

The Clary Lake Clarion

Volume 6 Issue 1

The Newsletter of the Clary Lake Association

Spring/Summer 2015

Message from the President

Dear Clary Lake Association Members: What an extraordinary year it has been! With the very future of our lake at stake, it has required and *continues to require* extraordinary effort and vigilance just to stay on top of the ongoing slow motion train wreck being orchestrated by the Clary Lake dam owner and a few other parties who are seemingly united in a common goal, for purely selfish and self-serving reasons, to destroy the lake we have come to know and love. As my presidency draws to a close, I wish to reach out to you in reflection and offer my sincere thanks for your support throughout the past difficult, and challenging 4 years. While great progress has been made on many fronts, significant challenges remain ahead of us. I am confident we'll prevail in our battle, but much work remains to be done and your continued support and commitment to our cause, both moral and financial, is vitally important.

I took office in the summer of 2011 not just before the water level petition was submitted but before it was even conceived of, and I certainly had no way of knowing then the full extent to which we would be called upon to put committed members of the Association to work under trying and formidable circumstances. It has been a difficult 4 years and you haven't let me down. I, along with the Board have spent many (continued on page 4)



Shad bush, Clary Lake

Annual Meeting Notice

This year's Annual meeting will be held Saturday August 1st at 2:00 PM at the home of Ellis Percy and Joann Tribby which is located at 101 Old Madden Road in Jefferson. This is the same place last year's annual meeting was held and it worked out so well we decided to hold it there again. The rain-date is the next day, Sunday, at the same time and same place. Beverages will be provided. As usual there will be a pot luck supper at the conclusion of the meeting so plan accordingly. We will start the business meeting at 2:00 PM sharp so if you haven't already sent in your membership form it is strongly suggested that you arrive early enough to sign in and pay your dues for the coming year and have some time to settle in before the meeting starts. Annual dues are \$25 per family and the membership year runs from the (continued on pg 4)

Clary Lake Water Level Order News

Thinking about everything that has happened over the past year, it is hard to know where to start, a problem made more difficult by space limitations. I will save a complete update for the Annual meeting and hope this synopsis will suffice until that time.

Early last September the Board decided we needed legal representation, and went in search of a suitable lawyer. We were very fortunate to quickly find attorney Ronald Kreisman of Portland and to be able to retain him to represent us and our interests, and to help move us forward through a veritable minefield of contentious and confusing issues toward a solution to the Clary Lake water level crisis. I can't even begin to express how important it was for us to obtain legal representation (cont. on pg. 4)



Robert Frederico Antognoni 1925 - 2015

Robert Frederico Antognoni, 89, died peacefully at his home on Clary Lake, surrounded by his loving family Wednesday, March 4, 2015. Robert was born on Aug. 22, 1925, in Concord, Mass., to Secondo & Ersilia Fraticelli Antognoni, who had both

immigrated to the United States from Fano, Italy. Robert was a long time member of the Clary Lake Association, a dedicated and faithful steward of Clary Lake, and a good friend to everyone. Robert served as treasurer from 1976 until 1982, as a board member in 2003 and 2004, and as president in 2005 and 2006. You will find more information about Robert and a link to his obituary on the Association website on the "Members No Longer With Us" page located under the "Membership" main menu heading. Bob (and his garlic) will be missed.

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at that time, and we have you, our membership, to thank for recognizing this and for your generous donations that allowed us to hire an attorney. Ron is a consummate professional, respected by his peers, with extensive experience in the field of environmental law. His professionalism and sage advice have been invaluable.

At that time, two major events were weighing on Clary Lake and the Association. First, litigation in the Superior Court to resolve the appeal of the January 2014 DEP water level order had been put on hold and mediation of that water level order had just begun, with no certainty as to where it would lead. The parties in mediation included Paul Kelley representing Pleasant Pond Mill LLC (PPM), Richard Smith representing Aquafortis Associates LLC (AQF), Arthur Enos, Frederick "Butch" Duncan, and certain staff of the DEP and the IF&W. All the parties were represented by counsel with lawyers from the Attorney General's Office representing DEP and the IF&W. Second, Paul Kelley was aggressively pursuing at DEP his petition for release from dam ownership of the Clary Lake Dam, which if granted would have ended the requirements for the high water level contained in the DEP Order. As part of this aggressiveness, Mr. Kelley was claiming that the Association's offers to take over ownership of the dam were invalid.

Ron and CLA's board met frequently since last October. Ron requested strict confidentiality in all matters and for the Board not to do or say anything publicly that might adversely affect CLA or the lake, given the circumstances in which we found ourselves. As a result, on Ron's advice members may have noted a substantial and intentional decrease in publicly-available website-based communications

On behalf of the CLA, Ron requested that the CLA be allowed to join in meditation. This request was welcomed by the mediator and the State of Maine, but not embraced by Messrs. Kelley, Smith, Duncan, and Enos. However, Ron strongly advised the Board to pursue a comprehensive settlement with AQF and PPM after all these years of controversy, and Ron was however encouraged to do so by legal counsel to Messrs. Kelly and Smith. With Ron's help and that of Creative Conservation LLC, a company with extensive experience in developing sophisticated land acquisition deals, the Board agreed to make a generous and comprehensive offer to AQF and PPM covering all the property belonging to PPM and AQF that would have been beneficial to all parties and resolved the lake level problems on a permanent basis. This offer, because it covered all properties owned by AQF and PPM, was more extensive than the offers to purchase only the Clary Lake

Dam made by CLA in response to Mr. Kelley's petition to DEP to abandon the dam.

In late February Ron contacted the mediator John Sheldon asking him to bring together the parties in mediation to allow Ron to present our offer to them in person, given the detail contained in the offer, and then allow AQF and PPM the necessary time to consider it. Sadly, CLA learned from the mediator that Mssrs. Kelley, Smith, Enos and Duncan were not interested in meeting to listen to the elements of the settlement offer.

One of the several reasons announced by Mr. Kelly for his refusal to hear the offer in mediation was his allegations that the offer was unauthorized, coming as it did from the Board and not a CLA membership vote. To eliminate any controversy as to whether the various Clary Lake Association's offers on the dam were valid – either as an offer for settlement or as part of Mr. Kelley's petition for abandonment -- the Board called a Special Membership Meeting in early April for the purpose of having the membership consider and act upon a resolution stating that the board did in fact act with the full authority of the membership in making their offers on the dam. The meeting was held on April 1st and the resolution passed unanimously with a vote of 55 YES votes, 0 NO votes, 1 ballot not returned. The minutes of that meeting will be presented at the upcoming Annual meeting.

Just as the membership was concluding submission of its ballots in support of the offers that CLA had made and hoped to make, Mr. Kelley made several dramatic decisions. He removed PPM from the mediation and announced that PPM as a company had been dissolved and cancelled, apparently attempting to distance and disassociate himself from further legal proceedings and the Water Level Order. He went so far as to make the highly provocative statement that PPM had "never in fact owned" the Clary Lake dam. In a related move, he filed several "corrective deeds" with the Lincoln County Registry.

Once we became aware of these provocative actions, CLA immediately requested that DEP dismiss PPM's petition to abandon his ownership of the dam. On May 13, DEP did dismiss the petition, adopting the legal arguments advanced by CLA (a copy of CLA's letter to DEP dated April 7, 2015 can be found at (continued on next page)



Jefferson Scoop
Summer Hours
12:30 - 9:00
Everyday
Featuring
Giffords Ice cream
& the Best
Vanilla Soft Serve
Rt. 32, Jefferson Village

(Water Level Order continued from page 2)

on the Association Website in a posting on the News page entitled "18 May 2015: DEP Dismisses PPM's Petition for Release from Dam Ownership" which you can search for or scroll down to). DEP's actions mean that, at least for now, Mr. Kelley's legal efforts to walk away from the Clary Lake Dam and his legal responsibilities under the DEP water level order have ended.

Which pretty much brings us to the present time. Where things stand now is this: On May 8th the mediator ended the mediation and issued his final report detailing the results of mediation and concluding that further mediation is futile, thereby restarting the Superior Court litigation. As mentioned above, the petition for release from dam ownership is, for now, over. Litigation on the 80C proceeding (the water level order appeal) will resume next week, starting with a "status conference" to be held June 3rd. CLA's good faith effort at finding a comprehensive settlement suitable to all parties is, for now, not of interest to Messrs. Kelley, Smith and Enos, but perhaps that situation will change in the future.

Ron's role going forward, though limited at this time, is by no means unimportant. Initially we will want him to monitor the water level order appeal proceeding and provide support as needed to the DEP and the AG in their defense and enforcement of the water level order. Additionally, we need to be prepared for the threat of Kelley's petition for release from dam ownership resurfacing, either under appeal or as a new petition. Finally, we want Ron to generally look out for our legal interests and advise us of potential problems, pitfalls, and opportunities, and to advise us on how to proceed. We need to be ready to respond to the next "situation".

In closing I'd like to thank the Maine Department of Environmental Protection and the Office of the Attorney General for the time and effort they have spent working to protect Clary Lake during this past year. Also, my fellow Board members have been tireless in their service; in the last 8 months alone the Board met as a group more than a dozen times and conducted untold amounts of business by phone and email. I would particularly like to thank our President, Ellis Percy for his support and continued service to the Association. Ellis and I met frequently, alone and often with Ron to discuss issues and strategy, and he was always ready to help, whether it was photocopying documents in the DEP file room, stuffing envelopes, or proof reading documents. I look forward to his upcoming tenure as a Board member. Finally, I wish to again thank the Membership for their financial support without which none of this would have been possible. Respectfully Submitted, George Fergusson, Secretary, Board Member.



Photograph of a Crappie caught in Clary Lake

Black Crappies in Clary Lake?

Jack Holland sent me a picture of a full-grown Black Crappie that was caught by 9 year old Eric Richmond in Clary Lake back in mid-May (I wrote about this in a post on the Association web site dated 28 May 2015). According to his mother Rachael Richmond, they were fishing near the State boat launch and caught the 2 fish in the photo at the same time (the other one is a white perch held by Eric's sister). They let both fish go. Jack tells me that he believes his neighbor has caught 2 crappies in the past couple of years so it sounds like there's a new species of fish in Clary Lake. The Black Crappie aka Calico Bass (*Pomoxis nigromaculatus*) is a non-native species in Clary Lake and introduced in Clary Lake either intentionally by someone who wanted to supplement the lake fishery, or accidentally by an ice fisherman by releasing bait. Both actions are in violation of State law. If anyone catches a Black Crappie in Clary Lake (or anything else in you don't think belongs here) contact the Department of Inland Fisheries and Wildlife. They like to keep track of this kind of thing. Thanks.

	FARRIN PROPERTIES Real Estate Sales From the Capital to the Coast	
	Jack C. Holland REALTOR	
Cell: 207-592-3474		
JackHolland@FarrinProperties.com		
www.jackcholland.com		
752 Main St, Damariscotta, ME 04543		
Representing Both Buyers & Sellers		

CLARY LAKE BED AND BREAKFAST	
Rick and Linda Gallion 777 Gardiner Rd. Jefferson, Maine 04348	Mid-Coast Lake Region Between Rockland/Camden and Augusta
<u>Reservations</u>	
Phone: (207) 549-5961	Commuter Or Country Breakfast
Fax: (207) 549-9912	
Email: rgallion@roadrunner.com	
Web:	
clarylakebedandbreakfast.com	

(President's Message, continued from page 1)

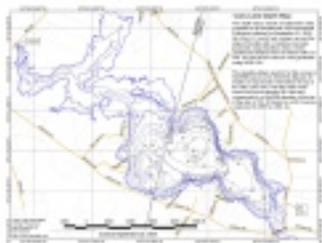
hours and significant resources on your behalf in order to navigate through the complicated policies, procedures and personalities in this matter, with the end goal always in mind: to achieve a stable and healthy water level for Clary Lake. Your support and patience under such extreme pressures against the health of our lake, the value of our properties and the way of life we have come to know and love is most exemplary.

Thanks to your confidence in the leadership of our Association and your financial generosity, last October we were able to enlist the services of attorney Ron Kreisman. Ron has helped guide us through a veritable mine field of challenges, claims, and counter claims that have arisen as we have moved forward on multiple legal fronts. The counsel of a seasoned, competent, and objective professional, well respected in his field, with natural resource related experience, cannot be underestimated. You'll read more about Ron and the help he has given us elsewhere in this newsletter. I firmly believe that hiring an attorney was vitally important and hindsight being what it is, I only regret that we did not seek counsel sooner. With your continuing support I am confident we'll be well prepared to meet the myriad legal challenges that surely face us down the road.

I for one will continue to work towards our mutual goals as a Board Member over the next three years: the challenges we face and the goals we seek require an unprecedented perseverance on everyone's part. I hope and trust that we are all up to the job!

Speaking of the newsletter, we've added an extra piece of paper this year because there is so much information to present. Even so, there isn't room for everything. Keep an eye on the website and I hope to see all of you at this year's Annual meeting, it is extremely important that you show up and let your voice be heard. It promises to be exciting and memorable.

Sincerely and respectfully submitted, Ellis Percy



Clary Lake Depth Maps

We're offering these neat 8.5" x 11" laminated depth maps of Clary Lake with 2' contours for \$5.00 each if you want to pick it up or \$6.00 if you want it mailed

to you. The map is based on data collected by the DEP during their 2012 bathymetric survey. On the back side is data about Clary Lake from the Maine Department of IF&W including fish species, area, etc. You can download for free this and similar maps from the Association web site and print them yourself, but if you'd like to support the Association, mail your check to CLA, PO Box 127, Whitefield ME 04353, and indicate whether you want to pick it up or have it mailed to you. Allow 2 weeks please!

(Annual Meeting, continued from page 1)

beginning of one annual meeting to the beginning of the next annual meeting. To participate in a meeting, you have to be a paid-up member.

While many people pay their dues at the annual meeting, we encourage you to fill out and send in your membership form early. This saves having to stand in line at the meeting. You'll find a membership form on page 6 of this newsletter, and one you can print out on the Association website under the "Membership" main menu heading. You'll also find a link to sign up or renew your membership online using our secure PayPal payment processing system. Notice that we no longer ask for separate Summer and Winter addresses, they have been an endless source of confusion as in "the man with 2 watches will never know what time it is." Please provide your primary mailing address and also **please** include an email address if at all possible as it makes contacting you fast, free, and easy! Please join the Association today! Add your voice to ours!

Nominations Commitee

The Nominations Committee has come up with names of people to fill the open Association positions, to be voted on at the Annual Meeting. This year we have a pretty much full slate of officers to elect: Malcolm Burson for President (he is currently Vice President), David Knight for Vice President (currently a board member), Mary Gingrow-Shaw for Treasurer, George Fergusson for another term as Secretary, and outgoing President Ellis Percy and Steven Relyea for 3 year Board positions. You can also nominate people for any open positions at the meeting.

Bylaws Committee Update

The Bylaws committee has been busy for the last 3 or 4 months working on some necessary changes to the Association's bylaws, and they are hoping to send out a mailing in early July with proposed changes for your review. The changes fall into two major categories: minor changes to wording intended to simplify and/or clarify the bylaws, and some rather major changes to the membership and voting rights definitions. The current membership and voting rights definitions were drafted in 1998 and have been a source of confusion and contention ever since. All these changes will be presented for discussion and voting in separate articles at the annual meeting. Any changes to the membership and voting rights definitions will require changes to our Articles of Incorporation to be filed with the Maine Secretary of State. The Bylaws committee consists of David Hodsdon, Jane Chase, Malcolm Burson, and George Fergusson.

2014/2015 Clary Lake Association Members

John & Barbara Ahern	Jeff Howe
William and Valerie Albert	David & Gayle Knight
Patty Althenn	Doug & Eve Kinney
Charlene Andersen	Glenn Bruce MacDonald
John & Sheila Barnstein	Bill & Sue McKeen
Georgina & Gary Bergendoff	Dennis Morgan
Christina Bishop	Frances Moulton
M. Jane Chase	Howard P. & Lisa M. Nickerson
Malcolm Burson	Lucy & Don Norman
Steve & Julie Cowles	George L. Page
Thurlow E. Crummett	Melissa Palmer-Karas
Genie Dailey	Patricia H. Petry
Beverly D'Urbano	Elnora Pike
Bill and Janet Donovan	Larry & Sandra Prescott
Dan & Susan Erlandson	Pat Prescott
George & Margaret Fergusson	Kenneth & Freida Rapp
Linda & Rick Gallion	Bruce & Audrey Relyea
Daniel H. Gatz	Steve Relyea
Roberta Giampetruzzi	Timothy & Brenda Robbins
Steve & Ann Giampetruzzi	Ronald W. Rollins
Roger Gilbert	Cheryl Ayer & Robert Rubin
Baxter Gillette	Kate & David Seba
Christopher & Leslie Gillette	Mary and Ernest Shaw
Thomas & Delph Gillette	Carol and Peter Stark
Eleanor Goldberg	Joann Tribby
Erin Dey Grimshaw	Thomas & Linda Vigue
Tim & Trish Harkins	Ned & Brenda Vitalis
Maynard and Gladys Hewett	Stephen Viti
Trudi Hodgkins	Stanley Whittier
Frances Hodsdon	Rev. John S. Williams
David and Janette Hodsdon	Warner & Becky Wilson
Jack & Ann Holland	Arleen & Randy Wing
Jaclyn Holland	Stan York
Mary Hornecker	

Outgoing Treasurer

Please join me in thanking outgoing treasurer Linda Gallion for her 10 years of selfless service to the Association! Linda took over the job of treasurer from Bob Antognoni in 2005. Thank You Linda!

Clary Lake Sweatshirts!



Sweatshirts with this beautiful stitched design are still available. Cost to members is \$15 and \$20 for non-members. These can be picked up at Linda Gallion's house or ordered by sending your check or money order and \$5 for shipping

The **Clary Lake Association** is a 501C(3) non-profit corporation duly registered in the State of Maine dedicated to preserving, protecting, and enhancing the natural beauty and quality of Clary Lake and its watershed. Membership in the Association costs \$25 per year.

Current Association Officers:

President: Ellis Percy	president@clarylake.org
Vice President: Malcolm Burson	vicepresident@clarylake.org
Treasurer: Linda Gallion	treasurer@clarylake.org
Secretary: George Fergusson	secretary@clarylake.org
Newsletter Ed: George Fergusson	editor@clarylake.org
Association Board Address:	board@clarylake.org

Current Board Members are: Jane Chase, Mary Hornecker, Cheryl Ayer, David Knight, and George Fergusson

Clary Lake Association, P.O. Box 127, Whitefield Maine 04353

2015/2016 Membership Dues: \$25.00

Additional Contribution: _____

Total Amount enclosed: _____

Membership year: 2015 Annual Meeting to 2016 Annual Meeting.

Preferred Mailing Address:

Name _____

Street _____

City _____ State _____ Zip _____

Phone Number (____)-_____ Email _____

Clary Lake Association
PO Box 127
Whitefield ME 04353