the Bellaire Dam). Property owners in each chain will only be assessed for costs related to the operation and maintenance of the lake levels and infrastructure associated with that chain.

8. If a SAD is enacted, what is the added ongoing staffing, if any, needed to administer it? How will staff be funded and what oversight processes will be established for staff?

Antrim County has already increased the hours of the Operator of Dams position to allow for assistance to the Antrim County Drain Commissioner (ACDC) to address issues related to a SAD and its administration. That funding is

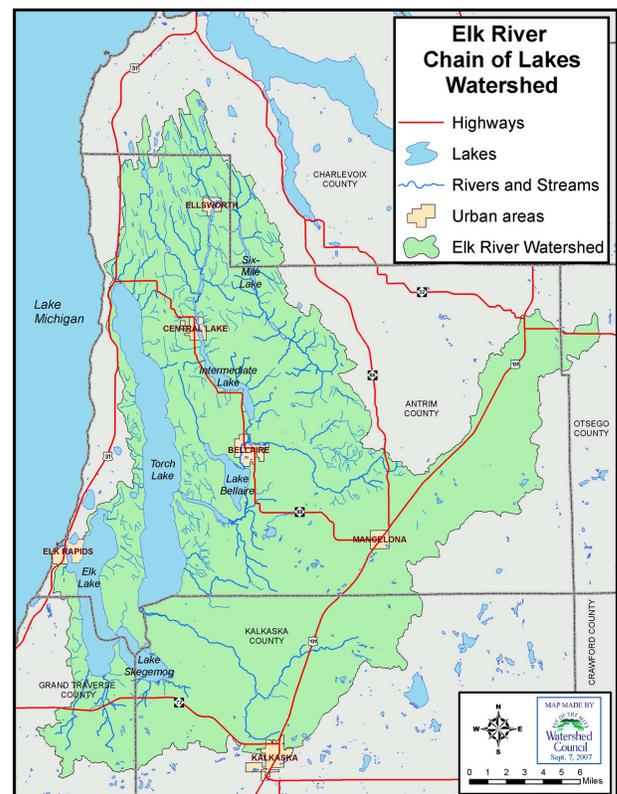
being provided through Antrim County's general fund. Since Kalkaska County has also appointed the ACDC as their delegated authority, they will require no additional staffing. Staff oversight follows County policies.

At the date of this writing, it was unknown if Grand Traverse and Charlevoix Counties will appoint the ACDC as their delegated authority, if they will appoint their own delegated authority, or whether they will seek reimbursement for their delegated authority.

9. What are the best resources for following the details of the SADs and SAD projects?

When decisions regarding the delegation of authority are made by Charlevoix and Grand Traverse Counties, a dedicated website will be activated. Until that time, we are using the Diving In newsletter as the primary means of communication.

In addition, the ACDC has made many public presentations regarding the SAD and will continue to do so.



FAQ: County Responsibilities

10. Is it the responsibility of the Drain Commissioner to establish and maintain new lake levels?

If any new legal lake level is proposed, the County Board of Commissioners (BOC) would need to approve a resolution authorizing circuit court proceedings to establish that lake level. The BOC would then have the option to designate the Drain Commissioner to oversee the day-to-day responsibilities related to establishing, operating, and maintaining the lake level.

To date, the BOCs of both Antrim and Kalkaska Counties have passed resolutions to make the ACDC the delegated authority for the day-to-day operation of the Lower Chain of Lakes. The BOCs retain the responsibility and authority regarding projects outside the day-to-day operations.

11. Why does this responsibility exist?

Part 307 of the Natural Resources and Environmental Protection Act, MCL 324.30701 et seq. was created by the State of Michigan to help ensure the successful operation of dams and to prevent safety issues.

12. Will Antrim County continue to support existing dam maintenance costs from the general fund?

Antrim County will continue its current practice of funding its regular dam operations. In addition, County-owned properties will also be assessed and included in the SADs.

Antrim County plans to operate and maintain lake level structures after the repairs and upgrades are made.

Presentations

Leslie Meyers, Antrim County Drain Commissioner, would be pleased to present to your group. **231-533-3633** or email at **meyersl@antrimcountymi.gov**.



FAQ: Lower Chain Details

13. Will the SAD funding be used to repair and maintain the overflow tubes in Elk Rapids?

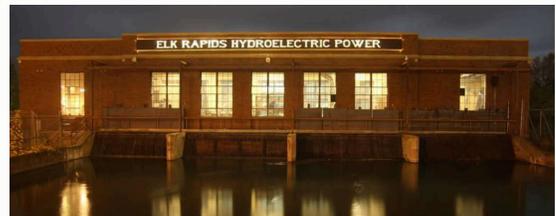
The plan is to make the repairs to the spillway with maintenance reverting back to both Antrim County and the Village of Elk Rapids.

14. Who is currently responsible for maintaining the overflow tubes and the Dexter Street bridge in the Village of Elk Rapids?

Antrim County is responsible for the tubes. The Village is responsible for maintaining the road, park and sidewalks.

15. The Hydroelectric dam in Elk Rapids is a revenue-collecting operation. What portion of the repairs and maintenance budget is covered by the operational revenue?

The County has sold all equipment for hydro-power generation to the Elk Rapids Hydroelectric Power LLC (ERHP). In the contract, it is stated that ERHP shall maintain the existing equipment and its own equipment in a condition sufficient to operate the hydrodam.



The contract requires that ERHP pay for minor and major repairs to the hydropower generation equipment and that ERHP will maintain the surface elevation of Elk Lake and Lake Skegemog at the legally established level.

The contract also states that ERHP shall pay the County an amount equal to 10% of the adjusted gross generated revenue.

Repair and maintenance of the powerhouse:

If repairs necessary for ERHP to continue to generate hydroelectric power would exceed by \$200,000 the cost of any repairs necessary for the powerhouse to operate solely to maintain the impoundment and the legal lake level, the County has the right to terminate the agreement with ERHP.

Why 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.

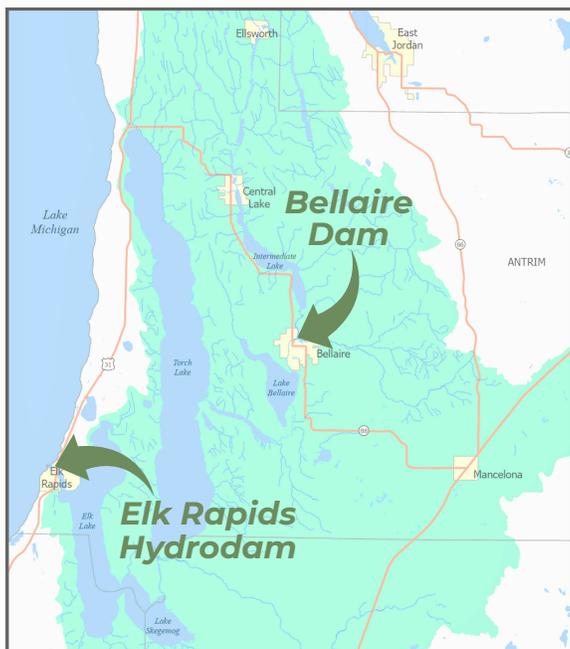
The possibility of combining the two court orders into a single SAD has been researched. However, it is not appropriate under Michigan's existing legal framework.

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 Elk Rapids Hydrodam is Antrim County's primary mechanism for administering the 1973 court order. The dam impacts the levels of all 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 seasonal levels for Intermediate Lake. This order sets the summer level from spring break up (no later than May 15) to Nov. 1, with the winter level being set from Nov. 1 to spring break up.

The Bellaire Dam is the County's primary mechanism for administering the 1990 court order. The dam impacts all lake levels in the Upper Chain.



County Actions to Date

The Elk Rapids-Chain of Lakes (ERCOL) Watershed, spans four counties; Antrim, Charlevoix, Grand Traverse, and Kalkaska.



Both the Antrim and Kalkaska County Boards of Commissioners have approved resolutions affirming that the Antrim County Drain Commissioner has the authority to manage the lake levels.

At the date of this writing, Charlevoix and Grand Traverse Counties have not approved similar resolutions. Until all four resolutions are in place, no significant work on the special assessment district or improvements can begin.

Back Issues of *Diving In*

The three previous issues of *Diving In* are available online at TinyUrl.com/ACDrainComm.

- The **October 2025** issue is a four-page overview
- The four-page **November 2025** issue provides general information about the creation and implementation of Special Assessment Districts
- The two-page **December 2025** issue describes the to-date actions of the four counties, includes summaries of possible projects, how project costs are being developed, and information about the future determination of per parcel costs.



For more information:

 231-533-3633

 TinyUrl.com/ACDrainComm

Look for Monthly Updates!