

16 November 2024

Leslie E. Lowry
Jensen Baird Attorneys at Law
PO Box 4510
Portland, ME 04112-4510

Subject: Re: Maintenance of Thomas Pond Water Levels

Dear Mr. Lowry,

Thank you for your letter of October 23, 2024 on behalf of Laurie Polland.

The TPIA Board has duly noted Laurie's assertions and position regarding water levels at Thomas Pond and will maintain a copy of this letter and our response in the organization's files.

The TPIA Board respectfully notes that the organization's responsibility regarding water level is to maintain these levels in accordance with the approved Management Plan. Water levels and a new Management Plan were approved at our 2024 Annual Meeting by over 90% of the voting membership. No changes were made to the target high-water levels for Thomas Pond in- or off-season from the levels that TPIA has been managing to and that have been in the management plan since the organization took possession of the dam in 1990.

In your letter, you state that TPIA "*must engage an experienced engineer to document the existing water levels at the Pond and to perform an elevation survey of the existing dam structure.*" We do not agree that TPIA is obligated to perform these tasks. We are also uncertain as to exactly what scope of work you are claiming we are required to perform prior to commencing repairs to the dam. Can you please clarify the exact scope of work you are claiming that we must perform, and why that work needs to be performed by an engineer as opposed to some other professional(s), such as a surveyor?

In regards to the "*document existing water levels at the Pond*", it is our practice to document these levels daily at the dam with photographic evidence through the dam cam, so we can only assume that this claimed requirement is more extensive. Can you please clarify exactly what is meant by this? Absent clarification, we presume the request is for a detailed waterfront survey of the entire surface perimeter of the pond. An activity with this scope is likely to be quite expensive and would be brought to the TPIA Membership for a vote at the Annual Meeting. The Board has no plans to make such a proposal at this time, but your client is welcome to do so if she wishes.

In regards to the Elevation of the dam itself, nothing in the proposed scope of work for the repairs to be undertaken in 2025 can result in a change in the dam elevation, as no work is being performed on the top surfaces. Further, no changes will be made to the bolts that are used to mount the Elevation Ruler. Notwithstanding the foregoing, if the contractor selected by TPIA to repair the dam is willing to take high-accuracy measurements of the elevation of the dam at no cost to TPIA, then we will request that they do so. Alternately, we are happy to facilitate access to the dam should your client wish to engage an engineer or surveyor on her own, with the hope that she will share the results with TPIA.

Finally, in your letter you state, "*This engineering work should also document other conditions that are relevant to the ongoing maintenance plan.*" We are curious as to what other specific conditions your client feels should be documented and respectfully request that she let us know what they are.

We look forward to hearing from you or your client to clarify the questions raised by your letter.

Sincerely,

Robert Chapin
President, TPIA
PO Box 209
South Casco, ME 04077

Cc: TPIA Board